

JOURNAL OF THE HOUSE

Second Regular Session, 95th GENERAL ASSEMBLY

SIXTY-SIXTH DAY, THURSDAY, MAY 6, 2010

The House met pursuant to adjournment.

Speaker Richard in the Chair.

Prayer by Msgr. Donald W. Lammers.

Today is the fifty-ninth annual National Day of Prayer

In union with all in our Nation who would call upon God, let us pray.

"The Lord is good, a refuge on the day of distress;
He takes care of those who have recourse to him."
(Nahum 1:7)

Holy Lord, You are all-good! We thank You for Your personal care for us and for all the blessings in our lives.

We pray for all the people of our Nation for whom this is a day of distress: for those suffering from the oil well disaster near the Gulf Coast, for those suffering from flood waters in Tennessee, for those who live in fear of violence or of poverty.

Raise up neighbors to help them. Show us how, through the work of our elected office, to be that neighbor of those in need of justice or in special need of our assistance. God bless all members of this Assembly with strength and wisdom for the work of this day.

To You, our Lord and God, 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: Will Gorski, Madison Ward, Charlie Pitcher, Alex Kempainer, Taylor Anderson, Nate Techkman and Michael Tucciarone.

The Journal of the sixty-fifth day was approved as printed by the following vote:

AYES: 140

Allen	Atkins	Aull	Ayres	Biermann
Bivins	Brandom	Bringer	Brown 30	Brown 149
Bruns	Burlison	Carter	Casey	Chappelle-Nadal
Conway	Cox	Cunningham	Curls	Davis
Day	Deeken	Denison	Dethrow	Dieckhaus
Diehl	Dougherty	Dugger	Emery	Englund
Ervin	Faith	Fallert	Fischer 107	Fisher 125
Flanigan	Flook	Frame	Franz	Gatschenberger
Grill	Guernsey	Guest	Harris	Hobbs

Hodges	Holsman	Hoskins 121	Hummel	Icet
Jones 63	Jones 89	Jones 117	Keeney	Kelly
Kingery	Kirkton	Koenig	Komo	Kratky
Kraus	Kuessner	Lair	Lampe	Largent
Leara	LeBlanc	Liese	Lipke	McClanahan
McDonald	McGhee	McNary	McNeil	Meadows
Meiners	Molendorp	Morris	Munzlinger	Nance
Nasheed	Newman	Nieves	Nolte	Norr
Oxford	Pace	Parkinson	Parson	Pollock
Pratt	Quinn	Riddle	Rucker	Ruestman
Ruzicka	Salva	Sander	Sater	Scavuzzo
Schaaf	Schad	Scharnhorst	Schieffer	Schlottach
Schoeller	Schoemehl	Schupp	Shively	Silvey
Smith 14	Smith 150	Speng	Stevenson	Still
Storch	Stream	Sutherland	Swinger	Thomson
Tilley	Todd	Tracy	Viebrock	Wallace
Walsh	Walton Gray	Wasson	Webb	Wells
Weter	Whitehead	Wilson 119	Wilson 130	Witte
Wright	Yaeger	Zerr	Zimmerman	Mr Speaker

NOES: 010

Burnett	Colona	Kander	LeVota	Low
Roorda	Skaggs	Talboy	Vogt	Webber

PRESENT: 000

ABSENT WITH LEAVE: 012

Brown 50	Calloway	Cooper	Corcoran	Dixon
Dusenberg	Funderburk	Grisamore	Hoskins 80	Hughes
Loehner	Self			

VACANCIES: 001

HOUSE COURTESY RESOLUTIONS OFFERED AND ISSUED

House Resolution No. 3076 through House Resolution No. 3184

HOUSE CONCURRENT RESOLUTION

Representative Davis, et al., offered House Concurrent Resolution No. 84.

COMMITTEE REPORTS

Committee on Fiscal Review, Chairman Faith reporting:

Mr. Speaker: Your Committee on Fiscal Review, to which was referred **HCS SB 686** (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 SB 981** (Fiscal Note), begs leave to report it has examined the same and recommends that it **Do Pass**.

Special Standing Committee on General Laws, Chairman Jones (89) reporting:

Mr. Speaker: Your Special Standing Committee on General Laws, to which was returned **HCS SB 844**, begs leave to report it has examined the same and recommends that it **Do Pass with House Committee Substitute No. 2**, and pursuant to Rule 25(32)(f) be referred to the Committee on Rules.

Committee on Rules, Chairman Parson reporting:

Mr. Speaker: Your Committee on Rules, to which was referred **HCS SCS SB 583**, 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 SB 741**, 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#2 SB 844**, 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 SB 940**, begs leave to report it has examined the same and recommends that it **Do Pass**.

THIRD READING OF SENATE BILLS

HCS SCS SB 774, relating to the Department of Mental Health, was taken up by Representative Riddle.

Representative Riddle moved that **HCS SCS SB 774** be adopted.

Which motion was defeated.

On motion of Representative Riddle, **SCS SB 774** was truly agreed to and finally passed by the following vote:

AYES: 156

Allen	Atkins	Aull	Ayres	Biermann
Bivins	Brandom	Bringer	Brown 30	Brown 50
Brown 149	Bruns	Burlison	Burnett	Calloway
Carter	Casey	Chappelle-Nadal	Colona	Conway
Cooper	Cox	Cunningham	Curls	Davis
Day	Deeken	Denison	Dethrow	Dieckhaus
Diehl	Dixon	Dougherty	Dugger	Dusenberg
Emery	Englund	Ervin	Faith	Fallert
Fischer 107	Fisher 125	Flanigan	Flook	Franz
Funderburk	Gatschenberger	Grill	Grisamore	Guernsey
Guest	Harris	Hodges	Holsman	Hoskins 121
Hummel	Icet	Jones 63	Jones 89	Jones 117
Kander	Keeney	Kelly	Kingery	Kirkton
Koenig	Komo	Kratky	Kraus	Kuessner
Lair	Lampe	Largent	Leara	LeBlanc

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LeVota	Liese	Lipke	Loehner	Low
McClanahan	McDonald	McGhee	McNary	McNeil
Meadows	Meiners	Molendorp	Morris	Munzlinger
Nance	Nasheed	Newman	Nieves	Nolte
Norr	Oxford	Pace	Parkinson	Parson
Pollock	Pratt	Quinn	Riddle	Roorda
Rucker	Ruestman	Ruzicka	Salva	Sander
Sater	Scavuzzo	Schaaf	Schad	Scharnhorst
Schieffer	Schlottach	Schoeller	Schoemehl	Schupp
Self	Shively	Silvey	Skaggs	Smith 14
Smith 150	Spreng	Stevenson	Still	Storch
Stream	Sutherland	Swinger	Talboy	Thomson
Tilley	Todd	Tracy	Viebrock	Vogt
Wallace	Walsh	Walton Gray	Webb	Webber
Wells	Weter	Whitehead	Wilson 119	Wilson 130
Witte	Wright	Yaeger	Zerr	Zimmerman

Mr Speaker

NOES: 000

PRESENT: 000

ABSENT WITH LEAVE: 006

Corcoran	Frame	Hobbs	Hoskins 80	Hughes
Wasson				

VACANCIES: 001

Speaker Richard declared the bill passed.

SB 771, relating to depositories for county funds, was taken up by Representative Wilson (119).

On motion of Representative Wilson (119), **SB 771** was truly agreed to and finally passed by the following vote:

AYES: 150

Allen	Atkins	Aull	Ayres	Biermann
Bivins	Brandom	Bringer	Brown 30	Brown 50
Brown 149	Bruns	Burlison	Calloway	Carter
Casey	Colona	Conway	Cox	Cunningham
Curls	Davis	Day	Deeken	Denison
Dethrow	Dieckhaus	Diehl	Dixon	Dougherty
Dugger	Dusenberg	Emery	Englund	Ervin
Faith	Fallert	Fischer 107	Flanigan	Flook
Frame	Franz	Funderburk	Gatschenberger	Grill
Grisamore	Guernsey	Guest	Harris	Hobbs
Hodges	Holsman	Hoskins 121	Hummel	Icet
Jones 63	Jones 89	Jones 117	Keeney	Kelly
Kingery	Kirkton	Koenig	Komo	Kratky
Kraus	Kuessner	Lair	Lampe	Largent
Leara	LeBlanc	LeVota	Liese	Lipke
Loehner	McClanahan	McGhee	McNary	McNeil
Meadows	Meiners	Molendorp	Morris	Munzlinger

Nance	Nasheed	Newman	Nieves	Norr
Oxford	Pace	Parkinson	Parson	Pollock
Pratt	Quinn	Riddle	Roorda	Rucker
Ruestman	Ruzicka	Salva	Sander	Sater
Scavuzzo	Schaaf	Schad	Scharnhorst	Schieffer
Schlottach	Schoeller	Schoemehl	Schupp	Self
Shively	Silvey	Skaggs	Smith 14	Smith 150
Spreng	Stevenson	Still	Storch	Stream
Sutherland	Swinger	Talboy	Thomson	Tilley
Todd	Tracy	Viebrock	Vogt	Wallace
Walsh	Walton Gray	Webb	Webber	Wells
Weter	Whitehead	Wilson 119	Wilson 130	Witte
Wright	Yaeger	Zerr	Zimmerman	Mr Speaker

NOES: 000

PRESENT: 000

ABSENT WITH LEAVE: 012

Burnett	Chappelle-Nadal	Cooper	Corcoran	Fisher 125
Hoskins 80	Hughes	Kander	Low	McDonald
Nolte	Wasson			

VACANCIES: 001

Speaker Richard declared the bill passed.

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 SS SCS SB 605, as amended**: Senators Mayer, Crowell, Vogel, Shoemyer and Callahan.

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 733, as amended**: Senators Pearce, Rupp, Schaefer, Days 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 SB 754, as amended**: Senators Dempsey, Scott, Pearce, Justus and Callahan.

Mr. Speaker: I am instructed by the Senate to inform the House of Representatives that the Senate has taken up and passed **SCS HCS HB 2016**, entitled:

An act to appropriate money for purposes for the several departments and offices of state government; for the purchase of equipment; for planning, expenses, and for capital improvements including but not limited to major additions and renovations, new structures, and land improvements; and for the payment of various claims for refunds, for persons, firms, and corporations, and for other purposes, and to transfer money among certain funds, from the funds designated

to be expended only as provided in Article IV, Section 28 of the Constitution of Missouri, for the fiscal period beginning July 1, 2010 and ending June 30, 2011.

In which the concurrence of the House is respectfully requested.

HOUSE BILL WITH SENATE AMENDMENTS

SCS HCS HB 2016, relating to appropriations, was taken up by Representative Icet.

On motion of Representative Icet, **SCS HCS HB 2016** was adopted by the following vote:

AYES: 117

Allen	Aull	Ayres	Biermann	Bivins
Brandom	Bringer	Brown 50	Brown 149	Bruns
Carter	Chappelle-Nadal	Colona	Conway	Corcoran
Cunningham	Curls	Day	Deeken	Denison
Dieckhaus	Diehl	Dixon	Dougherty	Emery
Englund	Faith	Fallert	Fischer 107	Fisher 125
Flanigan	Frame	Franz	Funderburk	Gatschenberger
Grill	Guest	Harris	Hodges	Hoskins 121
Hummel	Icet	Jones 89	Jones 117	Kander
Kelly	Kingery	Kirkton	Komo	Kratky
Kuessner	Lair	Lampe	Largent	Leara
LeBlanc	Liese	Lipke	Loehner	McClanahan
McDonald	McGhee	McNary	McNeil	Meiners
Molendorp	Morris	Munzlinger	Nance	Nasheed
Nieves	Nolte	Norr	Parkinson	Parson
Pollock	Riddle	Rucker	Ruestman	Ruzicka
Salva	Sander	Sater	Scavuzzo	Schad
Scharnhorst	Schieffer	Schlottach	Schoemehl	Schupp
Self	Shively	Silvey	Smith 14	Stevenson
Still	Storch	Stream	Swinger	Talboy
Thomson	Tilley	Todd	Tracy	Viebrock
Walsh	Wasson	Webber	Wells	Weter
Wilson 119	Wilson 130	Witte	Wright	Yaeger
Zerr	Mr Speaker			

NOES: 034

Atkins	Brown 30	Burlison	Casey	Davis
Dethrow	Dugger	Dusenberg	Ervin	Flook
Grisamore	Guernsey	Jones 63	Keeney	Koenig
Kraus	LeVota	Low	Meadows	Newman
Oxford	Pace	Pratt	Roorda	Schaaf
Schoeller	Skaggs	Smith 150	Spreng	Vogt
Walton Gray	Webb	Whitehead	Zimmerman	

PRESENT: 000

ABSENT WITH LEAVE: 011

Burnett	Calloway	Cooper	Cox	Hobbs
Holsman	Hoskins 80	Hughes	Quinn	Sutherland
Wallace				

VACANCIES: 001

On motion of Representative Icet, **SCS HCS HB 2016** was truly agreed to and finally passed by the following vote:

AYES: 116

Allen	Aull	Ayres	Biermann	Bivins
Brandom	Bringer	Brown 50	Brown 149	Bruns
Carter	Chappelle-Nadal	Conway	Cooper	Corcoran
Cox	Cunningham	Curls	Day	Deeken
Denison	Dieckhaus	Diehl	Dougherty	Emery
Englund	Faith	Fallert	Fischer 107	Fisher 125
Flanigan	Frame	Franz	Funderburk	Gatschenberger
Grill	Guest	Harris	Hodges	Holsman
Hoskins 121	Hummel	Icet	Jones 89	Jones 117
Kander	Kelly	Kingery	Kirkton	Komo
Kratky	Kuessner	Lair	Lampe	Leara
LeBlanc	Liese	Lipke	Loehner	McClanahan
McDonald	McGhee	McNeil	Meiners	Molendorp
Morris	Munzlinger	Nance	Nasheed	Nieves
Nolte	Norr	Parkinson	Parson	Pollock
Quinn	Riddle	Rucker	Ruestman	Ruzicka
Salva	Sander	Sater	Scavuzzo	Schad
Scharnhorst	Schieffer	Schlottach	Schoemehl	Schupp
Self	Shively	Silvey	Smith 14	Stevenson
Still	Storch	Stream	Swinger	Thomson
Tilley	Todd	Viebrock	Wallace	Walsh
Wasson	Webber	Wells	Weter	Wilson 119
Wilson 130	Witte	Wright	Yaeger	Zerr
Mr Speaker				

NOES: 038

Atkins	Brown 30	Burlison	Burnett	Casey
Davis	Dethrow	Dugger	Dusenberg	Ervin
Flook	Grisamore	Guernsey	Jones 63	Keeney
Koenig	Kraus	LeVota	Low	Meadows
Newman	Oxford	Pace	Pratt	Roorda
Schaaf	Schoeller	Skaggs	Smith 150	Spreng
Sutherland	Talboy	Tracy	Vogt	Walton Gray
Webb	Whitehead	Zimmerman		

PRESENT: 000

ABSENT WITH LEAVE: 008

Calloway	Colona	Dixon	Hobbs	Hoskins 80
Hughes	Largent	McNary		

VACANCIES: 001

Speaker Richard declared the bill passed.

THIRD READING OF SENATE BILL

HCS SS SCS SBs 586 & 617, relating to sexually oriented businesses, was taken up by Representative Emery.

Speaker Pro Tem Pratt assumed the Chair.

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

House Amendment No. 1

AMEND House Committee Substitute for Senate Substitute for Senate Committee Substitute for Senate Bill Nos. 586 & 617, Page 8, Section 573.540, Lines 4-5, by deleting all of said lines and inserting in lieu thereof the following:

“regulation of sexually oriented businesses or similar adult oriented businesses.”; and

Further amend said page and section, Lines 9-10, by deleting all of said lines and inserting in lieu thereof the following:

“businesses.”; and

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

HCS SS SCS SBs 586 & 617, with House Amendment No. 1, pending, was laid over.

SUPPLEMENTAL CALENDAR

MAY 6, 2010

SENATE BILLS FOR THIRD READING

HCS#2 SB 844 - Jones (89)

On motion of Representative Tilley, the House recessed until 1:00 p.m.

AFTERNOON SESSION

The hour of recess having expired, the House was called to order by Speaker Richard.

MOTION

Representative Tilley moved that Rule 62 be suspended.

Representative LeVota made a substitute motion that the House go to the order of business “Senate Bills Taken From Committee Per Constitution - Informal” and take up **SS#2 SCS SB 577**.

Representative Tilley moved the previous question.

Which motion was adopted by the following vote:

AYES: 086

Allen	Ayres	Bivins	Brandom	Brown 30
Brown 149	Bruns	Burlison	Cooper	Cox
Cunningham	Davis	Day	Deeken	Denison
Dethrow	Dieckhaus	Diehl	Dixon	Dugger
Dusenberg	Emery	Ervin	Faith	Fisher 125
Flanigan	Flook	Franz	Funderburk	Gatschenberger
Grisamore	Guernsey	Guest	Hobbs	Hoskins 121
Icet	Jones 89	Keeney	Kingery	Koenig
Kraus	Lair	Largent	Leara	Lipke
Loehner	McGhee	McNary	Molendorp	Munzlinger
Nance	Nieves	Nolte	Parkinson	Parson
Pollock	Pratt	Riddle	Ruestman	Ruzicka
Sander	Sater	Schaaf	Schad	Scharnhorst
Schlottach	Schoeller	Self	Silvey	Smith 14
Smith 150	Stevenson	Stream	Sutherland	Thomson
Tilley	Tracy	Wallace	Wasson	Wells
Weter	Wilson 119	Wilson 130	Wright	Zerr
Mr Speaker				

NOES: 064

Atkins	Aull	Biermann	Bringer	Burnett
Calloway	Carter	Casey	Chappelle-Nadal	Colona
Conway	Corcoran	Curls	Dougherty	Englund
Fallert	Fischer 107	Frame	Grill	Harris
Hodges	Holsman	Hummel	Jones 63	Kander
Kelly	Kirkton	Komo	Kratky	Lampe
LeVota	Liese	Low	McClanahan	McNeil
Meadows	Meiners	Morris	Nasheed	Newman
Norr	Oxford	Pace	Quinn	Roorda
Rucker	Scavuzzo	Schieffer	Schoemehl	Schupp
Shively	Skaggs	Still	Swinger	Talboy
Todd	Walsh	Walton Gray	Webb	Webber
Whitehead	Witte	Yaeger	Zimmerman	

PRESENT: 000

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ABSENT WITH LEAVE: 012

Brown 50	Hoskins 80	Hughes	Jones 117	Kuessner
LeBlanc	McDonald	Salva	Spreng	Storch
Viebrock	Vogt			

VACANCIES: 001

Representative LeVota again moved that the House take up **SS#2 SCS SB 577**.

Which motion was defeated by the following vote:

AYES: 069

Atkins	Aull	Biermann	Bringer	Brown 50
Burnett	Calloway	Carter	Casey	Chappelle-Nadal
Colona	Conway	Corcoran	Curls	Dougherty
Englund	Fallert	Fischer 107	Frame	Grill
Harris	Hodges	Holsman	Hummel	Jones 63
Kander	Kelly	Kirkton	Komo	Kratky
Kuessner	Lampe	LeVota	Liese	Low
McClanahan	McNeil	Meadows	Meiners	Morris
Nasheed	Newman	Norr	Oxford	Pace
Quinn	Roorda	Rucker	Salva	Scavuzzo
Schieffer	Schoemehl	Schupp	Shively	Skaggs
Still	Storch	Swinger	Talboy	Todd
Vogt	Walsh	Walton Gray	Webb	Webber
Whitehead	Witte	Yaeger	Zimmerman	

NOES: 089

Allen	Ayres	Bivins	Brandom	Brown 30
Brown 149	Bruns	Burlison	Cooper	Cox
Cunningham	Davis	Day	Deeken	Denison
Dethrow	Dieckhaus	Diehl	Dixon	Dugger
Dusenberg	Emery	Ervin	Faith	Fisher 125
Flanigan	Flook	Franz	Funderburk	Gatschenberger
Grisamore	Guernsey	Guest	Hobbs	Hoskins 121
Icet	Jones 89	Jones 117	Keeney	Kingery
Koenig	Kraus	Lair	Largent	Leara
Lipke	Loehner	McGhee	McNary	Molendorp
Munzlinger	Nance	Nieves	Nolte	Parkinson
Parson	Pollock	Pratt	Riddle	Ruestman
Ruzicka	Sander	Sater	Schaaf	Schad
Scharnhorst	Schlottach	Schoeller	Self	Silvey
Smith 14	Smith 150	Spreng	Stevenson	Stream
Sutherland	Thomson	Tilley	Tracy	Viebrock
Wallace	Wasson	Wells	Weter	Wilson 119
Wilson 130	Wright	Zerr	Mr Speaker	

PRESENT: 000

ABSENT WITH LEAVE: 004

Hoskins 80	Hughes	LeBlanc	McDonald
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VACANCIES: 001

Representative Tilley moved the previous question.

Which motion was adopted by the following vote:

AYES: 089

Allen	Ayres	Bivins	Brandom	Brown 30
Brown 149	Bruns	Burlison	Cooper	Cox
Cunningham	Davis	Day	Deeken	Denison
Dethrow	Dieckhaus	Diehl	Dixon	Dugger
Dusenberg	Emery	Ervin	Faith	Fisher 125
Flanigan	Flook	Franz	Funderburk	Gatschenberger
Grisamore	Guernsey	Guest	Hobbs	Hoskins 121
Icet	Jones 89	Jones 117	Keeney	Kingery
Koenig	Kraus	Lair	Largent	Leara
Lipke	Loehner	McGhee	McNary	Molendorp
Munzlinger	Nance	Nasheed	Nieves	Nolte
Parkinson	Parson	Pollock	Pratt	Riddle
Ruestman	Ruzicka	Sander	Sater	Schaaf
Schad	Scharnhorst	Schlottach	Schoeller	Self
Silvey	Smith 14	Smith 150	Stevenson	Stream
Sutherland	Thomson	Tilley	Tracy	Viebrock
Wallace	Wasson	Wells	Weter	Wilson 119
Wilson 130	Wright	Zerr	Mr Speaker	

NOES: 069

Atkins	Aull	Biermann	Bringer	Brown 50
Burnett	Calloway	Carter	Casey	Chappelle-Nadal
Colona	Conway	Corcoran	Curls	Dougherty
Englund	Fallert	Fischer 107	Frame	Grill
Harris	Hodges	Holsman	Hummel	Jones 63
Kander	Kelly	Kirkton	Komo	Kratky
Kuessner	Lampe	LeVota	Liese	Low
McClanahan	McNeil	Meadows	Meiners	Morris
Newman	Norr	Oxford	Pace	Quinn
Roorda	Rucker	Salva	Scavuzzo	Schieffer
Schoemehl	Schupp	Shively	Skaggs	Spreng
Still	Storch	Swinger	Talboy	Todd
Vogt	Walsh	Walton Gray	Webb	Webber
Whitehead	Witte	Yaeger	Zimmerman	

PRESENT: 000

ABSENT WITH LEAVE: 004

Hoskins 80	Hughes	LeBlanc	McDonald
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VACANCIES: 001

Representative Tilley again moved that Rule 62 be suspended.

Which motion was adopted by the following vote:

AYES: 088

Allen	Ayres	Bivins	Brandom	Brown 30
Brown 149	Bruns	Burlison	Cooper	Cox
Cunningham	Davis	Day	Deeken	Denison
Dethrow	Dieckhaus	Diehl	Dixon	Dugger
Dusenberg	Emery	Ervin	Faith	Fisher 125
Flanigan	Flook	Franz	Funderburk	Gatschenberger
Grisamore	Guernsey	Guest	Hobbs	Hoskins 121
Icet	Jones 89	Jones 117	Keeney	Kingery
Koenig	Kraus	Lair	Largent	Leara
Lipke	Loehner	McGhee	McNary	Molendorp
Munzlinger	Nance	Nieves	Nolte	Parkinson
Parson	Pollock	Pratt	Riddle	Ruestman
Ruzicka	Sander	Sater	Schaaf	Schad
Scharnhorst	Schlottach	Schoeller	Self	Silvey
Smith 14	Smith 150	Stevenson	Stream	Sutherland
Thomson	Tilley	Tracy	Viebrock	Wallace
Wasson	Wells	Weter	Wilson 119	Wilson 130
Wright	Zerr	Mr Speaker		

NOES: 071

Atkins	Aull	Biermann	Bringer	Brown 50
Burnett	Calloway	Carter	Casey	Chappelle-Nadal
Colona	Conway	Corcoran	Curls	Dougherty
Englund	Fallert	Fischer 107	Frame	Grill
Harris	Hodges	Holsman	Hummel	Jones 63
Kander	Kelly	Kirkton	Komo	Kratky
Kuessner	Lampe	LeVota	Liese	Low
McClanahan	McDonald	McNeil	Meadows	Meiners
Morris	Nasheed	Newman	Norr	Oxford
Pace	Quinn	Roorda	Rucker	Salva
Scavuzzo	Schieffer	Schoemehl	Schupp	Shively
Skaggs	Spreng	Still	Storch	Swinger
Talboy	Todd	Vogt	Walsh	Walton Gray
Webb	Webber	Whitehead	Witte	Yaeger
Zimmerman				

PRESENT: 000

ABSENT WITH LEAVE: 003

Hoskins 80	Hughes	LeBlanc
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VACANCIES: 001

THIRD READING OF SENATE BILLS

HCS#2 SB 844, relating to ethical administration of public institutions and officials, was taken up by Representative Jones (89).

Representative Tilley moved the previous question.

Which motion was adopted by the following vote:

AYES: 086

Allen	Ayres	Bivins	Brandom	Brown 30
Brown 149	Bruns	Burlison	Cooper	Cox
Cunningham	Davis	Day	Deeken	Denison
Dethrow	Dieckhaus	Diehl	Dixon	Dugger
Dusenberg	Emery	Ervin	Faith	Fisher 125
Flanigan	Flook	Franz	Funderburk	Gatschenberger
Grisamore	Guernsey	Guest	Hobbs	Hoskins 121
Icet	Jones 89	Keeney	Kingery	Koenig
Kraus	Lair	Largent	Leara	Lipke
Loehner	McGhee	McNary	Molendorp	Munzlinger
Nance	Nieves	Nolte	Parkinson	Parson
Pratt	Riddle	Ruestman	Ruzicka	Sander
Sater	Schaaf	Schad	Scharnhorst	Schlottach
Schoeller	Self	Silvey	Smith 14	Smith 150
Stevenson	Stream	Sutherland	Thomson	Tilley
Tracy	Viebrock	Wallace	Wasson	Wells
Weter	Wilson 119	Wilson 130	Wright	Zerr
Mr Speaker				

NOES: 068

Atkins	Aull	Biermann	Bringer	Brown 50
Burnett	Calloway	Carter	Casey	Chappelle-Nadal
Colona	Conway	Corcoran	Curls	Dougherty
Englund	Fallert	Fischer 107	Frame	Grill
Harris	Hodges	Holsman	Hummel	Jones 63
Kander	Kelly	Kirkton	Komo	Kratky
Kuessner	Lampe	LeVota	Liese	Low
McClanahan	McDonald	McNeil	Meadows	Meiners
Morris	Nasheed	Newman	Norr	Oxford
Pace	Quinn	Roorda	Salva	Scavuzzo
Schieffer	Schoemehl	Schupp	Shively	Skaggs
Still	Storch	Swinger	Talboy	Todd
Walsh	Walton Gray	Webb	Webber	Whitehead
Witte	Yaeger	Zimmerman		

PRESENT: 001

Rucker

ABSENT WITH LEAVE: 007

Hoskins 80	Hughes	Jones 117	LeBlanc	Pollock
Spreng	Vogt			

VACANCIES: 001

On motion of Representative Jones (89), **HCS#2 SB 844** was adopted by the following vote:

AYES: 087

Allen	Ayres	Bivins	Brandom	Brown 30
Brown 149	Bruns	Burlison	Cooper	Cox
Cunningham	Davis	Day	Deeken	Denison
Dethrow	Dieckhaus	Diehl	Dixon	Dugger
Dusenberg	Emery	Ervin	Faith	Fisher 125
Flanigan	Flook	Franz	Funderburk	Gatschenberger
Grisamore	Guernsey	Guest	Hobbs	Hoskins 121
Icet	Jones 89	Jones 117	Keeney	Kingery
Koenig	Lair	Largent	Leara	Lipke
Loehner	McGhee	McNary	Molendorp	Munzlinger
Nance	Nieves	Nolte	Parkinson	Parson
Pollock	Pratt	Riddle	Ruestman	Ruzicka
Sander	Sater	SchAAF	Schad	Scharnhorst
Schlottach	Schoeller	Self	Silvey	Smith 14
Smith 150	Stevenson	Stream	Sutherland	Thomson
Tilley	Tracy	Viebrock	Wallace	Wasson
Wells	Weter	Wilson 119	Wilson 130	Wright
Zerr	Mr Speaker			

NOES: 071

Atkins	Aull	Biermann	Bringer	Brown 50
Burnett	Calloway	Carter	Casey	Chappelle-Nadal
Colona	Conway	Corcoran	Curls	Dougherty
Englund	Fallert	Fischer 107	Frame	Grill
Harris	Hodges	Holsman	Hummel	Jones 63
Kander	Kelly	Kirkton	Komo	Kratky
Kuessner	Lampe	LeVota	Liese	Low
McClanahan	McDonald	McNeil	Meadows	Meiners
Morris	Nasheed	Newman	Norr	Oxford
Pace	Quinn	Roorda	Rucker	Salva
Scavuzzo	Schieffer	Schoemehl	Schupp	Shively
Skaggs	Spreng	Still	Storch	Swinger
Talboy	Todd	Vogt	Walsh	Walton Gray
Webb	Webber	Whitehead	Witte	Yaeger
Zimmerman				

PRESENT: 000

ABSENT WITH LEAVE: 004

Hoskins 80	Hughes	Kraus	LeBlanc
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VACANCIES: 001

On motion of Representative Jones (89), **HCS#2 SB 844** was read the third time and passed by the following vote:

AYES: 088

Allen	Ayres	Bivins	Brandom	Brown 30
Brown 149	Bruns	Burlison	Cooper	Cox
Cunningham	Davis	Day	Deeken	Denison
Dethrow	Dieckhaus	Diehl	Dixon	Dugger
Dusenberg	Emery	Ervin	Faith	Fisher 125
Flanigan	Flook	Franz	Funderburk	Gatschenberger
Grisamore	Guernsey	Guest	Hobbs	Hoskins 121
Ice	Jones 89	Jones 117	Keeney	Kingery
Koenig	Kraus	Lair	Largent	Leara
Lipke	Loehner	McGhee	McNary	Molendorp
Munzlinger	Nance	Nieves	Nolte	Parkinson
Parson	Pollock	Pratt	Riddle	Ruestman
Ruzicka	Sander	Sater	Schaaf	Schad
Scharnhorst	Schlottach	Schoeller	Self	Silvey
Smith 14	Smith 150	Stevenson	Stream	Sutherland
Thomson	Tilley	Tracy	Viebrock	Wallace
Wasson	Wells	Weter	Wilson 119	Wilson 130
Wright	Zerr	Mr Speaker		

NOES: 071

Atkins	Aull	Biermann	Bringer	Brown 50
Burnett	Calloway	Carter	Casey	Chappelle-Nadal
Colona	Conway	Corcoran	Curls	Dougherty
Englund	Fallert	Fischer 107	Frame	Grill
Harris	Hodges	Holsman	Hummel	Jones 63
Kander	Kelly	Kirkton	Komo	Kratky
Kuessner	Lampe	LeVota	Liese	Low
McClanahan	McDonald	McNeil	Meadows	Meiners
Morris	Nasheed	Newman	Norr	Oxford
Pace	Quinn	Roorda	Rucker	Salva
Scavuzzo	Schieffer	Schoemehl	Schupp	Shively
Skaggs	Spreng	Still	Storch	Swinger
Talboy	Todd	Vogt	Walsh	Walton Gray
Webb	Webber	Whitehead	Witte	Yaeger
Zimmerman				

PRESENT: 000

ABSENT WITH LEAVE: 003

Hoskins 80	Hughes	LeBlanc
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VACANCIES: 001

Speaker Richard declared the bill passed.

Speaker Pro Tem Pratt resumed the Chair.

HCS SS SCS SBs 586 & 617, with House Amendment No. 1, pending, relating to sexually oriented businesses, was again taken up by Representative Emery.

Representative Vogt raised a point of order that the Joint Committee on Legislative Research had not yet held a hearing in response to the challenge on the fiscal note for **HCS SS SCS SBs 586 & 617**.

The Chair ruled the point of order not well taken.

HCS SS SCS SBs 586 & 617, with House Amendment No. 1, 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:

HCS SCS SB 733: Representatives Kingery, Thomson, Hobbs, Schoemehl and Schupp

HCS SCS SB 754: Representatives Day, Wells, Wasson, Dougherty and Webb

THIRD READING OF SENATE BILL

HCS SS SCS SBs 586 & 617, with House Amendment No. 1, pending, relating to sexually oriented businesses, was again taken up by Representative Emery.

Representative Dougherty moved that **House Amendment No. 1** be adopted.

Which motion was defeated by the following vote:

AYES: 033

Atkins	Aull	Burnett	Chappelle-Nadal	Colona
Curls	Dieckhaus	Dougherty	Guest	Holsman
Jones 63	Kelly	LeVota	Liese	Low
McDonald	Meiners	Morris	Nasheed	Norr
Oxford	Pace	Roorda	Schupp	Spreng
Talboy	Tilley	Vogt	Wallace	Walton Gray
Webb	Webber	Whitehead		

NOES: 122

Allen	Ayres	Biermann	Bivins	Brandom
Bringer	Brown 30	Brown 149	Bruns	Burlison
Calloway	Carter	Casey	Conway	Cooper
Corcoran	Cox	Cunningham	Davis	Day
Deeken	Denison	Dethrow	Diehl	Dixon
Dugger	Dusenberg	Emery	Englund	Ervin
Faith	Fallert	Fischer 107	Fisher 125	Flanigan
Flook	Frame	Gatschenberger	Grill	Grisamore
Guernsey	Harris	Hobbs	Hodges	Hoskins 121
Hummel	Icet	Jones 89	Jones 117	Kander
Keeney	Kingery	Kirkton	Koenig	Komo

Kratky	Kraus	Kuessner	Lair	Lampe
Largent	Leara	Lipke	Loehner	McClanahan
McGhee	McNary	McNeil	Meadows	Molendorp
Munzlinger	Nance	Newman	Nieves	Nolte
Parkinson	Parson	Pollock	Pratt	Quinn
Riddle	Rucker	Ruestman	Ruzicka	Sander
Sater	Scavuzzo	Schaaf	Schad	Scharnhorst
Schieffer	Schlottach	Schoeller	Schoemehl	Self
Shively	Silvey	Skaggs	Smith 14	Smith 150
Stevenson	Still	Storch	Stream	Sutherland
Swinger	Thomson	Todd	Tracy	Viebrock
Walsh	Wasson	Wells	Weter	Wilson 119
Wilson 130	Witte	Wright	Yaeger	Zerr
Zimmerman	Mr Speaker			

PRESENT: 000

ABSENT WITH LEAVE: 007

Brown 50	Franz	Funderburk	Hoskins 80	Hughes
LeBlanc	Salva			

VACANCIES: 001

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

House Amendment No. 2

AMEND House Committee Substitute for Senate Substitute for Senate Committee Substitute for Senate Bill Nos. 586 & 617, Page 2, Section 573.525, Line 30, by inserting after all of said line the following:

"3. The provisions of sections 573.525 to 573.537 shall not apply to any home rule city with more than four hundred thousand inhabitants and located in more than one county."; and

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

Representative Holsman moved that **House Amendment No. 2** be adopted.

Which motion was defeated by the following vote:

AYES: 035

Atkins	Aull	Brown 50	Burnett	Calloway
Chappelle-Nadal	Colona	Conway	Curls	Dieckhaus
Dougherty	Guest	Holsman	Hummel	Jones 63
Kelly	LeVota	Liese	Low	McDonald
Meiners	Morris	Nasheed	Newman	Oxford
Pace	Roorda	Skaggs	Talboy	Tilley
Wallace	Walton Gray	Webb	Webber	Whitehead

NOES: 119

Allen	Ayres	Biermann	Bivins	Brandom
Bringer	Brown 30	Brown 149	Bruns	Burlison
Carter	Casey	Cooper	Corcoran	Cox
Cunningham	Davis	Day	Deeken	Denison

Dethrow	Diehl	Dixon	Dugger	Dusenberg
Emery	Englund	Ervin	Faith	Fallert
Fischer 107	Fisher 125	Flanigan	Flook	Frame
Gatschenberger	Grisamore	Guernsey	Harris	Hobbs
Hodges	Hoskins 121	Icet	Jones 89	Jones 117
Kander	Keeney	Kingery	Kirkton	Koenig
Komo	Kratky	Kraus	Kuessner	Lair
Lampe	Largent	Leara	Lipke	Loehner
McClanahan	McGhee	McNary	McNeil	Meadows
Molendorp	Munzlinger	Nance	Nieves	Nolte
Norr	Parkinson	Parson	Pollock	Pratt
Quinn	Riddle	Rucker	Ruestman	Ruzicka
Sander	Sater	Scavuzzo	Schaaf	Schad
Scharnhorst	Schieffer	Schlottach	Schoeller	Schoemehl
Schupp	Self	Shively	Silvey	Smith 14
Smith 150	Spreng	Stevenson	Still	Storch
Stream	Sutherland	Swinger	Thomson	Todd
Tracy	Viebrock	Walsh	Wasson	Wells
Weter	Wilson 119	Wilson 130	Witte	Wright
Yaeger	Zerr	Zimmerman	Mr Speaker	

PRESENT: 000

ABSENT WITH LEAVE: 008

Franz	Funderburk	Grill	Hoskins 80	Hughes
LeBlanc	Salva	Vogt		

VACANCIES: 001

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

House Amendment No. 3

AMEND House Committee Substitute for Senate Substitute for Senate Committee Substitute for Senate Bill Nos. 586 & 617, Section 573.528, Pages 4-5, Lines 80-94, by deleting all of said lines and renumber subsequent subsections accordingly; and

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

HCS SS SCS SBs 586 & 617, with House Amendment No. 3, pending, was laid over.

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 SS SCS SB 605: Representatives Stevenson, Jones (89), Brown (30), Kuessner and Quinn

THIRD READING OF SENATE BILL

HCS SS SCS SBs 586 & 617, with House Amendment No. 3, pending, was again taken up by Representative Emery.

Representative Meiners moved that **House Amendment No. 3** be adopted.

Which motion was defeated by the following vote:

AYES: 063

Atkins	Aull	Brown 50	Bruns	Burnett
Carter	Chappelle-Nadal	Colona	Conway	Corcoran
Cunningham	Day	Dieckhaus	Diehl	Dougherty
Fallert	Grill	Guest	Hobbs	Holsman
Hummel	Jones 63	Jones 89	Kander	Kelly
Kirkton	Kratky	Kuessner	Lampe	LeVota
Liese	Low	McDonald	McNary	McNeil
Meadows	Meiners	Morris	Newman	Norr
Oxford	Pace	Roorda	Rucker	Schaaf
Scharnhorst	Schoemehl	Schupp	Skaggs	Still
Storch	Sutherland	Talboy	Tilley	Tracy
Vogt	Wallace	Walsh	Walton Gray	Webber
Whitehead	Yaeger	Zimmerman		

NOES: 088

Allen	Ayres	Biermann	Bivins	Brandom
Bringer	Brown 30	Brown 149	Burlison	Casey
Cooper	Cox	Davis	Deeken	Denison
Dethrow	Dixon	Dugger	Dusenberg	Emery
Englund	Ervin	Faith	Fischer 107	Fisher 125
Flanigan	Flook	Frame	Gatschenberger	Grisamore
Guernsey	Harris	Hodges	Hoskins 121	Icet
Jones 117	Keeney	Kingery	Koenig	Komo
Kraus	Lair	Largent	Leara	Lipke
Loehner	McClanahan	McGhee	Molendorp	Munzlinger
Nance	Nieves	Nolte	Parkinson	Parson
Pollock	Pratt	Quinn	Riddle	Ruestman
Ruzicka	Sander	Sater	Scavuzzo	Schad
Schieffer	Schlottach	Schoeller	Self	Shively
Silvey	Smith 14	Smith 150	Stevenson	Stream
Swinger	Thomson	Todd	Viebrock	Wasson
Wells	Weter	Wilson 119	Wilson 130	Witte
Wright	Zerr	Mr Speaker		

PRESENT: 000

ABSENT WITH LEAVE: 011

Calloway	Curls	Franz	Funderburk	Hoskins 80
Hughes	LeBlanc	Nasheed	Salva	Spreng
Webb				

VACANCIES: 001

Representative Burnett requested a division of the question on **HCS SS SCS SBs 586 & 617**.

HCS SS SCS SBs 586 & 617, with Part I, Part II, Part III and Part IV, pending, was laid over.

REFERRAL OF SENATE BILLS

The following Senate Bills were referred to the Committee indicated:

HCS SCS SB 583 - Fiscal Review (Fiscal Note)

HCS SB 741 - Fiscal Review (Fiscal Note)

COMMITTEE REPORTS

Committee on Crime Prevention, Chairman Lipke reporting:

Mr. Speaker: Your Committee on Crime Prevention, to which was referred **SCS SB 829**, begs leave to report it has examined the same and recommends that it **Do Pass with House Committee Substitute**, and pursuant to Rule 25(32)(f) be referred to the Committee on Rules.

Committee on Elections, Chairman Deeken reporting:

Mr. Speaker: Your Committee on Elections, to which was referred **SB 581**, begs leave to report it has examined the same and recommends that it **Do Pass with House Committee Substitute**, and pursuant to Rule 25(32)(f) be referred to the Committee on Rules.

Committee on Elementary and Secondary Education, Chairman Wallace reporting:

Mr. Speaker: Your Committee on Elementary and Secondary Education, to which was referred **SCS SB 815**, begs leave to report it has examined the same and recommends that it **Do Pass with House Committee Substitute**, and pursuant to Rule 25(32)(f) be referred to the Committee on Rules.

Committee on Health Care Policy, Chairman Cooper reporting:

Mr. Speaker: Your Committee on Health Care Policy, to which was referred **SS SB 1007**, begs leave to report it has examined the same and recommends that it **Do Pass with House Committee Substitute**, and pursuant to Rule 25(32)(f) be referred to the Committee on Rules.

Committee on Higher Education, Chairman Kingery reporting:

Mr. Speaker: Your Committee on Higher Education, to which was referred **SCR 31**, begs leave to report it has examined the same and recommends that it **Do Pass**, and pursuant to Rule 25(32)(f) be referred to the Committee on Rules.

Special Standing Committee on Governmental Accountability and Ethics Reform,
Chairman Wilson (130) reporting:

Mr. Speaker: Your Special Standing Committee on Governmental Accountability and Ethics Reform, to which was referred **SCS SBs 991 & 645**, begs leave to report it has examined the same and recommends that it **Do Pass with House Committee Substitute**, and pursuant to Rule 25(32)(f) be referred to the Committee on Rules.

Special Standing Committee on Professional Registration and Licensing, Chairman Wasson reporting:

Mr. Speaker: Your Special Standing Committee on Professional Registration and Licensing, to which was referred **SCS SB 616**, begs leave to report it has examined the same and recommends that it **Do Pass**, and pursuant to Rule 25(32)(f) be referred to the Committee on Rules.

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 **SCS HCS HBs 1311 & 1341**, entitled:

An act to amend chapters 337 and 376, RSMo, by adding thereto eleven new sections relating to the treatment of autism spectrum disorders, with penalty provisions.

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 has taken up and passed **SS HCS HBs 1408 & 1514**, entitled:

An act to repeal sections 32.069 and 143.811, RSMo, and to enact in lieu thereof two new sections relating to interest on overpayments of taxes, with an emergency clause.

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 has taken up and passed **SCS HB 1868**, entitled:

An act to repeal sections 37.320 and 109.250, RSMo, and to enact in lieu thereof four new sections relating to the office of administration.

With Senate Amendment No. 1 to Senate Amendment No. 1, Senate Amendment No. 1, as amended, Senate Amendment No. 2, Senate Amendment No. 3, Senate Amendment No. 5, Senate Amendment No. 6, Senate Amendment No. 7, Senate Amendment No. 8, Senate Amendment No. 9, Senate Amendment No. 1 to Senate Amendment No. 10, Senate Amendment No. 10, as amended, and Senate Amendment No. 12.

Senate Amendment No. 1

AMEND Senate Committee Substitute for House Bill No. 1868, Page 1, Section Title, Line 3, by striking the following: "the office of administration" and inserting in lieu thereof the following: "duties of agencies and officials operating within the executive branch"; and

Further amend said bill and page, Section A, Line 3, by inserting immediately after said line the following:

"32.028. 1. There is hereby created a department of revenue in charge of a director appointed by the governor, by and with the advice and consent of the senate. The department shall collect all taxes and fees payable to the state as provided by law.

2. The powers, duties and functions of the department of revenue, chapter 32, RSMo and others, are transferred by type I transfer to the department of revenue. All powers, duties and function of the collector of revenue are transferred to the director of the department by type I transfer and the position of collector of revenue is abolished.

3. The powers, duties and functions of the state tax commission, chapter 138, RSMo and others, are transferred by type III transfer to the department of revenue.

4. All of the powers, duties and functions of the state tax commission relating to administration of the corporation franchise tax chapter 152, RSMo and others, are transferred by type I transfer to the department of revenue; provided, however, that the provision of section 138.430, RSMo relating to appeals from decisions of the director of revenue shall apply to these taxes.

5. All the powers, duties and functions of the highway reciprocity commission, chapter 301, RSMo, are transferred by type II transfer to the department of revenue.

6. All the powers, duties and functions of the division of alcohol and tobacco control, chapters 311 and 407, are transferred by type I transfer to the department of revenue. The supervisor of the division shall be appointed by the governor with the advice and consent of the senate. The supervisor shall appoint such agents, assistants, deputies and inspectors as limited by appropriations. All employees shall have the qualifications provided by law and may be removed by the supervisor with the advice and consent of the director of the department, notwithstanding the provisions of section 311.670.

36.031. Any provision of law to the contrary notwithstanding, except for the elective offices, institutions of higher learning, the department of transportation, the department of conservation, those positions in the Missouri state highway patrol the compensation of which is established by subdivision (2) of subsection 2 of section 43.030, RSMo, and section 43.080, RSMo, [those positions in the Missouri state water patrol the compensation of which is established by section 306.229, RSMo,] those positions in the division of finance and the division of credit unions compensated through a dedicated fund obtained from assessments and license fees under sections 361.170 and 370.107, RSMo, and those positions for which the constitution specifically provides the method of selection, classification, or compensation, and the positions specified in subsection 1 of section 36.030, but including attorneys, those departments, agencies and positions of the executive branch of state government which have not been subject to these provisions of the state personnel law shall be subject to the provisions of sections 36.100, 36.110, 36.120 and 36.130, and the regulations adopted pursuant to sections 36.100, 36.110, 36.120 and 36.130 which relate to the preparation, adoption and maintenance of a position classification plan, the establishment and allocation of positions within the classification plan and the use of appropriate class titles in official records, vouchers, payrolls and communications. Any provision of law which confers upon any official or agency subject to the provisions of this section the authority to appoint, classify or establish compensation for employees shall mean the exercise of such authority subject to the provisions of this section. This section shall not extend coverage of any section of this chapter, except those specifically named in this section, to any agency or employee. In accordance with sections 36.100, 36.110, 36.120 and 36.130, and after consultation with appointing authorities, the director of the division of personnel shall conduct such job studies and job reviews and establish such additional new and revised job classes as the director finds necessary for appropriate classification of the positions involved. Such classifications and the allocation of positions to classes shall be maintained on a current basis by the division of personnel. The director of the division of personnel shall, at the same time, notify all affected agencies of the appropriate assignment of each job classification to one of the salary ranges within the pay plan then applicable to merit system agencies. The affected agencies and employees in the classifications set pursuant to this section shall be subject to the pay plan and rates of compensation established and administered in accordance with the provisions of this section, and the regulations adopted pursuant to this section, on the same basis as for merit agency employees. In addition, any elected official, institution of higher learning, the department of transportation, the department of conservation, the general assembly, or any judge who is the chief administrative officer of the judicial branch of state

government may request the division of personnel to study salaries within the requestor's office, department or branch of state government for classification purposes."; and

Further amend said bill, Page 2, Section 37.900, Line 14, by inserting after all of said line the following:

"43.040. The superintendent shall appoint from the membership of the patrol one lieutenant colonel and [five] **six** majors, who shall have the same qualifications as the superintendent, and who may be relieved of the rank of lieutenant colonel or major, as the case may be, and the duties of the position by the superintendent at his pleasure.

43.050. 1. The superintendent may appoint not more than [twenty-five] **thirty-four** captains and one director of radio, each of whom shall have the same qualifications as the superintendent, nor more than [sixty] **sixty-eight** lieutenants, and such additional force of sergeants, corporals and patrolmen, so that the total number of members of the patrol shall not exceed [nine hundred sixty-five] **one thousand sixty-four** officers and patrolmen and such numbers of radio personnel as the superintendent deems necessary.

2. In case of a national emergency the superintendent may name additional patrolmen and radio personnel in a number sufficient to replace, temporarily, patrolmen and radio personnel called into military services.

3. The superintendent may enter into an agreement with the Missouri gaming commission to enforce any law, rule, or regulation, conduct background investigations under the laws of this state, and enforce the regulations of licensed gaming activities governed by chapter 313, RSMo. A notice of either party to terminate or modify the provisions of such agreement shall be in writing and executed not less than one year from the effective date of the termination or modification, unless mutually agreed upon by the superintendent and the Missouri gaming commission. Members of the patrol hired in conjunction with any agreement with the Missouri gaming commission shall not be subject to the personnel cap referenced in subsection 1 of this section. If such agreement is subsequently terminated or modified to reduce the number of personnel used in such agreement, those members affected by such termination or modification shall not be subject to the personnel cap referenced in subsection 1 of this section for a period of five years.

4. Member positions of the patrol originally acquired in conjunction with the community-oriented policing services federal grant or members assigned to fulfill the duties established in sections 43.350 to 43.380 shall not be subject to the personnel cap referenced in subsection 1 of this section.

5. Applicants shall not be discriminated against because of race, creed, color, national origin or sex.

43.390. 1. Notwithstanding the provisions of subsection 1 of section 43.025, there is hereby created within the Missouri state highway patrol a "Division of Water Patrol".

2. The superintendent of the Missouri state highway patrol shall appoint a director of the division of water patrol who shall be responsible for the operation of the division.

3. The superintendent of the Missouri state highway patrol may assign highway patrol members under the superintendent's command to serve in the division of water patrol on a permanent or temporary basis.

4. All officers assigned to the division of water patrol shall be vested with the powers prescribed in sections 306.165, 306.167, and 306.168.

5. All salaries, expenses, and other costs relating to the assignment of Missouri state highway patrol members to the division of water patrol shall be paid within the limits of appropriations from general revenue, the Missouri state water patrol fund established in section 306.185, or from such other funding as may be authorized by the general assembly.

58.445. 1. If any person within a coroner's or medical examiner's jurisdiction dies within eight hours of, and as a result of, an accident involving a motor vehicle, the coroner or medical examiner shall report the death and circumstances of the accident to the Missouri state highway patrol in writing. If any person within a coroner's or medical examiner's jurisdiction dies within eight hours of, and as a result of, an accident involving a motorized watercraft and was thought to have been the operator of such watercraft, the coroner or medical examiner shall report the death and circumstances of the accident to the Missouri state **highway patrol**, water patrol **division**, in writing. The report required by this subsection shall be made within five days of the conclusion of the tests required in subsection 2 of this section.

2. The coroner or medical examiner shall make, or cause to be made, such tests as are necessary to determine the presence and percentage concentration of alcohol, and drugs if feasible, in the blood of the deceased. The results of these tests shall be included in the coroner's or medical examiner's report to the state highway patrol [or the Missouri state water patrol,] as required by subsection 1 of this section."; and

Further amend said bill, Page 2, Section 109.250, Line 23, by inserting after all of said line the following:

"301.716. 1. Any violation of the provisions of sections 301.700 to 301.714 shall be an infraction. An arrest or service of summons for violations of the provisions of sections 301.700 to 301.714 and section 577.065, RSMo, or the provisions of this chapter, chapter 304 or 307, RSMo, as such provisions relate to all-terrain vehicles may be made by the duly authorized law enforcement officer of any political subdivision of the state, the highway patrol [and the state water patrol].

2. Violations of sections 301.700 to 301.714 and section 577.065, RSMo, or the provisions of this chapter, chapter 304 or 307, RSMo, as such provisions relate to all-terrain vehicles or any rule or order hereunder may be referred to the proper prosecuting attorney or circuit attorney who may, with or without such reference, institute appropriate proceedings.

3. Nothing in sections 301.700 to 301.714 and section 577.065, RSMo, or the provisions of this chapter, chapter 304 or 307, RSMo, as such provisions relate to all-terrain vehicles limits the power of the state to punish any person for any conduct which constitutes a crime by statute or at common law.

306.010. As used in this chapter the following terms mean:

(1) "Motorboat", any vessel propelled by machinery, whether or not such machinery is a principal source of propulsion;

(2) "Operate", to navigate or otherwise use a motorboat or a vessel;

(3) "Operator", the person who operates or has charge of the navigation or use of a vessel;

(4) "Owner", a person other than a lienholder, having the property in or title to a motorboat. The term includes a person entitled to the use or possession of a motorboat subject to an interest of another person, reserved or created by agreement and securing payment or performance of an obligation, but the term excludes a lessee under a lease not intended as security;

(5) "Parasailing", the towing of any person equipped with a parachute or kite equipment by any watercraft operating on the waters of this state;

(6) "Personal watercraft", a class of vessel, which is less than sixteen feet in length, propelled by machinery which is designed to be operated by a person sitting, standing or kneeling on the vessel, rather than being operated by a person sitting or standing inside the vessel;

(7) "Skiing", any activity that involves a person or persons being towed by a vessel, including but not limited to waterskiing, wake boarding, wake surfing, knee boarding, and tubing;

(8) "Vessel", every motorboat and every description of motorized watercraft, and any watercraft more than twelve feet in length which is powered by sail alone or by a combination of sail and machinery, used or capable of being used as a means of transportation on water, but not any watercraft having as the only means of propulsion a paddle or oars;

(9) "Watercraft", any boat or craft, including a vessel, used or capable of being used as a means of transport on waters;

(10) **"Water patrol division of the state highway patrol" or "water patrol division", the division responsible for enforcing the provisions of this chapter on the waters of this state. The revisor of statutes is instructed to replace the terms "Missouri state water patrol" or "state water patrol" wherever those terms exist in this chapter with the term "water patrol division";**

(11) "Waters of this state", any waters within the territorial limits of this state and lakes constructed or maintained by the United States Army Corps of Engineers except bodies of water owned by a person, corporation, association, partnership, municipality or other political subdivision, public water supply impoundments, and except drainage ditches constructed by a drainage district, but the term does include any body of water which has been leased to or owned by the state department of conservation.

306.165. Each [water] patrol officer [appointed by the Missouri state water patrol and each of such other employees as may be designated by the patrol, before entering upon his or her duties, shall take and subscribe an oath of office to perform all duties faithfully and impartially, and shall be given a certificate of appointment, a copy of which shall be filed with the secretary of state, granting] **assigned to the water patrol division by the superintendent of the highway patrol as provided in section 43.390 shall possess** all the powers of a peace officer to enforce all laws of this state, upon all of the following:

(1) The waterways of this state bordering the lands set forth in subdivisions (2), (3), (4), and (5) of this section;

(2) All federal land, where not prohibited by federal law or regulation, and state land adjoining the waterways of this state;

- (3) All land within three hundred feet of the areas in subdivision (2) of this section;
- (4) All land adjoining and within six hundred feet of any waters impounded in areas not covered in subdivision (2) with a shoreline in excess of four miles;
- (5) All land adjoining and within six hundred feet of the rivers and streams of this state;
- (6) Any other jurisdictional area, pursuant to the provisions of section 306.167;
- (7) All premises leased or owned or under control of the Missouri state [water] **highway** patrol.

Each [water] patrol officer **assigned to the water patrol division** may board any watercraft at any time, with probable cause, for the purpose of making any inspection necessary to determine compliance with the provisions of this chapter. Each [water] patrol officer may arrest on view and without a warrant any person he or she sees violating or who such patrol officer has reasonable grounds to believe has violated any law of this state, upon any water or land area subject to his or her jurisdiction as provided in this section or may arrest anyone violating any law in his or her presence throughout the state. Each [water] patrol officer, while investigating an accident or crime that was originally committed within such patrol officer's jurisdiction, as set forth in this section, may arrest any person who he or she has probable cause to believe has committed such crime, even if the suspect is currently out of the **division of water patrol's** jurisdiction. [Water] Patrol officers, if practicable, shall notify the sheriff or the police department prior to making an arrest within their respective county or city. Each [water] patrol officer shall comply with the training and certification provisions of chapter 590, RSMo.

306.167. The uniformed members of the [state] water patrol **division**, with the exception of radio personnel, shall have full power and authority as now or hereafter vested by law in peace officers when working with and at the special request of the sheriff of any county, the chief park ranger of any first class county not having a charter form of government and containing a portion of a city with a population exceeding four hundred thousand inhabitants, the chief of police of any city, or the superintendent of the state highway patrol [as directed by the commissioner of the water patrol]; provided, however, that such power and authority shall be exercised only upon the prior notification of the chief law enforcement officer of each jurisdiction.

306.168. In the investigation of an accident or crime that was originally committed within such patrol officer's jurisdiction, as set forth in section 306.165, the members of the water patrol **division** may request that the prosecuting or circuit attorney apply for, and members of the water patrol **division** may serve, search warrants anywhere within the state of Missouri, provided the sheriff of the county in which the warrant is to be served, or his designee, shall be notified upon application by the applicant of the search warrant. **The sheriff or his designee shall participate in serving the search warrant except for offenses pertaining to boating while intoxicated and the investigation of vessel accidents. Any designee of the sheriff shall be a deputy sheriff or other person certified as a peace officer under chapter 590. The sheriff shall always have a designee available.**

306.185. 1. There is hereby created in the state treasury the "Missouri State Water Patrol Fund", which shall consist of money collected under section 306.030. The state treasurer shall be custodian of the fund and shall 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 expenses of the Missouri state **highway patrol**, water patrol **division**, including but not limited to [personal] **personnel** expense, training expense, and equipment expense **for the purpose of enforcing the laws of this chapter.**

2. Notwithstanding the provisions of section 33.080, RSMo, any moneys remaining in the fund at the end of the biennium shall not revert to the credit of the general revenue fund.

3. 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.

4. Within available appropriations in this section, the commissioner of the water patrol shall establish with the advice of the director of personnel an equitable pay plan for the members of the water patrol and radio personnel taking into consideration ranks and length of service.

5. If in the immediate previous fiscal year, the state's net general revenue did not increase by two percent or more, the state treasurer shall deposit moneys, except for gifts, donations, or bequests, received under this section beginning January first of the current fiscal year into the state general revenue fund. Otherwise, the state treasurer shall deposit such moneys in accordance with the provisions of this section.

311.615. There shall be a division within the department of [public safety] **revenue** known as the "Division of Alcohol and Tobacco Control", which shall have as its chief executive officer the supervisor of alcohol and tobacco control appointed pursuant to section 311.610. All references to the division of liquor control and the supervisor of

liquor control in the statutes shall mean the division of alcohol and tobacco control and the supervisor of alcohol and tobacco control.

407.924. 1. The division of [liquor] **alcohol and tobacco** control within the department of [public safety] **revenue** shall implement and enforce the provisions of sections 407.925 to 407.934.

2. Beginning January 1, 2003, the division of [liquor] **alcohol and tobacco** control shall submit an annual report to the general assembly on the effectiveness of sections 407.925 to 407.934 in reducing tobacco possession by minors and the enforcement activities by the division for violations of sections 407.925 to 407.934.

542.261. As used in sections 542.261 to 542.296 and section 542.301, the term "peace officer" means a police officer, member of the highway patrol [or water patrol] to the extent otherwise permitted by law to conduct searches, sheriff or deputy sheriff.

544.157. 1. Any law enforcement officer certified pursuant to chapter 590, RSMo, of any political subdivision of this state, any authorized agent of the department of conservation, any commissioned member of the Missouri capitol police[,] **and** any commissioned member of the Missouri state park rangers [and any authorized agent of the Missouri state water patrol] in fresh pursuit of a person who is reasonably believed by such officer to have committed a felony in this state or who has committed, or attempted to commit, in the presence of such officer or agent, any criminal offense or violation of a municipal or county ordinance, or for whom such officer holds a warrant of arrest for a criminal offense, shall have the authority to arrest and hold in custody such person anywhere in this state. Fresh pursuit may only be initiated from within the pursuing peace officer's, conservation agent's, capitol police officer's[,] **or** state park ranger's [or water patrol officer's] jurisdiction and shall be terminated once the pursuing peace officer is outside of such officer's jurisdiction and has lost contact with the person being pursued. If the offense is a traffic violation, the uniform traffic ticket shall be used as if the violator had been apprehended in the municipality or county in which the offense occurred.

2. If such an arrest is made in obedience to a warrant, the disposition of the prisoner shall be made as in other cases of arrest under a warrant; if the violator is served with a uniform traffic ticket, the violator shall be directed to appear before a court having jurisdiction to try the offense; if the arrest is without a warrant, the prisoner shall be taken forthwith before a judge of a court with original criminal jurisdiction in the county wherein such arrest was made or before a municipal judge thereof having original jurisdiction to try such offense, who may release the person as provided in section 544.455, conditioned upon such person's appearance before the court having jurisdiction to try the offense. The person so arrested need not be taken before a judge as herein set out if given a summons by the arresting officer.

3. The term "fresh pursuit", as used in this section, shall include hot or fresh pursuit as defined by the common law and also the pursuit of a person who has committed a felony or is reasonably suspected of having committed a felony in this state, or who has committed or attempted to commit in this state a criminal offense or violation of municipal or county ordinance in the presence of the arresting officer referred to in subsection 1 of this section or for whom such officer holds a warrant of arrest for a criminal offense. It shall include also the pursuit of a person suspected of having committed a supposed felony in this state, though no felony has actually been committed, if there is reasonable ground for so believing. "Fresh pursuit" as used herein shall imply instant pursuit.

4. A public agency electing to institute vehicular pursuits shall adopt a policy for the safe conduct of vehicular pursuits by peace officers. Such policy shall meet the following minimum standards:

- (1) There shall be supervisory control of the pursuit;
- (2) There shall be procedures for designating the primary pursuit vehicle and for determining the total number of vehicles to be permitted to participate at one time in the pursuit;
- (3) There shall be procedures for coordinating operation with other jurisdictions; and
- (4) There shall be guidelines for determining when the interests of public safety and effective law enforcement justify a vehicular pursuit and when a vehicular pursuit should not be initiated or should be terminated.

577.090. Any law enforcement officer shall and any agent of the conservation commission or deputy or **member of the highway patrol**, water patrol [officer] **division**, may enforce the provisions of sections 577.070 and 577.080 and arrest violators thereof; except that conservation agents [and water patrolmen] may enforce such provisions only upon the water, the banks thereof or upon public land.

650.005. 1. There is hereby created a "Department of Public Safety" in charge of a director appointed by the governor with the advice and consent of the senate. The department's role will be to provide overall coordination in the state's public safety and law enforcement program, to provide channels of coordination with local and federal agencies

in regard to public safety, law enforcement and with all correctional and judicial agencies in regard to matters pertaining to its responsibilities as they may interrelate with the other agencies or offices of state, local or federal governments.

2. All the powers, duties and functions of the state highway patrol, chapter 43, RSMo, and others, are transferred by type II transfer to the department of public safety. The governor by and with the advice and consent of the senate shall appoint the superintendent of the patrol. With the exception of sections 43.100 to 43.120, RSMo, relating to financial procedures, the director of public safety shall succeed the state highways and transportation commission in approving actions of the superintendent and related matters as provided in chapter 43, RSMo. Uniformed members of the patrol shall be selected in the manner provided by law and shall receive the compensation provided by law. Nothing in the Reorganization Act of 1974, however, shall be interpreted to affect the funding of appropriations or the operation of chapter 104, RSMo, relating to retirement system coverage or section 226.160, RSMo, relating to workers' compensation for members of the patrol.

3. [All the powers, duties and functions of the supervisor of liquor control, chapter 311, RSMo, and others, are transferred by type II transfer to the department of public safety. The supervisor shall be nominated by the department director and appointed by the governor with the advice and consent of the senate. The supervisor shall appoint such agents, assistants, deputies and inspectors as limited by appropriations. All employees shall have the qualifications provided by law and may be removed by the supervisor or director of the department as provided in section 311.670, RSMo.

4. The director of public safety, superintendent of the highway patrol and transportation division of the department of economic development are to examine the motor carrier inspection laws and practices in Missouri to determine how best to enforce the laws with a minimum of duplication, harassment of carriers and to improve the effectiveness of supervision of weight and safety requirements and to report to the governor and general assembly by January 1, 1975, on their findings and on any actions taken.

5. The Missouri division of highway safety is transferred by type I transfer to the department of public safety. The division shall be in charge of a director who shall be appointed by the director of the department.

6.] All the powers, duties and functions of the safety and fire prevention bureau of the department of public health and welfare are transferred by type I transfer to the director of public safety.

[7.] 4. All the powers, duties and functions of the state fire marshal, chapter 320, RSMo, and others, are transferred to the department of public safety by a type I transfer.

[8.] 5. All the powers, duties and functions of the law enforcement assistance council administering federal grants, planning and the like relating to Public Laws 90-351, 90-445 and related acts of Congress are transferred by type I transfer to the director of public safety. The director of public safety shall appoint such advisory bodies as are required by federal laws or regulations. The council is abolished.

[9.] 6. The director of public safety shall promulgate motor vehicle regulations and be ex officio a member of the safety compact commission in place of the director of revenue and all powers, duties and functions relating to chapter 307, RSMo, are transferred by type I transfer to the director of public safety.

[10.] 7. The office of adjutant general and the state militia are assigned to the department of public safety; provided, however, nothing herein shall be construed to interfere with the powers and duties of the governor as provided in article IV, section 6 of the Constitution of the state of Missouri or chapter 41, RSMo.

[11.] 8. All the powers, duties and functions of the Missouri boat commission, chapter 306, RSMo, and others, are transferred by type I transfer to the "Missouri State Water Patrol", which is hereby created, in the department of public safety. The Missouri boat commission and the office of secretary to the commission are abolished. [The Missouri state water patrol shall be headed by a boat commissioner who shall be appointed by the governor, with the advice and consent of the senate.] All deputy boat commissioners and all other employees of the commission who were employed on February 1, 1974, shall be transferred to the water patrol without further qualification. **Effective January 1, 2011, all the powers, duties, and functions of the Missouri state water patrol are transferred to the division of water patrol within the Missouri state highway patrol as set out in section 43.390.**

[12.] 9. The [division of veterans affairs] **Missouri veterans's commission**, chapter 42, RSMo, is assigned to the [office of adjutant general. The adjutant general, with the advice of the veterans' board, shall appoint the director of the division of veterans affairs who shall serve at the pleasure of the adjutant general] **department of public safety.**

[13.] 10. 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, 2009, shall be invalid and void."; and

Further amend said bill, Page 3, Section 1, Line 7, by inserting after all of said line the following:

"[306.161. The Missouri state water patrol is authorized to employ, within the limits of appropriations and notwithstanding any other provision of law to the contrary, such personnel as may be necessary to properly perform the duties of the water patrol, and the water patrol shall prescribe the duties and responsibilities of such personnel.]

[306.163. 1. The governor, by and with the advice and consent of the senate, shall appoint a commissioner of the Missouri state water patrol to serve at the pleasure of the governor. The commissioner shall take and subscribe an oath of office to perform the commissioner's duties faithfully and impartially. The commissioner appointed by the governor shall have at least ten years of experience in law enforcement similar to the duties exercised by uniformed officers of the state water patrol or at least five years of experience as a uniformed officer of the state water patrol.

2. The commissioner shall prescribe rules for instruction and discipline and make administrative rules and regulations and fix the hours of duty for the members of the patrol. The commissioner shall have charge of the office of the patrol, shall be custodian of the records of the patrol, and shall direct the day-to-day activities of the officers, patrolmen and office personnel.

3. The commissioner shall be given a certificate of appointment, a copy of which shall be filed with the secretary of state, granting him or her all the powers of a peace officer to enforce all the laws of this state within the jurisdiction of the water patrol as listed in section 306.165, provided that he has completed a law enforcement training course which meets the standards established in chapter 590, RSMo.

4. In the absence, or upon the disability, of the commissioner, or at the time the commissioner designates, the lieutenant colonel shall assume the duties of the commissioner. In case of the disability of the commissioner and the lieutenant colonel, the governor may designate a major as acting commissioner and when so designated, the acting commissioner shall have all the powers and duties of the commissioner.]

[306.227. Patrolmen and radio personnel of the water patrol shall not be less than twenty-one years of age. No person shall be appointed as commissioner or as a member of the patrol or as a member of the radio personnel who:

(1) Has been convicted of a felony or any crime involving moral turpitude, or against whom any indictment or information may then be pending charging the person with having committed a crime;

(2) Is not of good character;

(3) Is not a citizen of the United States;

(4) At the time of appointment is not a citizen of the state of Missouri;

(5) Has not completed a high school program of education under chapter 167, RSMo, or has not obtained a General Educational Development (GED) certificate, and who has not obtained advanced education and experience as approved by the commissioner; or

(6) Does not possess ordinary physical strength, and who is not able to pass the physical and mental examination that the commissioner prescribes.]

[306.228. 1. The commissioner may appoint from within the membership not more than one assistant commissioner, two majors, nine captains, nine lieutenants, and one director of radio, each of whom shall have the same qualifications as the commissioner, and such additional force of sergeants, corporals and patrolmen and such numbers of radio personnel as the commissioner deems necessary.

2. In case of a national emergency the commissioner may name additional patrolmen and radio personnel in a number sufficient to replace, temporarily, patrolmen and radio personnel called into military services.

3. Applicants shall not be discriminated against because of race, creed, color, national origin, religion or sex.]

[306.229. 1. The commissioner is authorized and empowered to prescribe policies providing increases in the salaries of patrolmen and radio personnel of the water patrol, subject to appropriations. Each year, prior to January first, the commissioner shall submit a salary schedule report to the governor, speaker of the house of representatives, and the president pro tem of the senate. The salary schedule report prepared by the commissioner shall include, in addition to other matters deemed pertinent to the commissioner, a comparison of the salaries of police officers of three police departments that employ similar numbers of patrol officers in the state. Such report shall also include a full description and comparison of each department position used to determine parity for all patrol positions of sergeant and above. The governor may make additional recommendations to the report and forward them to the speaker of the house of representatives and president pro tem of the senate. The speaker of the house of representatives and the president pro tem of the senate may assign the salary schedule report to the appropriate standing committees to review the salary comparisons to ensure that parity, as adjusted for equivalent duties and functions, in the salary of patrolmen and radio personnel of the water patrol and officers of the three police departments that employ similar numbers of patrol officers in the state is maintained. The commissioner of the water patrol shall testify before the appropriate committee on the salary schedule report if called up by such committee.

2. The service of a member of the patrol, who has served in the armed forces of the United States and who has subsequently been reinstated as a member of the patrol within ninety days after receiving a discharge other than dishonorable from the armed forces of the United States, shall be considered service with the patrol as a member of the patrol rendered since last becoming a member prior to entrance into the armed forces of the United States; except that no member shall be entitled to any credit, privilege or benefit provided by this chapter if such reenlistment, waiver of discharge, acceptance of commission or any other action with the armed forces beyond the period of service for which such member was originally commissioned, enlisted, inducted or called.]

[306.230. 1. The commissioner shall prescribe rules for instruction and discipline and make all administrative rules and regulations and fix the hours of duty for the members of the patrol. 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, 2007, shall be invalid and void. The commissioner shall divide the state into districts and assign members of the patrol to such districts in a manner deemed proper to carry out the purposes of this chapter. The commissioner may call members of the patrol from one district to another.

2. The commissioner may, by general order, establish for the circumstances under which members of the patrol are promoted. The commissioner shall classify and, by promotion, increase the rank of lieutenant colonels, majors, captains, lieutenants, sergeants, corporals, patrolmen, and radio personnel from the next lower rank after not less than one year of service satisfactorily performed therein. If the commissioner finds the candidate pool to fill a position through promotion is not sufficient from which to select, the commissioner may promote an individual from the next lower rank.]

[306.232. 1. After a probation period of one year, members of the patrol shall be subject to removal, reduction in rank, or suspension of more than three days only for cause after a petition with a formal charge has been filed in writing before or by the commissioner and upon a finding and vote by a majority of a board of six patrol members after a hearing. The members of the board shall be randomly selected from districts or divisions other than that of the accused. The board shall be composed of six unbiased members including one nonvoting captain, one lieutenant, and four members of the same rank as the accused member. The randomly selected captain shall serve as presiding officer at the hearing. Within thirty days after the petition is filed, unless the accused consents to an extension of the time, the board shall conduct a hearing and report to the commissioner the finding and vote of the majority of the board, whether the charges are true, and what discipline, if any, should be imposed. All lawful rules, regulations, and orders of the commissioner shall be

obeyed by the members of the patrol, who shall be subject to dismissal or one or more of the following as adjudged by the commissioner:

- (1) Suspension without pay for not more than thirty days;
- (2) Reduction in rank; or

(3) Disciplinary transfer at the member's expense. Nothing in this section shall be construed to prevent nondisciplinary transfers of members if the commissioner determines that such transfers are for the good of the patrol. No hearings shall be required in the case of reprimands or suspensions of three days or less which may be imposed at the discretion of the commissioner.

2. If a complaint is filed against a member, the member shall be provided a copy of the complaint promptly after the complaint is filed by or received by the patrol. Unless the member consents in writing to an earlier time, the member shall not be questioned by the patrol about the complaint or ordered to respond in writing to the complaint until forty-eight hours after the member has received a copy of the complaint. The member shall have a reasonable opportunity to have counsel present during any questioning related to the complaint. Prior to the commissioner or the patrol making an initial recommendation of discipline, the member shall be entitled to a copy of any investigation reports and any other written or recorded information or other evidence reviewed by the patrol which relates to the complaint; and the member will be afforded an opportunity to present a written response thereto.

3. Notwithstanding the provisions of this subsection or subsection 2 of this section to the contrary, the commissioner may postpone notifying a member that a complaint has been filed against him or her and may withhold the complaint and part or all of the investigation report and other evidence if the commissioner determines that such disclosures shall seriously interfere with the investigation regarding such complaint or any other investigation being conducted by the patrol or may likely jeopardize the health or safety of any person. Nothing in this subsection shall be construed to limit the rights of parties to discovery in civil or criminal litigation.]; and

Further amend the title and enacting clause accordingly.

Senate Amendment No. 1
to
Senate Amendment No. 1

AMEND Senate Amendment No. 1 to Senate Committee Substitute for House Bill No. 1868, Page 2, Section 32.028, Line 12, by striking the words "Type I" and inserting in lieu thereof the following: "**Type II**".

Senate Amendment No. 2

AMEND Senate Committee Substitute for House Bill No. 1868, Page 1, Section A, Line 3, by inserting after all of said line the following:

"36.050. 1. The personnel advisory board and its functions, duties and powers prescribed in this chapter is transferred by type III transfer to the office of administration.

2. The personnel advisory board shall consist of seven members. Four members of the board shall be public members, citizens of the state who are not state employees or officials, of good character and reputation, who are known to be in sympathy with the application of merit principles to public employment. Two members shall be employees of state agencies covered by section 36.030 or section 36.031, one a member of executive management, and one a nonmanagement employee. [Members who are employees shall not participate in disciplinary appeal decisions from their agencies.] The state equal employment opportunity officer shall be a member of the board. No member of the board, during the member's term of office, or for at least one year prior thereto, shall be a member of any local, state or national committee of a political party or an officer or member of a committee in any partisan political club or organization, or hold, or be a candidate for, a partisan public office. An employee member who leaves state employment or otherwise fails to further qualify for the appointment shall vacate the position.

3. The members of the board shall be appointed by the governor by and with the advice and consent of the senate. The three current members of the board serving terms which expire July 31, 1998, July 31, 2000, and July 31, 2002, shall continue to serve for the terms for which they were previously appointed. One new public member shall be appointed for a term ending July 31, 1998, one employee member shall be appointed for a term ending July 31, 2000,

and one employee member shall be appointed for a term ending July 31, 2002. Thereafter, appointments of all members shall be for terms of six years. Any vacancy shall be filled by an appointment for the unexpired term. Each member of the board shall hold office until such member's successor is appointed and qualified.

4. A member of the board is removable by the governor only for just cause, after being given a written notice setting forth in substantial detail the charges against the member and an opportunity to be heard publicly on the charges before the governor. A copy of the charges and a transcript of the record of the hearing shall be filed with the secretary of state.

5. Each public member of the board shall be paid an amount for each day devoted to the work of the board which shall be determined by the commissioner of administration and filed with the reorganization plan of the office of administration; provided, however, that such amount shall not exceed that paid to members of boards and commissions with comparable responsibilities. All board members are entitled to reimbursement for necessary travel and other expenses pertaining to the duties of the board. Duties performed for the board by any employee member of the board shall be considered duties in connection with the appointment of the individual, and such employee member shall suffer no loss of regular compensation by reason of performance of such duties.

6. The board shall elect from among its membership a chairman and vice chairman, who shall act as chairman in the chairman's absence. It shall meet at the times and places specified by call of the chairman, the governor, or the director. At least one meeting shall be held every three months. All regular meetings are open to the public. Notice of each meeting shall be given in writing to each member by the director. Two members shall constitute a quorum until January 1, 1997, thereafter, four members shall constitute a quorum for the transaction of official business.

7. To assist in the performance of its duties the board may employ staff from funds appropriated for this purpose; provided, however, that this provision shall not be interpreted to limit the ability of the personnel director to provide assistance to the board.

36.060. 1. In addition to the duties imposed upon it elsewhere in this chapter, it shall be the duty of the board:
(1) [To conduct hearings and render decisions on appeals as provided in this act;
(2)] To make any investigation which it may consider desirable concerning the administration of personnel subject to this law;

[(3)] (2) To hold regular meetings with appointing authorities to propose methods of resolving general personnel problems;

[(4)] (3) To make annual reports, and such special reports as it considers desirable, to the governor and the general assembly regarding personnel administration in the state service and recommendations there. These special reports shall evaluate the effectiveness of the personnel division and the appointing authority in their operations under this law;

[(5)] (4) To make such suggestions and recommendations to the governor and the director relating to the state's employment policies as will promote morale, efficiency and uniformity in compensation of the various employees in the state service;

[(6)] (5) To promulgate rules and regulations to ensure that no applicant or employee is discriminated against on the basis of race, creed, color, religion, national origin, sex, ancestry or handicap.

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

36.150. 1. Every appointment or promotion to a position covered by this chapter shall be made on the basis of merit as provided in this chapter. Demotions in and dismissals from employment shall be made for cause under rules and regulations of the board uniformly applicable to all positions of employment. No appointment, promotion, demotion or dismissal shall be made because of favoritism, prejudice or discrimination. The regulations shall prohibit discrimination in other phases of employment and personnel administration and shall provide such remedy as is required by federal merit system standards for grant-in-aid programs [and is not provided in chapter 296, RSMo].

2. Political endorsements shall not be considered in connection with any such appointment.

3. No person shall use or promise to use, directly or indirectly, for any consideration whatsoever, any official authority or influence to secure or attempt to secure for any person an appointment or advantage in appointment to any such position or an increase in pay, promotion or other advantage in employment.

4. No person shall in any manner levy or solicit any financial assistance or subscription for any political party, candidate, political fund, or publication, or for any other political purpose, from any employee in a position subject to this chapter, and no such employee shall act as agent in receiving or accepting any such financial contribution, subscription, or assignment of pay. No person shall use, or threaten to use, coercive means to compel an employee to give such assistance, subscription, or support, nor in retaliation for the employee's failure to do so.

5. No such employee shall be a candidate for nomination or election to any partisan public office or nonpartisan office in conflict with that employee's duties unless such person resigns, or obtains a regularly granted leave of absence, from such person's position.

6. No person elected to partisan public office shall, while holding such office, be appointed to any position covered by this chapter.

7. Any officer or employee in a position subject to this chapter who purposefully violates any of the provisions of this section shall forfeit such office or position. If an appointing authority finds that such a violation has occurred, or is so notified by the director, this shall constitute cause for dismissal pursuant to section 36.390 and a final determination by the [board] **administrative hearing commission** as to the occurrence of a violation.

36.280. 1. An appointing authority may at any time assign an employee from one position to another position in the same class in the appointing authority's division; except that, transfers of employees made because of a layoff, or shortage of work or funds which might require a layoff, shall be governed by the regulations. Upon making such an assignment the appointing authority shall forthwith give written notice of the appointing authority's action to the director. A transfer of an employee from a position in one division to a position in the same class in another division may be made with the approval of the director and of the appointing authorities of both divisions. No employee shall be transferred from a position in one class to a position in another class of a higher rank or for which there are substantially dissimilar requirements for appointment unless the employee is appointed to such latter position after certification of the employee's name from a register in accordance with the provisions of this chapter. Any change of an employee from a position in one class to a position in a class of lower rank shall be considered a demotion and shall be made only in accordance with the procedure prescribed by section 36.380 for cases of dismissal. An employee thus involuntarily demoted shall have the right to appeal to the [board] **administrative hearing commission** pursuant to section 36.390.

2. An employee who has successfully served at least one year in a position not subject to subsection 1 of section 36.030, but which is subject to section 36.031, may be transferred to a position subject to subsection 1 of section 36.030 in the same class with the approval of the director and of the appointing authorities of both divisions, provided he or she possesses the qualifications and has successfully completed a noncompetitive examination for the position involved.

36.370. 1. An appointing authority may, for disciplinary purposes, suspend without pay any employee in his division for such length of time as he considers appropriate, not exceeding twenty working days in any twelve-month period except that this limitation shall not apply in the event of a terminal suspension given in conjunction with a dismissal. In case of a suspension, the director shall be furnished with a statement in writing specifically setting forth the reasons for such suspension. Upon request, a copy of such statement shall be furnished to such employee. With the approval of the director, any employee may be suspended for a longer period pending the investigation or trial of any charges against him. Any regular employee who is suspended for more than five working days shall have the right to appeal to the [board] **administrative hearing commission** as provided under section 36.390.

2. An appointing authority may not suspend without pay any employee in his division who is a member of the national guard and is engaged in the performance of duty or training in the service of this state at the call of the governor and as ordered by the adjutant general, but shall grant a leave of absence from duty without loss of time, pay, regular leave, impairment of efficiency rating, or of any other rights or benefits, to which otherwise entitled, and shall pay that employee his salary or compensation for the entire period of absence for that purpose.

36.380. An appointing authority may dismiss for cause any employee in his division occupying a position subject hereto when he considers that such action is required in the interests of efficient administration and that the good of the service will be served thereby. No dismissal of a regular employee shall take effect unless, prior to the effective date thereof, the appointing authority gives to such employee a written statement setting forth in substance the reason therefor and files a copy of such statement with the director. When it is not practicable to give the notice of dismissal to an employee in person, it may be sent to the employee by certified or registered mail, return receipt requested, at his last mailing address as shown in the personnel records of the appointing authority. Proof of refusal of the employee to accept delivery or the inability of postal authorities to deliver such mail shall be accepted as evidence that the required notice of dismissal has been given. If the director determines that the statement of reasons for the dismissal given by the appointing authority shows that such dismissal does not reflect discredit on the character or conduct of the employee, he may, upon request of the employee, approve reemployment under section 36.240, in any class in which the employee has held regular status. Any regular employee who is dismissed shall have the right to appeal to the [board] **administrative hearing commission** as provided under section 36.390.

36.390. 1. An applicant whose request for admission to any examination has been rejected by the director may appeal to the [board] **administrative hearing commission** in writing within fifteen days of the mailing of the notice of rejection by the director, and in any event before the holding of the examination. The [board's] **commission's** decision on all matters of fact shall be final.

2. Applicants may be admitted to an examination pending a consideration of the appeal, but such admission shall not constitute the assurance of a passing grade in education and experience.

3. Any applicant who has taken an examination and who feels that he or she has not been dealt with fairly in any phase of the examination process may request that the director review his or her case. Such request for review of any examination shall be filed in writing with the director within [thirty] **fifteen** days after the date on which notification of the results of the examination was mailed to the applicant. A candidate may appeal the decision of the director in writing to the [board] **administrative hearing commission**. This appeal shall be filed with the [board] **administrative hearing commission** within [thirty] **fifteen** days after date on which notification of the decision of the director was mailed to the applicant. The [board's] **commission's** decision with respect to any changes shall be final, and shall be entered in the minutes. A correction in the rating shall not affect a certification or appointment which may have already been made from the register.

4. An eligible whose name has been removed from a register for any of the reasons specified in section 36.180 or in section 36.240 may appeal to the [board] **administrative hearing commission** for reconsideration. Such appeal shall be filed in writing [at] **with** the [office of the director] **administrative hearing commission** within [thirty] **fifteen** days after the date on which notification was mailed to the [board] **eligible**. The [board] **commission**, after investigation, shall make its decision which shall be recorded in the minutes and the eligible shall be notified accordingly by the director.

5. Any regular employee who is dismissed or involuntarily demoted for cause or suspended for more than five working days may appeal in writing to the [board] **administrative hearing commission** within thirty days after the effective date thereof, setting forth in substance the employee's reasons for claiming that the dismissal, suspension or demotion was for political, religious, or racial reasons, or not for the good of the service. [Upon such appeal, both the appealing employee and the appointing authority whose action is reviewed shall have the right to be heard and to present evidence at a hearing which, at the request of the appealing employee, shall be public. At the hearing of such appeals, technical rules of evidence shall not apply. After the hearing and consideration of the evidence for and against a suspension, demotion, or dismissal, the board shall approve or disapprove such action and may make any one of the following appropriate orders:

(1) Order the reinstatement of the employee to the employee's former position;

(2) Sustain the dismissal of such employee;

(3) Except as provided in subdivisions (1) and (2) of this subsection, the board may sustain the dismissal, but may order the director to recognize reemployment rights for the dismissed employee pursuant to section 36.240, in an appropriate class or classes, or may take steps to effect the transfer of such employee to an appropriate position in the same or another division of service.

6. Any order by the board under subsection 5 of this section shall be a final decision on the merits and may be appealed as provided in chapter 536, RSMo.

7. After an order of reinstatement has been issued and all parties have let the time for appeal lapse or have filed an appeal and that appeal process has become final and the order of reinstatement has been affirmed, the board shall commence a separate action to determine the date of reinstatement and the amount of back pay owed to the employee. This action may be done by hearing, or by affidavit, depositions, or stipulations, or by agreement on the amount of back pay owed. If the parties cannot reach an agreement as to how the parties shall be heard on this separate action, then the board shall decide on the method through its hearing officer. No hearing will be public unless requested to be public by the employee.

8. The board shall establish such rules as may be necessary to give effect to the provisions of this section. The rules may provide that the board or the chairman of the board may delegate responsibility for the conduct of investigations and the hearing of appeals provided pursuant to any section of this chapter to a member of the board or to a hearing officer designated by the board. Such hearing officer shall have the power to administer oaths, subpoena witnesses, compel the production of records pertinent to any hearing, and take any action in connection with such hearing which the board itself is authorized to take by law other than making the final decision and appropriate order. When the hearing has been completed, the individual board member or the hearing officer who conducted the hearing shall prepare a summary thereof and recommend a findings of fact, conclusions of law, decision and appropriate order for approval of the board. The board may adopt such recommendations in whole or in part, require the production of additional testimony, reassign the case for rehearing, or may itself conduct such new or additional hearing as is deemed necessary

prior to rendering a final decision. The board may also establish rules which provide for alternative means of resolving one or more of the types of appeals outlined in this section.]

[9.] 6. The provisions for appeals provided in subsection 5 of this section for dismissals of regular merit employees may be adopted by nonmerit agencies of the state for any or all employees of such agencies.

[10.] 7. Agencies not adopting the provisions for appeals provided in subsection 5 of this section shall adopt dismissal procedures substantially similar to those provided for merit employees. However, these procedures need not apply to employees in policy-making positions, or to members of military or law enforcement agencies.

[11.] 8. Hearings under this section shall be deemed to be a contested case and the procedures applicable to the processing of such hearings and determinations shall be those established by chapter 536, RSMo. Decisions of the [personnel advisory board] **administrative hearing commission** shall be final and binding subject to appeal by either party. Final decisions of the [personnel advisory board] **administrative hearing commission** pursuant to this subsection shall be subject to review on the record by the circuit court pursuant to chapter 536, RSMo.

36.400. The [board] **administrative hearing commission**, each [member of the board,] **commissioner** and the director shall have power to administer oaths, subpoena witnesses, and compel the production of books and papers pertinent to any investigation or hearing authorized by this law. Any person who shall fail to appear in response to a subpoena or to answer any question or produce any books or papers pertinent to any such investigation or hearing, or who shall knowingly give false testimony therein, shall be guilty of a misdemeanor.”; and

Further amend said bill, Page 2, Section 37.900, Line 14, by inserting after all of said line the following:

“105.055. 1. No supervisor or appointing authority of any state agency shall prohibit any employee of the agency from discussing the operations of the agency, either specifically or generally, with any member of the legislature, state auditor, attorney general, or any state official or body charged with investigating such alleged misconduct.

2. No supervisor or appointing authority of any state agency shall:

(1) Prohibit a state employee from or take any disciplinary action whatsoever against a state employee for the disclosure of any alleged prohibited activity under investigation or any related activity, or for the disclosure of information which the employee reasonably believes evidences:

(a) A violation of any law, rule or regulation; or

(b) Mismanagement, a gross waste of funds or abuse of authority, or a substantial and specific danger to public health or safety, if the disclosure is not specifically prohibited by law; or

(2) Require any such employee to give notice to the supervisor or appointing authority prior to making any such report.

3. This section shall not be construed as:

(1) Prohibiting a supervisor or appointing authority from requiring that an employee inform the supervisor or appointing authority as to legislative requests for information to the agency or the substance of testimony made, or to be made, by the employee to legislators on behalf of the employee to legislators on behalf of the agency;

(2) Permitting an employee to leave the employee's assigned work areas during normal work hours without following applicable rules and regulations and policies pertaining to leaves, unless the employee is requested by a legislator or legislative committee to appear before a legislative committee;

(3) Authorizing an employee to represent the employee's personal opinions as the opinions of a state agency;

or

(4) Restricting or precluding disciplinary action taken against a state employee if: the employee knew that the information was false; the information is closed or is confidential under the provisions of the open meetings law or any other law; or the disclosure relates to the employee's own violations, mismanagement, gross waste of funds, abuse of authority or endangerment of the public health or safety.

4. As used in this section, “disciplinary action” means any dismissal, demotion, transfer, reassignment, suspension, reprimand, warning of possible dismissal or withholding of work, whether or not the withholding of work has affected or will affect the employee's compensation.

5. Any employee may file an administrative appeal whenever the employee alleges that disciplinary action was taken against the employee in violation of this section. The appeal shall be filed with the [state personnel advisory board] **administrative hearing commission**; provided that the appeal shall be filed with the appropriate agency review board or body of nonmerit agency employers which have established appeal procedures substantially similar to those provided for merit employees in subsection 5 of section 36.390, RSMo. The appeal shall be filed within thirty days of the alleged disciplinary action. Procedures governing the appeal shall be in accordance with chapter [36] **536**, RSMo. If the [board] **commission** or appropriate review body finds that disciplinary action taken was unreasonable, the [board] **commission**

or appropriate review body shall modify or reverse the agency's action and order such relief for the employee as the [board] **commission** considers appropriate. If the [board] **commission** finds a violation of this section, it may review and recommend to the appointing authority that the violator be suspended on leave without pay for not more than thirty days or, in cases of willful or repeated violations, may review and recommend to the appointing authority that the violator forfeit the violator's position as a state officer or employee and disqualify the violator for appointment to or employment as a state officer or employee for a period of not more than two years. The decision of the [board] **commission** or appropriate review body in such cases may be appealed by any party pursuant to law.

6. Each state agency shall prominently post a copy of this section in locations where it can reasonably be expected to come to the attention of all employees of the agency.

7. (1) In addition to the remedies in subsection 6 of this section, a person who alleges a violation of this section may bring a civil action for damages within ninety days after the occurrence of the alleged violation.

(2) A civil action commenced pursuant to this subsection may be brought in the circuit court for the county where the alleged violation occurred, the county where the complainant resides, or the county where the person against whom the civil complaint is filed resides.

(3) An employee must show by clear and convincing evidence that he or she or a person acting on his or her behalf has reported or was about to report, verbally or in writing, a prohibited activity or a suspected prohibited activity.

(4) A court, in rendering a judgment in an action brought pursuant to this section, shall order, as the court considers appropriate, actual damages, and may also award the complainant all or a portion of the costs of litigation, including reasonable attorney fees.”; and

Further amend said bill, Page 2, Section 109.250, Line 23, by inserting after all of said line the following:

“621.015. The “Administrative Hearing Commission” is assigned to the office of administration. It shall consist of no more than [three] **five** commissioners. The commissioners shall be appointed by the governor with the advice and consent of the senate. The term of each commissioner shall be for six years and until his successor is appointed, qualified and sworn. The commissioners shall be attorneys at law admitted to practice before the supreme court of Missouri, but shall not practice law during their term of office. Each commissioner shall receive annual compensation of fifty-one thousand dollars plus any salary adjustment provided pursuant to section 105.005, RSMo. Each commissioner shall also be entitled to actual and necessary expenses in the performance of his duties. The office of the administrative hearing commission shall be located in the City of Jefferson and it may employ necessary clerical assistance, compensation and expenses of the commissioners to be paid from appropriations made for that purpose.

621.075. 1. Except as otherwise provided by law, any employee with merit status who has been dismissed or involuntarily demoted for cause or suspended for more than five working days shall have the right to appeal to the administrative hearing commission. Any such person shall be entitled to a hearing before the administrative hearing commission by the filing of an appeal setting forth in substance the employee's reasons for claiming that the dismissal, suspension, or demotion was for political, religious, or racial reasons, or not for the good of the service with the administrative hearing commission within thirty days after the effective date of the action. The decision of the appointing authority shall contain a notice of the right of appeal in substantially the following language:

“Any employee with regular status who has been dismissed or involuntarily demoted for cause or suspended for more than five working days may appeal to the administrative hearing commission. To appeal, you must file an appeal with the administrative hearing commission within thirty days after the effective date of the decision. If any such appeal is sent by registered mail or certified mail, it will be deemed filed on the date it is mailed; if it is sent by any method other than registered mail or certified mail, it will be deemed filed on the date it is received by the commission.”

2. The procedures applicable to the processing of such hearings and determinations shall be those established by chapter 536. The administrative hearing commission may hold hearings or may make decisions based on stipulation of the parties, consent order, agreed settlement, or by disposition in the nature of default judgment, judgment on the pleadings, or summary determination, in accordance with the rules and procedures of the administrative hearing commission. No hearing shall be public unless requested to be public by the employee. The administrative hearing commission shall maintain a transcript of all testimony and proceedings in hearings governed by this section, and decisions of the administrative hearing commission under this section shall be binding subject to appeal by either party. The administrative hearing commission may make any one of the following appropriate orders:

(1) Order the reinstatement of the employee to the employee's former position;

(2) Sustain the dismissal of such employee;

(3) Except as provided in subdivisions (1) and (2) of this subsection, the administrative hearing commission may sustain the dismissal, but may order the director of personnel to recognize reemployment rights for the dismissed employee pursuant to section 36.240, in an appropriate class or classes, or may take steps to effect the transfer of such employee to an appropriate position in the same or another division of service.

3. After an order of reinstatement has been issued and all parties have let the time for appeal lapse or have filed an appeal and that appeal process has become final and the order of reinstatement has been affirmed, the administrative hearing commission shall commence a separate action to determine the date of reinstatement and the amount of back pay owed to the employee. This action may be done by hearing, or by affidavit, depositions, or stipulations, or by agreement on the amount of back pay owed. No hearing shall be public unless requested to be public by the employee.”; and

Further amend the title and enacting clause accordingly.

Senate Amendment No. 3

AMEND Senate Committee Substitute for House Bill No. 1868, Page 1, Section A, Line 3, by inserting after all of said line the following:

“34.047. Notwithstanding any provision in section 34.040, section 34.100, or any other law to the contrary, departments shall have the authority to purchase products and services related to information technology when the estimated expenditure of such purchase shall not exceed one hundred fifty thousand dollars and the department complies with the informal methods of procurement established in section 34.040, and 1 CSR 40-1.050(1) for expenditures of less than twenty-five thousand dollars. For the purposes of this section, “information technology” shall mean any computer or electronic information equipment or interconnected system that is used in the acquisition, storage, manipulation, management, movement, control, display, switching, interchange, transmission, or reception of information, including audio, graphic, and text.”; and

Further amend the title and enacting clause accordingly.

Senate Amendment No. 5

AMEND Senate Committee Substitute for House Bill No. 1868, Page 1, Section A, Line 3, by inserting after all of said line the following:

“8.016. 1. The commissioner of the office of administration shall provide each member of the senate and each member of the house of representatives with a key that accesses the dome of the state capitol.

2. The president pro tem of the senate and the speaker of the house of representatives shall be responsible for providing a training program for the members and staff of the general assembly regarding access to secured areas of the capitol building. They may consult with the office of administration and department of public safety when developing such program.”; and

Further amend the title and enacting clause accordingly.

Senate Amendment No. 6

AMEND Senate Committee Substitute for House Bill No. 1868, Page 1, Section A, Line 3, by inserting immediately after said line the following:

“21.940. 1. There is established a “Health and Human Services Transition Committee” to study and make recommendations by December 31, 2010, on consolidating the departments of health and senior services, mental health, and social services into one department.

2. The members of the committee shall consist of fourteen members as follows:

(1) The directors of the departments of health and senior services, mental health, and social services;

(2) Two members of the house of representatives, one from each party, appointed by the speaker of the house of representatives;

(3) Two members of the senate, one from each party, appointed by the president pro tem of the senate;
(4) Three representatives who are consumers or families of consumers interested in the services provided by each of the departments of health and senior services, mental health, and social services;

(5) Three providers of services provided by the each of the departments of health and senior services, mental health, and social services;

(6) One public member.

3. Members shall serve on the committee without compensation. The departments of health and senior services, mental health, and social services shall provide technical and administrative support services for the committee. The duties of the committee are to make recommendations on:

(1) Efficiencies that could be made within programs administered by the three departments;

(2) Any programs administered or overseen by the three departments that should be eliminated, reduced, or combined with another program or programs, particularly programs involving MO HealthNet services; and

(3) A plan for reducing expenditures within each program administered or overseen by the three departments for fiscal year 2012 from fiscal year 2011 levels at increments of five percent up to twenty-five percent.

4. The provisions of this section shall expire on January 1, 2011.”; and

Further amend the title and enacting clause accordingly.

Senate Amendment No. 7

AMEND Senate Committee Substitute for House Bill No. 1868, Page 2, Section 109.250, Line 23, by inserting after all of said line the following:

“208.215. 1. MO HealthNet is payer of last resort unless otherwise specified by law. When any person, corporation, institution, public agency or private agency is liable, either pursuant to contract or otherwise, to a participant receiving public assistance on account of personal injury to or disability or disease or benefits arising from a health insurance plan to which the participant may be entitled, payments made by the department of social services or MO HealthNet division shall be a debt due the state and recoverable from the liable party or participant for all payments made [in] on behalf of the participant and the debt due the state shall not exceed the payments made from MO HealthNet benefits provided under sections 208.151 to 208.158 and section 208.162 and section 208.204 on behalf of the participant, minor or estate for payments on account of the injury, disease, or disability or benefits arising from a health insurance program to which the participant may be entitled. **Any health benefit plan as defined in section 376.1350, third party administrator, administrative service organization, and pharmacy benefits manager, shall process and pay all properly submitted medical assistance subrogation claims or MO HealthNet subrogation claims using standard electronic transactions or paper claim forms:**

(1) For a period of three years from the date services were provided or rendered; however, an entity:

(a) Shall not be required to reimburse for items or services which are not covered under MO HealthNet;

(b) Shall not deny a claim submitted by the state solely on the basis of the date of submission of the claim, the type or format of the claim form, failure to present proper documentation of coverage at the point of sale, or failure to provide prior authorization;

(c) Shall not be required to reimburse for items or services for which a claim was previously submitted to the health benefit plan, third party administrator, administrative service organization, or pharmacy benefits manager by the health care provider or the participant and the claim was properly denied by the health benefit plan, third party administrator, administrative service organization, or pharmacy benefits manager for procedural reasons, except for timely filing, type or format of the claim form, failure to present proper documentation of coverage at the point of sale, or failure to obtain prior authorization;

(d) Shall not be required to reimburse for items or services which are not covered under or were not covered under the plan offered by the entity against which a claim for subrogation has been filed; and

(e) Shall reimburse for items or services to the same extent that the entity would have been liable as if it had been properly billed at the point of sale, and the amount due is limited to what the entity would have paid as if it had been properly billed at the point of sale; and

(2) If any action by the state to enforce its rights with respect to such claim is commenced within six years of the state's submission of such claim.

2. The department of social services, MO HealthNet division, or its contractor may maintain an appropriate action to recover funds paid by the department of social services or MO HealthNet division or its contractor that are due

under this section in the name of the state of Missouri against the person, corporation, institution, public agency, or private agency liable to the participant, minor or estate.

3. Any participant, minor, guardian, conservator, personal representative, estate, including persons entitled under section 537.080, RSMo, to bring an action for wrongful death who pursues legal rights against a person, corporation, institution, public agency, or private agency liable to that participant or minor for injuries, disease or disability or benefits arising from a health insurance plan to which the participant may be entitled as outlined in subsection 1 of this section shall upon actual knowledge that the department of social services or MO HealthNet division has paid MO HealthNet benefits as defined by this chapter promptly notify the MO HealthNet division as to the pursuit of such legal rights.

4. Every applicant or participant by application assigns his right to the department of social services or MO HealthNet division of any funds recovered or expected to be recovered to the extent provided for in this section. All applicants and participants, including a person authorized by the probate code, shall cooperate with the department of social services, MO HealthNet division in identifying and providing information to assist the state in pursuing any third party who may be liable to pay for care and services available under the state's plan for MO HealthNet benefits as provided in sections 208.151 to 208.159 and sections 208.162 and 208.204. All applicants and participants shall cooperate with the agency in obtaining third-party resources due to the applicant, participant, or child for whom assistance is claimed. Failure to cooperate without good cause as determined by the department of social services, MO HealthNet division in accordance with federally prescribed standards shall render the applicant or participant ineligible for MO HealthNet benefits under sections 208.151 to 208.159 and sections 208.162 and 208.204. A [recipient] **participant** who has notice or who has actual knowledge of the department's rights to third-party benefits who receives any third-party benefit or proceeds for a covered illness or injury is either required to pay the division within sixty days after receipt of settlement proceeds the full amount of the third-party benefits up to the total MO HealthNet benefits provided or to place the full amount of the third-party benefits in a trust account for the benefit of the division pending judicial or administrative determination of the division's right to third-party benefits.

5. Every person, corporation or partnership who acts for or on behalf of a person who is or was eligible for MO HealthNet benefits under sections 208.151 to 208.159 and sections 208.162 and 208.204 for purposes of pursuing the applicant's or participant's claim which accrued as a result of a nonoccupational or nonwork-related incident or occurrence resulting in the payment of MO HealthNet benefits shall notify the MO HealthNet division upon agreeing to assist such person and further shall notify the MO HealthNet division of any institution of a proceeding, settlement or the results of the pursuit of the claim and give thirty days' notice before any judgment, award, or settlement may be satisfied in any action or any claim by the applicant or participant to recover damages for such injuries, disease, or disability, or benefits arising from a health insurance program to which the participant may be entitled.

6. Every participant, minor, guardian, conservator, personal representative, estate, including persons entitled under section 537.080, RSMo, to bring an action for wrongful death, or his attorney or legal representative shall promptly notify the MO HealthNet division of any recovery from a third party and shall immediately reimburse the department of social services, MO HealthNet division, or its contractor from the proceeds of any settlement, judgment, or other recovery in any action or claim initiated against any such third party. A judgment, award, or settlement in an action by a [recipient] **participant** to recover damages for injuries or other third-party benefits in which the division has an interest may not be satisfied without first giving the division notice and a reasonable opportunity to file and satisfy the claim or proceed with any action as otherwise permitted by law.

7. The department of social services, MO HealthNet division or its contractor shall have a right to recover the amount of payments made to a provider under this chapter because of an injury, disease, or disability, or benefits arising from a health insurance plan to which the participant may be entitled for which a third party is or may be liable in contract, tort or otherwise under law or equity. Upon request by the MO HealthNet division, all third-party payers shall provide the MO HealthNet division with information contained in a 270/271 Health Care Eligibility Benefits Inquiry and Response standard transaction mandated under the federal Health Insurance Portability and Accountability Act, except that third-party payers shall not include accident-only, specified disease, disability income, hospital indemnity, or other fixed indemnity insurance policies.

8. The department of social services or MO HealthNet division shall have a lien upon any moneys to be paid by any insurance company or similar business enterprise, person, corporation, institution, public agency or private agency in settlement or satisfaction of a judgment on any claim for injuries or disability or disease benefits arising from a health insurance program to which the participant may be entitled which resulted in medical expenses for which the department or MO HealthNet division made payment. This lien shall also be applicable to any moneys which may come into the possession of any attorney who is handling the claim for injuries, or disability or disease or benefits arising from a health insurance plan to which the participant may be entitled which resulted in payments made by the department or MO HealthNet division. In each case, a lien notice shall be served by certified mail or registered mail, upon the party

or parties against whom the applicant or participant has a claim, demand or cause of action. The lien shall claim the charge and describe the interest the department or MO HealthNet division has in the claim, demand or cause of action. The lien shall attach to any verdict or judgment entered and to any money or property which may be recovered on account of such claim, demand, cause of action or suit from and after the time of the service of the notice.

9. On petition filed by the department, or by the participant, or by the defendant, the court, on written notice of all interested parties, may adjudicate the rights of the parties and enforce the charge. The court may approve the settlement of any claim, demand or cause of action either before or after a verdict, and nothing in this section shall be construed as requiring the actual trial or final adjudication of any claim, demand or cause of action upon which the department has charge. The court may determine what portion of the recovery shall be paid to the department against the recovery. In making this determination the court shall conduct an evidentiary hearing and shall consider competent evidence pertaining to the following matters:

(1) The amount of the charge sought to be enforced against the recovery when expressed as a percentage of the gross amount of the recovery; the amount of the charge sought to be enforced against the recovery when expressed as a percentage of the amount obtained by subtracting from the gross amount of the recovery the total attorney's fees and other costs incurred by the participant incident to the recovery; and whether the department should, as a matter of fairness and equity, bear its proportionate share of the fees and costs incurred to generate the recovery from which the charge is sought to be satisfied;

(2) The amount, if any, of the attorney's fees and other costs incurred by the participant incident to the recovery and paid by the participant up to the time of recovery, and the amount of such fees and costs remaining unpaid at the time of recovery;

(3) The total hospital, doctor and other medical expenses incurred for care and treatment of the injury to the date of recovery therefor, the portion of such expenses theretofore paid by the participant, by insurance provided by the participant, and by the department, and the amount of such previously incurred expenses which remain unpaid at the time of recovery and by whom such incurred, unpaid expenses are to be paid;

(4) Whether the recovery represents less than substantially full recompense for the injury and the hospital, doctor and other medical expenses incurred to the date of recovery for the care and treatment of the injury, so that reduction of the charge sought to be enforced against the recovery would not likely result in a double recovery or unjust enrichment to the participant;

(5) The age of the participant and of persons dependent for support upon the participant, the nature and permanency of the participant's injuries as they affect not only the future employability and education of the participant but also the reasonably necessary and foreseeable future material, maintenance, medical rehabilitative and training needs of the participant, the cost of such reasonably necessary and foreseeable future needs, and the resources available to meet such needs and pay such costs;

(6) The realistic ability of the participant to repay in whole or in part the charge sought to be enforced against the recovery when judged in light of the factors enumerated above.

10. The burden of producing evidence sufficient to support the exercise by the court of its discretion to reduce the amount of a proven charge sought to be enforced against the recovery shall rest with the party seeking such reduction. **The computerized records of the MO HealthNet division, certified by the director or his designee, shall be prima facie evidence of proof of moneys expended and the amount of the debt due the state.**

11. The court may reduce and apportion the department's or MO HealthNet division's lien proportionate to the recovery of the claimant. The court may consider the nature and extent of the injury, economic and noneconomic loss, settlement offers, comparative negligence as it applies to the case at hand, hospital costs, physician costs, and all other appropriate costs. The department or MO HealthNet division shall pay its pro rata share of the attorney's fees based on the department's or MO HealthNet division's lien as it compares to the total settlement agreed upon. This section shall not affect the priority of an attorney's lien under section 484.140, RSMo. The charges of the department or MO HealthNet division or contractor described in this section, however, shall take priority over all other liens and charges existing under the laws of the state of Missouri with the exception of the attorney's lien under such statute.

12. Whenever the department of social services or MO HealthNet division has a statutory charge under this section against a recovery for damages incurred by a participant because of its advancement of any assistance, such charge shall not be satisfied out of any recovery until the attorney's claim for fees is satisfied, [irrespective] **regardless** of whether [or not] an action based on participant's claim has been filed in court. Nothing herein shall prohibit the director from entering into a compromise agreement with any participant, after consideration of the factors in subsections 9 to 13 of this section.

13. This section shall be inapplicable to any claim, demand or cause of action arising under the workers' compensation act, chapter 287, RSMo. From funds recovered pursuant to this section the federal government shall be paid a portion thereof equal to the proportionate part originally provided by the federal government to pay for MO

HealthNet benefits to the participant or minor involved. The department or MO HealthNet division shall enforce TEFRA liens, 42 U.S.C. 1396p, as authorized by federal law and regulation on permanently institutionalized individuals. The department or MO HealthNet division shall have the right to enforce TEFRA liens, 42 U.S.C. 1396p, as authorized by federal law and regulation on all other institutionalized individuals. For the purposes of this subsection, "permanently institutionalized individuals" includes those people who the department or MO HealthNet division determines cannot reasonably be expected to be discharged and return home, and "property" includes the homestead and all other personal and real property in which the participant has sole legal interest or a legal interest based upon co-ownership of the property which is the result of a transfer of property for less than the fair market value within thirty months prior to the participant's entering the nursing facility. The following provisions shall apply to such liens:

(1) The lien shall be for the debt due the state for MO HealthNet benefits paid or to be paid on behalf of a participant. The amount of the lien shall be for the full amount due the state at the time the lien is enforced;

(2) The MO HealthNet division shall file for record, with the recorder of deeds of the county in which any real property of the participant is situated, a written notice of the lien. The notice of lien shall contain the name of the participant and a description of the real estate. The recorder shall note the time of receiving such notice, and shall record and index the notice of lien in the same manner as deeds of real estate are required to be recorded and indexed. The director or the director's designee may release or discharge all or part of the lien and notice of the release shall also be filed with the recorder. The department of social services, MO HealthNet division, shall provide payment to the recorder of deeds the fees set for similar filings in connection with the filing of a lien and any other necessary documents;

(3) No such lien may be imposed against the property of any individual prior to the individual's death on account of MO HealthNet benefits paid except:

(a) In the case of the real property of an individual:

a. Who is an inpatient in a nursing facility, intermediate care facility for the mentally retarded, or other medical institution, if such individual is required, as a condition of receiving services in such institution, to spend for costs of medical care all but a minimal amount of his or her income required for personal needs; and

b. With respect to whom the director of the MO HealthNet division or the director's designee determines, after notice and opportunity for hearing, that he cannot reasonably be expected to be discharged from the medical institution and to return home. The hearing, if requested, shall proceed under the provisions of chapter 536, RSMo, before a hearing officer designated by the director of the MO HealthNet division; or

(b) Pursuant to the judgment of a court on account of benefits incorrectly paid on behalf of such individual;

(4) No lien may be imposed under paragraph (b) of subdivision (3) of this subsection on such individual's home if one or more of the following persons is lawfully residing in such home:

(a) The spouse of such individual;

(b) Such individual's child who is under twenty-one years of age, or is blind or permanently and totally disabled;

or

(c) A sibling of such individual who has an equity interest in such home and who was residing in such individual's home for a period of at least one year immediately before the date of the individual's admission to the medical institution;

(5) Any lien imposed with respect to an individual pursuant to subparagraph b of paragraph (a) of subdivision (3) of this subsection shall dissolve upon that individual's discharge from the medical institution and return home.

14. The debt due the state provided by this section is subordinate to the lien provided by section 484.130, RSMo, or section 484.140, RSMo, relating to an attorney's lien and to the participant's expenses of the claim against the third party.

15. Application for and acceptance of MO HealthNet benefits under this chapter shall constitute an assignment to the department of social services or MO HealthNet division of any rights to support for the purpose of medical care as determined by a court or administrative order and of any other rights to payment for medical care.

16. All participants receiving benefits as defined in this chapter shall cooperate with the state by reporting to the family support division or the MO HealthNet division, within thirty days, any occurrences where an injury to their persons or to a member of a household who receives MO HealthNet benefits is sustained, on such form or forms as provided by the family support division or MO HealthNet division.

17. If a person fails to comply with the provision of any judicial or administrative decree or temporary order requiring that person to maintain medical insurance on or be responsible for medical expenses for a dependent child, spouse, or ex-spouse, in addition to other remedies available, that person shall be liable to the state for the entire cost of the medical care provided pursuant to eligibility under any public assistance program on behalf of that dependent child, spouse, or ex-spouse during the period for which the required medical care was provided. Where a duty of support exists and no judicial or administrative decree or temporary order for support has been entered, the person owing the duty

of support shall be liable to the state for the entire cost of the medical care provided on behalf of the dependent child or spouse to whom the duty of support is owed.

18. The department director or the director's designee may compromise, settle or waive any such claim in whole or in part in the interest of the MO HealthNet program. Notwithstanding any provision in this section to the contrary, the department of social services, MO HealthNet division is not required to seek reimbursement from a liable third party on claims for which the amount it reasonably expects to recover will be less than the cost of recovery or for which recovery efforts will not be cost-effective. Cost-effectiveness is determined based on the following:

- (1) Actual and legal issues of liability as may exist between the [recipient] **participant** and the liable party;
- (2) Total funds available for settlement; and
- (3) An estimate of the cost to the division of pursuing its claim.”; and

Further amend the title and enacting clause accordingly.

Senate Amendment No. 8

AMEND Senate Committee Substitute for House Bill No. 1868, Page 1, Section 37.320, Line 11, by inserting after all of said line the following:

“37.600. 1. There is hereby established the “Commission on the Reorganization of State Health Care”. The commission shall have as its purpose the study, review, and recommendation of creating a “Division of State Health Care” within the office of administration, which shall be dedicated to providing health care coverage for all state employees, dependents, and retirees and those recipients of programs provided in subsection 4 of this section. The commission shall consist of nineteen members:

- (1) Two members of the senate, one appointed by the president pro tem of the senate and one appointed by the senate minority floor leader;**
- (2) Two members of the house of representatives, one appointed by the speaker of the house of representatives and one appointed by the house minority floor leader;**
- (3) The commissioner of the office of administration or the commissioner's designee;**
- (4) The director of the department of insurance, financial institutions and professional registration or the director's designee;**
- (5) The director of the MO HealthNet division or the director's designee;**
- (6) The director of the department of health and senior services or the director's designee;**
- (7) The director of the department of mental health or the director's designee;**
- (8) The director of the department of corrections or the director's designee;**
- (9) The director of the department of social services or the director's designee;**
- (10) The executive director of the Missouri consolidated health care plan or the director's designee;**
- (11) One member of the state highways and transportation commission;**
- (12) One member of the state conservation commission; and**
- (13) One member of the board of curators of the University of Missouri;**
- (14) The commissioner of the coordinating board of higher education or the commissioner's designee;**
- (15) One representative of the public four-year institutions of higher education, excluding the University of Missouri, appointed by the governor with the advice and consent of the senate; and**
- (16) Two individual representatives of small business in this state, appointed by the governor with the advice and consent of the senate.**

2. Members of the commission shall be reimbursed for the actual and necessary expenses incurred in the discharge of the member's official duties. A chair of the commission shall be selected by the members of the commission and shall meet as necessary. Commission members shall not be related to any member of the general assembly or governor within the third degree of consanguinity. The office of administration shall provide technical, actuarial, and administrative support services as required by the commission.

3. The commission shall designate a work group to provide analysis on the recommendations required of the commission consisting of members representing any health policy center or program from the public institutions of higher education in the state.

4. The commission shall designate a work group consisting of members of the Missouri school boards association, the Missouri community colleges association, and small business organizations to provide analysis for recommendations of the second and third phase of the reorganization as described under subdivisions (3) and (4) of subsection 5 of this section.

5. The commission shall submit a report to the general assembly and governor by December 31, 2010, on the creation of a "Division of State Health Care" within the office of administration to serve, through three implementation phases, as the lead planning state entity for all health issues in the state. The commission's duties shall be as follows:

- (1) Provide an analysis on whether the creation of a division of state health care would:
 - (a) Remedy the current situation wherein the responsibility for health care policy, purchasing, planning, and regulation is spread among many different agencies and departments;
 - (b) Permit the state to maximize its purchasing power inasmuch as the state now has none of its health care purchasing coordinated;
 - (c) Minimize duplication and maximize administrative efficiency in the state's health care systems by removing overlapping functions and streamlining uncoordinated programs;
 - (d) Allow the state to develop a better health care infrastructure that is more responsive to the consumers it serves while improving access to and coverage for health care; and
 - (e) Focus more attention and divisional procedures on the issue of wellness, including diet, exercise, and personal responsibility;
 - (2) Make recommendations on granting the division of state health care, during a first phase, the authority to carry out all powers, duties, and functions previously performed by:
 - (a) The Mo HealthNet division under section 208.201;
 - (b) The state highways and transportation commission, relating to the furnishing of health insurance benefits to cover medical expenses for members of the highways and transportation employees' and highway patrol retirement system;
 - (c) The board of trustees of the Missouri consolidated health care plan pursuant to chapter 103;
 - (d) The department of social services, relating to the administration of a program to pay for health care for uninsured children under sections 208.631 to 208.657;
 - (e) The state conservation commission, relating to the furnishing of health insurance for department of conservation employees and their dependents and retirees;
 - (f) The public four-year institutions of higher education, excluding the University of Missouri, relating to the furnishing of health insurance plans for employees of such institutions and their dependents and retirees; and
 - (g) The board of curators of the University of Missouri, relating to the furnishing of health insurance plans for employees of the university system and their dependents and retirees;
 - (3) Investigate coordinating and purchasing health care benefit plans, during a second phase, for employees of the public schools, community colleges, political subdivisions of the state, and all such employees' dependents; and
 - (4) Investigate the feasibility of creating and administering insurance programs in a third phase for small businesses and the uninsured in this state.
6. The provisions of this section shall expire on February 1, 2011."; and

Further amend said bill, Page 3, Section 1, Line 7, by inserting after all of said line the following:

"Section B. Because of the need to promote the health care of state employees and of citizens of this state, the enactment of section 37.600 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 enactment of section 37.600 of section A 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 Amendment No. 9

AMEND Senate Committee Substitute for House Bill No. 1868, Page 1, Section A, Line 3, by inserting immediately after said line the following:

"23.156. 1. Every employee of the oversight division of the joint committee on legislative research shall, before entering upon his or her duties, take and file in the offices of the secretary of the senate and the chief clerk of the house of representatives an oath:

- (1) To support the constitution of the state, to faithfully demean himself or herself in office;
 - (2) To not disclose to any unauthorized person any information furnished by any state department, state agency, political subdivision, or instrumentality of the state; and
 - (3) To not accept as presents or emoluments any pay, directly or indirectly, for the discharge of any act in the line of his or her duty other than the remuneration fixed and accorded to the employee by law.
2. For any violation of his or her oath of office or of any duty imposed upon him or her by this section, any employee shall be guilty of a class A misdemeanor.” and

Further amend the title and enacting clause accordingly.

Senate Amendment No. 1
to
Senate Amendment No. 10

AMEND Senate Amendment No. 10 to Senate Committee Substitute for House Bill No. 1868, Page 2, Section 21.910, Line 5, by inserting after all of said line the following:

“4. The members of the committee shall elect a chair person and vice chair person.”; and

Further renumber the remaining subsections accordingly; and

Further amend said amendment, Line 12 of said page, by inserting after all of said line the following:

‘Further amend said bill, Page 3, Section 1, Line 7, by inserting after all of said line the following:

“Section B. Because of the need for more efficient government in tight budget times, section 21.190 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 enactment of section 21.910 of section A of this act shall be in full force and effect upon its passage and approval.” ‘.

Senate Amendment No. 10

AMEND Senate Committee Substitute for House Bill No. 1868, Page 1, Section A, Line 3, by inserting after all of said line the following:

“21.910. 1. There is hereby created the “Joint Committee on the Reduction and Reorganization of Programs within State Government”. The committee shall be composed of thirteen members as follows:

- (1) Three majority party members and two minority party members of the senate, to be appointed by the president pro tem of the senate;
- (2) Three majority party members and two minority party members of the house of representatives, to be appointed by the speaker of the house of representatives;
- (3) The commissioner of the office of administration, or his or her designee;
- (4) A representative of the governor's office; and
- (5) A supreme court judge, or his or her designee, as selected by the Missouri supreme court.

2. The committee shall study programs within every department that should be eliminated, reduced, or combined with another program or programs. As used in this section, the term “program” shall have the same meaning as in section 23.253.

3. In order to assist the committee with its responsibilities under this section, each department shall comply with any request for information made by the committee with regard to any programs administered by such department.

4. The committee shall submit a report to the general assembly by December 31, 2010, and such report shall contain any recommendations of the committee for eliminating, reducing, or combining any program with another program or programs in the same or a different department.

5. The provisions of this section shall expire on January 1, 2011.”; and

Further amend the title and enacting clause accordingly.

Senate Amendment No. 12

AMEND Senate Committee Substitute for House Bill No. 1868, Page 2, Section 109.250, Line 3, by inserting after all of said line the following:

"630.060. **1.** The department shall seek and encourage cooperation and active participation of communities, counties, organizations, agencies, private and not-for-profit corporations and individuals in the effort to establish and maintain quality programs and services for persons affected by mental disorders, developmental disabilities or alcohol or drug abuse. The department shall develop programs of public information and education for this purpose.

2. The department shall cooperate with and may directly contract with all state agencies, local units of government, and any of the governor's advisory councils or commissions, or their successor agencies, and with the Missouri Mental Health Foundation, or its successor entity, in delivery of programs designed to improve public understanding of attitudes toward mental disorders, developmental disabilities, and alcohol and drug abuse pursuant to subdivision (3) of subsection 1 of section 630.020. For purposes of this section, the contracting process of the department with these entities need not be governed by the provisions of chapter 34."; and

Further amend the title and enacting clause accordingly.

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 has taken up and passed **HB 1894**, entitled:

An act to repeal section 630.220, RSMo, and to enact in lieu thereof one new section relating to collection of payment for certain mental health services.

With Senate Amendment No. 1 and Senate Amendment No. 2.

Senate Amendment No. 1

AMEND House Bill No. 1894, Page 1, Section Title, Line 3 of the Title, by striking said line and inserting in lieu thereof the following: "the administrative functions of the department of mental health."; and

Further amend said bill, Page 1, Section A, Line 2, by inserting after all of said line the following:

"630.060. **1.** The department shall seek and encourage cooperation and active participation of communities, counties, organizations, agencies, private and not-for-profit corporations and individuals in the effort to establish and maintain quality programs and services for persons affected by mental disorders, developmental disabilities or alcohol or drug abuse. The department shall develop programs of public information and education for this purpose.

2. The department shall cooperate with and may directly contract with all state agencies, local units of government, and any of the governor's advisory councils or commissions, or their successor agencies, and with the Missouri Mental Health Foundation, or its successor entity, in delivery of programs designed to improve public understanding of attitudes toward mental disorders, developmental disabilities, and alcohol and drug abuse pursuant to subdivision (3) of subsection 1 of section 630.020. For purposes of this section, the contracting process of the department with these entities need not be governed by the provisions of chapter 34."; and

Further amend the title and enacting clause accordingly.

Senate Amendment No. 2

AMEND House Bill No. 1894, Page 1, Section Title, Line 3, by striking "collection of payment for"; and

Further amend said bill and page, Section A, Line 2, by inserting immediately after said line the following:

"208.453. Every hospital as defined by section 197.020, RSMo, except [public hospitals which are operated primarily for the care and treatment of mental disorders and] any hospital operated by the department of health and senior services, shall, in addition to all other fees and taxes now required or paid, pay a federal reimbursement allowance for the privilege of engaging in the business of providing inpatient health care in this state. For the purpose of this section, the phrase "engaging in the business of providing inpatient health care in this state" shall mean accepting payment for inpatient services rendered. The federal reimbursement allowance to be paid by a hospital which has an un-sponsored care ratio that exceeds sixty-five percent or hospitals owned or operated by the board of curators, as defined in chapter 172, RSMo, may be eliminated by the director of the department of social services. The un-sponsored care ratio shall be calculated by the department of social services."; and

Further amend the title and enacting clause accordingly.

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 has taken up and passed **SCS HCS HB 1965**, entitled:

An act to repeal sections 8.190, 21.811, 21.840, 28.085, 30.220, 31.010, 33.065, 33.285, 33.571, 33.577, 34.065, 34.110, 34.130, 37.005, 42.121, 57.080, 57.130, 60.461, 67.2677, 71.240, 71.730, 71.750, 71.970, 94.030, 94.210, 95.365, 96.300, 96.310, 96.320, 96.330, 96.340, 96.350, 96.360, 96.370, 96.380, 99.799, 99.918, 99.1082, 105.140, 105.983, 115.177, 135.205, 135.207, 135.230, 135.431, 135.433, 135.530, 135.903, 135.953, 137.118, 137.286, 142.800, 142.815, 142.821, 143.171, 152.032, 165.016, 165.018, 170.250, 172.860, 173.005, 173.710, 173.715, 173.718, 173.721, 174.020, 174.266, 178.637, 178.930, 191.362, 192.010, 192.120, 192.255, 192.375, 195.060, 195.400, 195.405, 195.410, 195.415, 195.425, 196.180, 196.725, 196.730, 196.750, 196.755, 196.760, 196.765, 196.770, 196.775, 196.780, 196.785, 196.790, 196.795, 196.800, 196.805, 196.810, 197.305, 197.314, 197.317, 197.318, 197.366, 198.058, 198.087, 198.600, 207.023, 207.040, 207.050, 207.055, 208.344, 208.978, 210.002, 210.111, 210.292, 211.013, 211.015, 215.050, 215.263, 215.340, 215.345, 215.347, 215.349, 215.351, 215.353, 215.355, 217.860, 221.140, 237.200, 253.022, 253.375, 253.406, 260.370, 260.481, 263.210, 278.010, 278.020, 278.030, 278.040, 278.050, 288.090, 301.273, 301.3112, 303.026, 307.176, 307.367, 311.470, 313.008, 313.835, 318.010, 318.020, 318.030, 318.040, 318.050, 318.060, 318.070, 318.080, 318.090, 318.100, 329.028, 340.290, 342.010, 342.020, 374.208, 376.671, 376.990, 386.220, 389.440, 389.450, 389.880, 389.890, 389.895, 400.9-118, 402.225, 454.010, 454.020, 454.030, 454.040, 454.050, 454.060, 454.070, 454.080, 454.090, 454.100, 454.105, 454.110, 454.120, 454.130, 454.140, 454.150, 454.160, 454.170, 454.180, 454.190, 454.200, 454.210, 454.220, 454.230, 454.240, 454.250, 454.260, 454.270, 454.275, 454.280, 454.290, 454.300, 454.310, 454.320, 454.330, 454.340, 454.350, 454.355, 454.360, 454.800, 454.802, 454.804, 454.806, 460.100, 460.250, 488.5345, 490.610, 537.675, 537.684, 620.010, 620.155, 620.156, 620.157, 620.158, 620.160, 620.161, 620.163, 620.164, 620.165, 620.170, 620.173, 620.174, 620.176, 620.1023, 622.020, 622.040, 622.045, 622.050, 622.055, 622.057, 644.054, 644.550, 644.551, and 660.018, RSMo, and section 622.010 as enacted by house committee substitute for senate bill no. 780, eighty-eighth general assembly, second regular session and section 622.010 as enacted by house committee substitute for house bill no. 991, eighty-eighth general assembly, second regular session, and to enact in lieu thereof forty-five new sections for the sole purpose of repealing expired, sunset, terminated, ineffective, or obsolete statutes, with penalty provisions and a contingent effective date for certain sections.

With Senate Amendment No. 1, Senate Amendment No. 2, Senate Amendment No. 3 and Senate Amendment No. 4.

Senate Amendment No. 1

AMEND Senate Committee Substitute for House Committee Substitute for House Bill No. 1965, Page 3, Section A, Line 38, by inserting after all of said line the following:

“2.030. The joint committee on legislative research shall annually collate[,] **and index, and may print[,] and bind and/or produce in a web-based electronic format** all laws and resolutions passed or adopted by the general assembly and all measures approved by the people since the last publication of the session laws. Any edition of the session laws published pursuant to this section is a part of the official laws and resolutions of the general assembly at which the laws and resolutions were passed.

3.130. [1.] Such number of copies of each volume of each edition of the revised statutes of Missouri and annotations thereto and such number of the supplements or pocket parts thereto as may be necessary to meet the demand as determined by the committee shall be printed and bound, and also produced in an electronic format, and delivered to the revisor of statutes, who shall execute and file a receipt therefor with the director of revenue. The revisor of statutes shall distribute the copies, in either version or combination, [without charge as follows:

(1) To each state department, and each division and bureau thereof, one copy as requested in writing specifying the version;

(2) To each member of the general assembly when first elected, one bound version and, if requested, one copy in the electronic version; and at each general assembly thereafter, one printed version and one copy in the electronic version if so requested in writing; each member to receive one printed version and, if requested, one copy in the electronic version of each supplement and of each new edition of the revised statutes when published;

(3) To each judge of the supreme court, the court of appeals and to each judge of the circuit courts, except municipal judges, one copy in either version;

(4) To the probate divisions of the circuit courts of Jackson County, St. Louis County and the city of St. Louis, four additional copies each in either version or combination, and to the probate divisions of the circuit courts of those counties where the judge of the probate division sits in more than one city, one additional copy each in either version;

(5) To the law library of the supreme court, ten copies in either version or combination;

(6) To the law libraries of each district of the court of appeals, six copies each in either version or combination;

(7) To the library of the United States Supreme Court, one copy in either version;

(8) To the United States district courts and circuit court of appeals for Missouri, two copies each in either version or combination;

(9) To the state historical society, two copies in either version or combination;

(10) To the libraries of the state university at Columbia, at St. Louis, at Kansas City and at Rolla, one bound version and one electronic version each;

(11) To the state colleges, Lincoln University, the community colleges, Missouri Western State College, Linn State Technical College, and Missouri Southern State College, one bound version and one electronic version each;

(12) To the public school library of St. Louis, two copies in either version or combination;

(13) To the Library of Congress, one copy in either version;

(14) To the Mercantile Library of St. Louis, one bound version and one electronic version;

(15) To each public library in the state, if requested, one copy in either version;

(16) To the law libraries of St. Louis, St. Louis County, Kansas City and St. Joseph, one bound version and one electronic version each;

(17) To the law schools of the state university, St. Louis University, and Washington University, one bound version and one electronic version each;

(18) To the circuit clerk of each county of the state for distribution to each county officer, to be by him or her delivered to his or her successor in office, one copy in either version as requested in writing;

(19) To the director of the committee on legislative research, such number of copies in either version or combination as may be required by such committee for the performance of its duties;

(20) To any county law library, when requested by the circuit clerk, one bound version and one electronic version;

(21) To each county library, one copy of either version, when requested in writing;

(22) To any committee of the senate or house of representatives, as designated and requested by the accounts committee of the respective house] **at the price determined by the committee under section 3.140.**

[2. The revisor of statutes shall also provide the librarians of the supreme court library and the committee on legislative research such copies in either version or combination as may be necessary, not exceeding fifty-one each, to enable them to exchange the copies for like compilations or revisions of the statute laws of other states and territories.]

3.140. [1.] The committee on legislative research may, through the revisor of statutes, sell copies of the revised statutes of Missouri, and any supplement or edition of pocket parts thereto, [not required by this chapter to be distributed without charge,] **in print and/or in a web-based electronic format** at a price to be determined by the committee, taking into account the cost of printing and binding, **producing the statutes and maintaining the website**, including the cost of delivery, and the money received therefor shall be paid to the director of revenue and deposited in the state treasury to the credit of the general revenue fund.

[2. The revisor of statutes shall also supply to the clerk of the circuit court of each county order blanks in a number sufficient to meet the public demand. The blanks may be used by the public to order copies which shall be sold by the committee as provided in subsection 1.]

11.010. The official manual, commonly known as the “Blue Book”, compiled and **electronically** published by the secretary of state **on its official website** is the official manual of this state, and it is unlawful for any officer or employee of this state, or any board, or department or any officer or employee thereof, to cause to be printed, at state expense, any duplication or rearrangement of any part of the manual. It is also unlawful for the secretary of state to publish, or permit to be published in the manual any duplication, or rearrangement of any part of any report, or other document, required to be printed at the expense of the state which has been submitted to and rejected by him **or her** as not suitable for publication in the manual.

11.020. The secretary of state shall biennially, as soon as practicable after the organization of each general assembly, prepare and **electronically** publish [forty thousand copies of] the Missouri manual, to contain historical, official, political, statistical and other information in regard to the national and state governments, such as is found in the manuals of 1907 and 1908. The [manuals] **manual** shall be [distributed by the secretary of state, to the members of the general assembly, the state, judicial and county officers, each high school and each elementary school within the state and to the newspapers of the state and the surplus volumes shall be distributed throughout the state upon proper applications made therefor. Each member of the senate shall receive two hundred volumes and each member of the house of representatives shall receive one hundred volumes of the manual] **accessible via the official website of the secretary of state.**”; and

Further amend said bill, Page 106, Section 644.551, Line 23, by inserting after all of said line the following:

“[3.142. 1. There is hereby established in the state treasury a revolving fund known as the “Statutory Revision Fund”, and which shall receive funds paid to the revisor of statutes for sales of the revised statutes of Missouri or any supplement thereto, whether in printed, electronic, magnetic, or other form and funds received for any other service for which there is a fee charged by the committee on legislative research. The committee on legislative research shall determine the form and any fees or charges for the statutes or services. The state treasurer shall be custodian of the fund and shall make disbursements from the fund for enhancing or producing the electronic form of the revised statutes in a computer readable form, enhancing the electronic processing of computerized legislative drafting and such other purposes authorized by the joint committee on legislative research upon appropriation by the general assembly. Moneys in the fund may also be used at the direction of the committee on legislative research to provide the revised statutes of Missouri and any supplement thereto to public libraries of this state in a computer readable format for use by patrons of the libraries.

2. Any unexpended balance in the fund at the end of any biennium not to exceed twice the cost of providing the annual supplement to the revised statutes of Missouri is exempt from the provisions of section 33.080, RSMo, relating to transfer of unexpended balances to the ordinary revenue fund.]”; and

Further amend the title and enacting clause accordingly.

Senate Amendment No. 2

AMEND Senate Committee Substitute for House Committee Substitute for House Bill No. 1965, Page 3, Section 33.065, Line 6, by inserting after all of said line the following:

“33.850. 1. The committee on legislative research shall organize a subcommittee, which shall be known as the “Joint Subcommittee on Recovery Accountability and Transparency”, to coordinate and conduct oversight of covered funds to prevent fraud, waste, and abuse.

2. The subcommittee shall consist of the following eight members:

(1) One-half of the members appointed by the chairperson from the house which he or she represents, two of whom shall be from the majority party and two of whom shall be from the minority party; and

(2) One-half of the members appointed by the vice chairperson from the house which he or she represents, two of whom shall be from the majority party and two of whom shall be from the minority party.

3. The appointment of the senate and house members 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.

4. The subcommittee shall coordinate and conduct oversight of covered funds in order to prevent fraud, waste, and abuse, including:

(1) Reviewing whether the reporting of contracts and grants using covered funds meets applicable standards and specifies the purpose of the contract or grant and measures of performance;

(2) Reviewing whether competition requirements applicable to contracts and grants using covered funds have been satisfied;

(3) Reviewing covered funds to determine whether wasteful spending, poor contract or grant management, or other abuses are occurring and referring matters it considers appropriate for investigation to the attorney general or the agency that disbursed the covered funds;

(4) Receiving regular reports from the commissioner of the office of administration, or his or her designee, concerning covered funds; and

(5) Reviewing the number of jobs created using these funds.

5. The subcommittee shall submit annual reports to the governor and general assembly, including the senate appropriations committee and house budget committee, that summarize the findings of the subcommittee with regard to its duties in subsection 4 of this section. All reports submitted under this subsection shall be made publicly available and posted on the governor's website, the general assembly website, and each state agency website. Any portion of a report submitted under this subsection may be redacted when made publicly available, if that portion would disclose information that is not subject to disclosure under chapter 610, or any other provision of state law.

6. (1) The subcommittee shall make recommendations to agencies on measures to prevent fraud, waste, and abuse relating to covered funds.

(2) Not later than thirty days after receipt of a recommendation under subdivision (1) of this subsection, an agency shall submit a report to the governor and general assembly, including the senate appropriations committee and house budget committee, and the subcommittee that states:

(a) Whether the agency agrees or disagrees with the recommendations; and

(b) Any actions the agency will take to implement the recommendations.

7. The subcommittee may:

(1) Review audits from the state auditor and conduct reviews relating to covered funds; and

(2) Receive regular testimony from the state auditor relating to audits of covered funds.

8. (1) Not later than thirty days after the date on which all initial members of the subcommittee have been appointed, the subcommittee shall hold its first meeting. Thereafter, the subcommittee shall meet at the call of the chairperson of the subcommittee.

(2) A majority of the members of the subcommittee shall constitute a quorum, but a lesser number of members may hold hearings.

9. The subcommittee may hold such hearings, sit and act at such times and places, take such testimony, and receive such evidence as the subcommittee considers advisable to carry out the provisions of this section. Each agency of this state shall cooperate with any request of the subcommittee to provide such information as the subcommittee deems necessary to carry out the provisions of this section. Upon request of the subcommittee, the head of each agency shall furnish such information to the subcommittee. The head of each agency shall make all

officers and employees of that agency available to provide testimony to the subcommittee and committee personnel.

10. Subject to appropriations, the subcommittee may enter into contracts with public agencies and with private persons to enable the subcommittee to discharge its duties under the provisions of this section, including contracts and other arrangements for studies, analyses, and other services.

11. The members of the subcommittee shall serve without compensation, but may be reimbursed for reasonable and necessary expenses incurred in the performance of their official duties.

12. As used in this section, the term “covered fund” shall mean any moneys received by the state or any political subdivision under the American Recovery and Reinvestment Act of 2009, as enacted by the 111th United States Congress.

13. This section shall expire March 1, 2013.”; and

Further amend the title and enacting clause accordingly.

Senate Amendment No. 3

AMEND Senate Committee Substitute for House Committee Substitute for House Bill No. 1965, Page 3, Section A, Line 38, by inserting after all of said line the following:

“21.920. 1. There is established a joint committee of the general assembly to be known as the “Joint Committee on Missouri's Promise” to be composed of five members of the senate and five members of the house of representatives. The senate members of the joint committee shall be appointed by the president pro tem of the senate and the house members shall be appointed by the speaker 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 three members from the house of representatives nor more than three 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 committee shall be charged with the following:

(1) Examining issues that will be impacting the future of the state of Missouri and its citizens;

(2) Developing long-term strategies and plans for:

(a) Increasing the economic prosperity and opportunities for the citizens of this state;

(b) Improving the health status of our citizens;

(c) An education system that educates students who are capable of attending and being productive and successful citizens and designed to successfully prepare graduates for global competition; and

(d) Other areas that the committee determines are vital to improving the lives of the citizens of Missouri;

(3) Developing three, five, and ten year plans for the general assembly to meet the long-term strategies outlined in subdivision (2) of this subsection;

(4) Implementing budget forecasting for the upcoming ten years in order to plan for the long-term financial soundness of the state; and

(5) Such other matters as the committee may deem necessary in order to determine the proper course of future legislative and budgetary action regarding these issues.

3. The committee may solicit input and information necessary to fulfill its obligations, including, but not limited to, soliciting input and information from any state department or agency the committee deems relevant, political subdivisions of this state, and the general public.

4. By January 1, 2011, and every year thereafter, the committee shall issue a report to the general assembly with any findings or recommendations of the committee with regard to its duties under subsection 2 of this section.

5. Members of the committee shall receive no compensation but may be reimbursed for reasonable and necessary expenses associated with the performance of their official duties.”; and

Further amend the title and enacting clause accordingly.

Senate Amendment No. 4

AMEND Senate Committee Substitute for House Committee Substitute for House Bill No. 1965, Page 68, Section 198.058, Line 13, by inserting after all of said line, the following:

“198.087. To ensure uniformity of application of regulation standards in long-term care facilities throughout the state, the department of social services shall:

(1) Evaluate the requirements for inspectors or surveyors of facilities, including the eligibility, training and testing requirements for the position. Based on the evaluation, the department shall develop and implement additional training and knowledge standards for inspectors and surveyors;

(2) Periodically evaluate the performance of the inspectors or surveyors regionally and statewide to identify any deviations or inconsistencies in regulation application. At a minimum, the Missouri on-site surveyor evaluation process, and the number and type of actions overturned by the informal dispute resolution process and formal appeal shall be used in the evaluation. Based on such evaluation, the department shall develop standards and a retraining process for the region, state, or individual inspector or surveyor, as needed;

(3) In addition to the provisions of subdivisions (1) and (2) of this section, the department shall develop a single uniform comprehensive and mandatory course of instruction for inspectors/surveyors on the practical application of enforcement of statutes, rules and regulations. Such course shall also be open to attendance by administrators and staff of facilities licensed pursuant to this chapter;

(4) With the full cooperation of and in conjunction with the department of health and senior services, evaluate the implementation and compliance of the provisions of subdivision (3) of subsection 1 of section 198.012 in which rules, requirements, regulations and standards pursuant to section 197.080, RSMo, for assisted living facilities, intermediate care facilities and skilled nursing facilities attached to an acute care hospital are consistent with the intent of this chapter. [A report of the differences found in the evaluation conducted pursuant to this subdivision shall be made jointly by the departments of social services and health and senior services to the governor and members of the general assembly by January 1, 2008]; and

(5) With the full cooperation and in conjunction with the department of health and senior services, develop rules and regulations requiring the exchange of information, including regulatory violations, between the departments to ensure the protection of individuals who are served by health care providers regulated by either the department of health and senior services or the department of social services.”; and

Further amend said bill, Pages 154 to 156, Section 198.087, by striking all of said section from the bill; and

Further amend the title and enacting clause accordingly.

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 has taken up and passed **SCS HB 2226, HB 1824, HB 1832 & HB 1990**, entitled:

An act to repeal sections 194.350, 324.1100, 324.1110, 324.1112, 324.1114, 324.1124, 324.1126, 324.1128, 324.1132, 324.1134, 324.1136, 324.1140, 332.011, 334.100, 334.506, 334.613, 335.081, 337.528, 337.600, 337.603, 337.615, 337.618, 337.643, 337.700, 337.703, 337.706, 337.715, 337.718, 337.727, 337.739, 338.333, 338.335, 338.337, 383.130, and 383.133, RSMo, and section 324.1102 as enacted by conference committee substitute for senate substitute for senate committee substitute for house committee substitute for house bill no. 780, ninety-fourth general assembly, first regular session, section 324.1102 as enacted by conference committee substitute no. 2 for house committee substitute for senate committee substitute for senate bill no. 308, ninety-fourth general assembly, first regular session, section 324.1106 as enacted by conference committee substitute for senate substitute for senate committee substitute for house committee substitute for house bill no. 780, ninety-fourth general assembly, first regular session, section 324.1106 as enacted by conference committee substitute no. 2 for house committee substitute for senate committee substitute for senate bill no. 308, ninety-fourth general assembly, first regular session, section 324.1118 as enacted by conference committee substitute for senate substitute for senate committee substitute for house committee substitute for house bill no. 780, ninety-fourth general assembly, first regular session, section 324.1118 as enacted by conference committee substitute no. 2 for house committee substitute for senate committee substitute for senate bill no. 308, ninety-fourth

general assembly, first regular session, and to enact in lieu thereof forty-four new sections relating to the regulation of certain professions, with penalty provisions for certain sections.

With Senate Amendment No. 1, Senate Amendment No. 2, Senate Amendment No. 3, Senate Amendment No. 6, Senate Amendment No. 7, Senate Amendment No. 11, Senate Amendment No. 12 and Senate Amendment No. 14.

Senate Amendment No. 1

AMEND Senate Committee Substitute for House Bill No. 2226, House Bill No. 1824, House Bill No. 1832 & House Bill No. 1990, Page 3, Section 194.350, Lines 1-30, by striking all of said section from the bill; and

Further amend the title and enacting clause accordingly.

Senate Amendment No. 2

AMEND Senate Committee Substitute for House Bill No. 2226, House Bill No. 1824, House Bill No. 1832 & House Bill No. 1990, Page 3, Section 194.350, Line 30, by inserting after all of said line the following:

"214.160. The county commission shall invest or loan said trust fund or funds only in United States government, state, county or municipal bonds, [or] **certificates of deposit**, first real estate mortgages, or deeds of trust. They shall use the net income from said trust fund or funds or so much thereof as is necessary to support and maintain and beautify any public or private cemetery or any particular part thereof which may be designated by the person, persons or firm or association making said gift or bequest. In maintaining or supporting the cemetery or any particular part or portion thereof the commission shall as nearly as possible follow the expressed wishes of the creator of said trust fund.

214.270. As used in sections 214.270 to 214.410, the following terms mean:

(1) "Agent" or "authorized agent", any person empowered by the cemetery operator to represent the operator in dealing with the general public, including owners of the burial space in the cemetery;

(2) "Burial space", one or more than one plot, grave, mausoleum, crypt, lawn, surface lawn crypt, niche or space used or intended for the interment of the human dead;

(3) "Burial merchandise", a monument, marker, memorial, tombstone, headstone, urn, outer burial container, or similar article which may contain specific lettering, shape, color, or design as specified by the purchaser;

(4) "Cemetery", property restricted in use for the interment of the human dead by formal dedication or reservation by deed but shall not include any of the foregoing held or operated by the state or federal government or any political subdivision thereof, any incorporated city or town, any county or any religious organization, cemetery association or fraternal society holding the same for sale solely to members and their immediate families;

(5) "Cemetery association", any number of persons who shall have associated themselves by articles of agreement in writing as a not-for-profit association or organization, whether incorporated or unincorporated, formed for the purpose of ownership, preservation, care, maintenance, adornment and administration of a cemetery. Cemetery associations shall be governed by a board of directors. Directors shall serve without compensation;

(6) "Cemetery operator" or "operator", any person who owns, controls, operates or manages a cemetery;

(7) "Cemetery prearranged contract", any contract with a **cemetery or** cemetery operator for [goods and services covered by this chapter which includes a sale of burial merchandise in which delivery of merchandise or a valid warehouse receipt under sections 214.270 to 214.550 is deferred pursuant to written instructions from the purchaser. It shall also mean any contract for goods and services covered by sections 214.270 to 214.550 which includes a sale of burial services to be performed at a future date] **burial merchandise or burial services covered by sections 214.270 to 214.410 which is entered into before the death of the individual for whom the burial merchandise or burial services are intended;**

(8) "Cemetery service" or "burial service", those services performed by a cemetery owner or operator licensed as an endowed care or nonendowed cemetery including setting a monument or marker, setting a tent, excavating a grave, interment, entombment, inurnment, setting a vault, or other related services within the cemetery;

(9) "Columbarium", a building or structure for the inurnment of cremated human remains;

(10) "Community mausoleum", a mausoleum containing a substantial area of enclosed space and having either a heating, ventilating or air conditioning system;

- (11) "Department", department of insurance, financial institutions and professional registration;
- (12) "Developed acreage", the area which has been platted into grave spaces and has been developed with roads, paths, features, or ornamentations and in which burials can be made;
- (13) "Director", director of the division of professional registration;
- (14) "Division", division of professional registration;
- (15) "Endowed care", the maintenance, repair and care of all burial space subject to the endowment within a cemetery, including any improvements made for the benefit of such burial space. Endowed care shall include the general overhead expenses needed to accomplish such maintenance, repair, care and improvements. Endowed care shall include the terms perpetual care, permanent care, continual care, eternal care, care of duration, or any like term;
- (16) "Endowed care cemetery", a cemetery, or a section of a cemetery, which represents itself as offering endowed care and which complies with the provisions of sections 214.270 to 214.410;
- (17) "Endowed care fund", "endowed care trust", or "trust", any cash or cash equivalent, to include any income therefrom, impressed with a trust by the terms of any gift, grant, contribution, payment, devise or bequest to an endowed care cemetery, or its endowed care trust, or funds to be delivered to an endowed care cemetery's trust received pursuant to a contract and accepted by any endowed care cemetery operator or his agent. This definition includes the terms endowed care funds, maintenance funds, memorial care funds, perpetual care funds, or any like term;
- (18) "Escrow account", an account established in lieu of an endowed care fund as provided under section 214.330 or an account used to hold deposits under section 214.387;
- (19) "Escrow agent", an attorney, title company, certified public accountant or other person authorized by the division to exercise escrow powers under the laws of this state;
- (20) "Escrow agreement", an agreement subject to approval by the office between an escrow agent and a cemetery operator or its agent or related party with common ownership, to receive and administer payments under cemetery prearranged contracts sold by the cemetery operator;
- (21) "Family burial ground", a cemetery in which no burial space is sold to the public and in which interments are restricted to persons related by blood or marriage;
- (22) "Fraternal cemetery", a cemetery owned, operated, controlled or managed by any fraternal organization or auxiliary organizations thereof, in which the sale of burial space is restricted solely to its members and their immediate families;
- (23) "Garden mausoleum", a mausoleum without a substantial area of enclosed space and having its crypt and niche fronts open to the atmosphere. Ventilation of the crypts by forced air or otherwise does not constitute a garden mausoleum as a community mausoleum;
- (24) "Government cemetery", or "municipal cemetery", a cemetery owned, operated, controlled or managed by the federal government, the state or a political subdivision of the state, including a county or municipality or instrumentality thereof;
- (25) "Grave" or "plot", a place of ground in a cemetery, used or intended to be used for burial of human remains;
- (26) "Human remains", the body of a deceased person in any state of decomposition, as well as cremated remains;
- (27) "Inurnment", placing an urn containing cremated remains in a burial space;
- (28) "Lawn crypt", a burial vault or other permanent container for a casket which is permanently installed below ground prior to the time of the actual interment. A lawn crypt may permit single or multiple interments in a grave space;
- (29) "Mausoleum", a structure or building for the entombment of human remains in crypts;
- (30) "Niche", a space in a columbarium used or intended to be used for inurnment of cremated remains;
- (31) "Nonendowed care cemetery", or "nonendowed cemetery", a cemetery or a section of a cemetery for which no endowed care trust fund has been established in accordance with sections 214.270 to 214.410;
- (32) "Office", the office of endowed care cemeteries within the division of professional registration;
- (33) "Owner of burial space", a person to whom the cemetery operator or his authorized agent has transferred the right of use of burial space;
- (34) "Person", an individual, corporation, partnership, joint venture, association, trust or any other legal entity;
- (35) "Registry", the list of cemeteries maintained in the division office for public review. The division may charge a fee for copies of the registry;
- (36) "Religious cemetery", a cemetery owned, operated, controlled or managed by any church, convention of churches, religious order or affiliated auxiliary thereof in which the sale of burial space is restricted solely to its members and their immediate families;
- (37) "Surface lawn crypt", a sealed burial chamber whose lid protrudes above the land surface;

- (38) "Total acreage", the entire tract which is dedicated to or reserved for cemetery purposes;
- (39) "Trustee of an endowed care fund", the separate legal entity **qualified under section 214.330** appointed as trustee of an endowed care fund.

214.276. 1. The division may refuse to issue or renew any license, required pursuant to sections 214.270 to 214.516 for one or any combination of causes stated in subsection 2 of this section. The division shall notify the applicant in writing of the reasons for the refusal and shall advise the applicant of his or her right to file a complaint with the administrative hearing commission as provided by chapter 621, RSMo.

2. The division may cause a complaint to be filed with the administrative hearing commission as provided in chapter 621, RSMo, against any holder of any license, required by sections 214.270 to 214.516 or any person who has failed to surrender 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 any profession licensed or regulated by sections 214.270 to 214.516;

(2) The person has been finally adjudicated and found guilty, or entered a plea of guilty or nolo contendere, in a criminal prosecution pursuant to the laws of any state or of the United States, for any offense reasonably related to the qualifications, functions or duties of any profession licensed or regulated pursuant to sections 214.270 to 214.516, 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 license, issued pursuant to sections 214.270 to 214.516 or in obtaining permission to take any examination given or required pursuant to sections 214.270 to 214.516;

(4) Obtaining or attempting to obtain any fee, charge or other compensation by fraud, deception or misrepresentation;

(5) Incompetence, misconduct, gross negligence, fraud, misrepresentation or dishonesty in the performance of the functions or duties of any profession regulated by sections 214.270 to 214.516;

(6) Violation of, or assisting or enabling any person to violate, any provision of sections 214.270 to 214.516, or any lawful rule or regulation adopted pursuant to sections 214.270 to 214.516;

(7) Impersonation of any person holding a license or allowing any person to use his or her license;

(8) Disciplinary action against the holder of a license or other right to practice any profession regulated by sections 214.270 to 214.516 granted by another state, territory, federal agency or country upon grounds for which revocation or suspension is authorized in this state;

(9) A person is finally adjudged insane or incompetent by a court of competent jurisdiction;

(10) Assisting or enabling any person to practice or offer to practice any profession licensed or regulated by sections 214.270 to 214.516 who is not registered and currently eligible to practice pursuant to sections 214.270 to 214.516;

(11) Issuance of a license based upon a material mistake of fact;

(12) Failure to display a valid license;

(13) Violation of any professional trust or confidence;

(14) Use of any advertisement or solicitation which is false, misleading or deceptive to the general public or persons to whom the advertisement or solicitation is primarily directed;

(15) Willfully and through undue influence selling a burial space, cemetery services or merchandise.

3. After the filing of such complaint, 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 division may singly or in combination, censure or place the person named in the complaint on probation on such terms and conditions as the division deems appropriate for a period not to exceed five years, or may suspend, or revoke the license or permit **or may impose a penalty allowed by subsection 4 of section 214.410**. No new license shall be issued to the owner or operator of a cemetery or to any corporation controlled by such owner for three years after the revocation of the certificate of the owner or of a corporation controlled by the owner.

4. [Operators of all existing endowed care or nonendowed care cemeteries shall, prior to August twenty-eighth following August 28, 2001, apply for a license pursuant to this section. All endowed care or nonendowed care cemeteries operating in compliance with sections 214.270 to 214.516 prior to August twenty-eighth following August 28, 2001, shall be granted a license by the division upon receipt of application.

5.] The division may settle disputes arising under subsections 2 and 3 of this section by consent agreement or settlement agreement between the division and the holder of a license. Within such a settlement agreement, the division

may singly or in combination impose any discipline or penalties allowed by this section or subsection 4 of section 214.410. Settlement of such disputes shall be entered into pursuant to the procedures set forth in section 621.045, RSMo.

5. Use of the procedures set out in this section shall not preclude the application of any other remedy provided by this chapter.

214.277. 1. Upon application by the division, 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 certificate of registration or authority, permit or license is required upon a showing that such acts or practices were performed or offered to be performed without a certificate of registration or authority, permit or license; or

(2) Engaging in any practice or business authorized by a certificate of registration or authority, permit or license issued pursuant to this chapter upon a showing that the holder presents a substantial probability of serious danger to the health, safety or welfare of any resident of this state or client or patient of the licensee.

2. [Any such action shall be commenced either in the county in which such conduct occurred or in the county in which the defendant resides.

3.] Any action brought pursuant to this section shall be in addition to and not in lieu of any penalty provided by this chapter and may be brought concurrently with other actions to enforce this chapter.

214.282. 1. Each contract sold by a cemetery operator for cemetery services or for grave lots, grave spaces, markers, monuments, memorials, tombstones, crypts, niches, mausoleums, or other receptacles shall be voidable by the purchaser and deemed unenforceable unless:

(1) It is in writing;

(2) It is executed by a cemetery operator who is in compliance with the licensing provisions of this chapter;

(3) It identifies the contract purchaser and identifies the cemetery services or other items to be provided;

(4) It identifies the name and address of any trustee or escrow agent that will receive payments made pursuant to the contract under the provisions of sections 214.320, 214.330, or 214.387, if applicable;

(5) It contains the name and address of the cemetery operator; and

(6) It identifies any grounds for cancellation by the purchaser or by the cemetery operator on default of payment.

2. If a cemetery prearranged contract does not substantially comply with the provisions of this section, all payments made under such contract shall be recoverable by the purchaser, or the purchaser's legal representative, from the contract seller or other payee thereof, together with interest at the rate of ten percent per annum and all reasonable costs of collection, including attorneys' fees.

214.283. 1. Any person, entity, association, city, town, village, county or political subdivision that purchases, receives or holds any real estate used for the burial of dead human bodies, excluding a family burial ground, shall notify the office of the endowed care cemeteries of the name, location and address of such real estate on a form approved by the office, before October 1, 2010, or within thirty days of purchasing, receiving or holding such land or of being notified by the office of the requirements of this provision. No fee shall be charged for such notification nor shall any penalty be assessed for failure to register. This section shall not be deemed to exempt any operator of an endowed care cemetery or non-endowed care cemetery from being duly licensed as required by this chapter.

2. The division shall establish and maintain a registry of cemeteries and the registry shall be available to the public for review at the division office or copied upon request. The division may charge a fee for copies of the register.

(1) If, in the course of a land survey of property located in this state, a surveyor licensed pursuant to chapter 327, RSMo, locates any cemetery which has not been previously registered, the surveyor shall file a statement with the division regarding the location of the cemetery. The statement shall be filed on a form as defined by division rule. No fee shall be charged to the surveyor for such filing.

(2) Any person, family, group, association, society or county surveyor may submit to the division, on forms provided by the division, the names and locations of any cemetery located in this state for inclusion in the registry. No fee shall be charged for such submissions.

214.300. Any cemetery operator may, after October 13, 1961, qualify to operate a cemetery which has been operated as a nonendowed cemetery for a minimum of two years, as an endowed care cemetery by:

(1) So electing in compliance with section 214.280;

- (2) Establishing an endowed care **trust** fund in cash of one thousand dollars for each acre in said cemetery with a minimum of five thousand dollars and a maximum of twenty-five thousand dollars;
- (3) Filing the report required by section 214.340.

214.310. 1. Any cemetery operator who elects to operate a new cemetery as an endowed care cemetery or who represents to the public that perpetual, permanent, endowed, continual, eternal care, care of duration or similar care will be furnished cemetery property sold shall create an endowed care **trust** fund and shall deposit a minimum of twenty-five thousand dollars for cemeteries that have in excess of one hundred burials annually or a minimum of five thousand dollars for cemeteries that have one hundred or less burials annually in such fund before selling or disposing of any burial space in said cemetery, or in lieu thereof such cemetery owner may furnish a surety bond issued by a bonding company or insurance company authorized to do business in this state in the face amount of thirty thousand dollars, and such bond shall run to the office of endowed care cemeteries for the benefit of the care **trust** funds held by such cemetery. This bond shall be for the purpose of guaranteeing an accumulation of twenty-five thousand dollars in such care **trust** fund and also for the further purpose of assuring that the cemetery owner shall provide annual perpetual or endowment care in an amount equal to the annual reasonable return on a secured cash investment of twenty-five thousand dollars until twenty-five thousand dollars is accumulated in said endowed care **trust** funds, and these shall be the conditions of such surety bond; provided, however, the liability of the principal and surety on the bond shall in no event exceed thirty thousand dollars. Provided further, that whenever a cemetery owner which has made an initial deposit to the endowed care **trust** fund demonstrates to the satisfaction of the administrator of the office of endowed care cemeteries that more than twenty-five thousand dollars has been accumulated in the endowed care **trust** fund, the cemetery owner may petition the administrator of the office of endowed care cemeteries for an order to dissolve the surety bond requirement, so long as at least twenty-five thousand dollars always remains in the endowed care **trust** fund.

2. Construction of a mausoleum, lawn crypt, columbarium or crematorium as part of a cemetery then operated as an endowed care cemetery shall not be considered the establishment of a new cemetery for purposes of this section.

3. Any endowed care cemetery which does not maintain a [fully] **adequately** staffed office in the county in which the cemetery is located shall have prominently displayed on the premises a sign clearly stating the operator's name, address and telephone number. If the operator does not reside in the county in which the cemetery is located, the sign shall also state the name, address and telephone number of a resident of the county who is the authorized agent of the operator or the location of an office of the cemetery which is within ten miles of such cemetery. In jurisdictions where ordinances require signs to meet certain specifications, a weatherproof notice containing the information required by this subsection shall be sufficient.

214.320. 1. An operator of an endowed care cemetery shall establish and deposit in an endowed care **trust** fund not less than the following amounts for burial space sold or disposed of, with such deposits to the endowed care **trust** fund to be made [semiannually] **monthly** on all burial space that has been fully paid for to the date of deposit:

(1) A minimum of fifteen percent of the gross sales price, or twenty dollars, whichever is greater, for each grave space sold;

(2) A minimum of ten percent of the gross sales price of each crypt or niche sold in a community mausoleum, or a minimum of one hundred dollars for each crypt or [ten dollars for each niche sold in a garden mausoleum] **fifty dollars for each niche sold in a community mausoleum, whichever is greater;**

(3) **A minimum of ten percent of the gross sales price of each crypt or niche sold in a garden mausoleum, or a minimum of one hundred dollars for each crypt or twenty-five dollars for each niche sold in a garden mausoleum, whichever is greater;**

(4) A minimum of [seventy-five dollars per grave space for] **ten percent of the gross sales price of each lawn crypt sold or a minimum of seventy-five dollars, whichever is greater.**

2. Notwithstanding the provisions of subdivision (2) of subsection 1 of this section, a cemetery operator who has made the initial deposit in trust as required by sections 214.270 to 214.410 from his own funds, and not from funds deposited with respect to sales of burial space, may deposit only one-half the minimum amounts set forth in subdivisions (1) and (2) of subsection 1 of this section, until he shall have recouped his entire initial deposit. Thereafter, he shall make the minimum deposits required under subdivisions (1), (2) [and], (3), **and (4)** of subsection 1 of this section.

3. **As required by section 214.340**, each operator of an endowed care cemetery shall[, after August 28, 1990,] file with the division of professional registration, on a form provided by the division, an annual endowed care trust fund report. The operator of any cemetery representing the cemetery, or any portion of the cemetery, as an endowed care cemetery shall make available to the division for inspection or audit at any reasonable time only those cemetery records and trust fund records necessary to determine whether the cemetery's endowed care **trust** fund is in compliance with sections 214.270 to 214.410. Each cemetery operator who has established a [segregated] **escrow** account pursuant to

section [214.385] **214.387** shall make available to the division for inspection or audit at any reasonable time those cemetery records and financial institution records necessary to determine whether the cemetery operator is in compliance with the provisions of section [214.385]. All documents, records, and work product from any inspections or audits performed by or at the direction of the division shall remain in the possession of the division of professional registration and shall not be sent to the state board of embalmers and funeral directors. No charge shall be made for such inspections or audits] **214.387**.

4. [If any endowed care cemetery operator conducts the trust fund accounting and record keeping outside of this state, then such operator shall maintain current and accurate copies of such accounting and record keeping within this state and such copies shall be readily available to the division for inspection or audit purposes.

5.] No cemetery operator shall operate or represent to the public by any title, description, or similar terms that a cemetery provides endowed care unless the cemetery is in compliance with the provisions of sections 214.270 to 214.410.

5. A cemetery operator shall be exempt from the provisions of chapter 436 for the sale of cemetery services or for grave lots, grave spaces, markers, monuments, memorials, tombstones, crypts, niches or mausoleums, outer burial containers or other receptacle. A cemetery operator shall be prohibited from adjusting or establishing the sales price of items with the intent of evading the trusting or escrow provisions of this chapter.

214.325. If the deposits to any endowed care trust fund [required by sections 214.270 to 214.410] are less than the total sum required to be set aside and deposited since the effective date of such sections, the cemetery operator shall correct such deficiency by depositing not less than twenty percent of such deficiency each year for five years [following August 28, 1990,] and shall file, on the form provided by the division, a statement outlining the date and amount such deposits were made. If the cemetery operator fails to correct the deficiency **with respect to funds maintained under section 214.330**, the cemetery operator shall thereafter not represent the cemetery as an endowed care cemetery. Any funds held in the cemetery's endowed care trust shall continue to be used for endowed care for that cemetery. The cemetery operator shall remain subject to the provisions of sections 214.270 to 214.410 for any cemetery or any section of the cemetery for which endowed care payments have been collected, subject to the penalties contained in section 214.410, and civil actions as well as subject to any regulations promulgated by the division. **For purposes of this section, the term "deficiency" shall mean a deficiency in the amount required to be deposited pursuant to section 214.320, or a deficiency created by disbursements in excess of what is permitted under section 214.330 and shall not include or be affected by deficiencies or shortages caused by the fluctuating value of investments.**

214.330. 1. [The endowed care fund required by sections 214.270 to 214.410 shall be permanently set aside in trust or in accordance with the provisions of subsection 2 of this section. The trustee of the endowed care trust shall be a state- or federally chartered financial institution authorized to exercise trust powers in Missouri and located in this state. The income from the endowed care fund shall be distributed to the cemetery operator at least annually or in other convenient installments. The cemetery operator shall have the duty and responsibility to apply the income to provide care and maintenance only for that part of the cemetery in which burial space shall have been sold and with respect to which sales the endowed care fund shall have been established and not for any other purpose. The principal of such funds shall be kept intact and appropriately invested by the trustee, or the independent investment advisor. An endowed care trust agreement may provide that when the principal in an endowed care trust exceeds two hundred fifty thousand dollars, investment decisions regarding the principal and undistributed income may be made by a federally registered or Missouri-registered independent qualified investment advisor designated by the cemetery owner, relieving the trustee of all liability regarding investment decisions made by such qualified investment advisor. It shall be the duty of the trustee, or the investment advisor, in the investment of such funds to exercise the diligence and care men of ordinary prudence, intelligence and discretion would employ, but with a view to permanency of investment considering probable safety of capital investment, income produced and appreciation of capital investment. The trustee's duties shall be the maintenance of records and the accounting for and investment of moneys deposited by the operator to the endowed care fund. For the purposes of sections 214.270 to 214.410, the trustee or investment advisor shall not be deemed to be responsible for the care, the maintenance, or the operation of the cemetery, or for any other matter relating to the cemetery, including, but not limited to, compliance with environmental laws and regulations. With respect to cemetery property maintained by cemetery care funds, the cemetery operator shall be responsible for the performance of the care and maintenance of the cemetery property owned by the cemetery operator and for the opening and closing of all graves, crypts, or niches for human remains in any cemetery property owned by the cemetery operator.

2. If the endowed care cemetery fund is not permanently set aside in a trust fund as required by subsection 1 of this section then the funds shall be permanently set aside in a segregated bank account which requires the signature of the cemetery owner and either the administrator of the office of endowed care cemeteries, or the signature of a

licensed practicing attorney with escrow powers in this state as joint signatories for any distribution from the trust fund. No funds shall be expended without the signature of either the administrator of the office of endowed care cemeteries, or a licensed practicing attorney with escrow powers in this state. The account shall be insured by the Federal Deposit Insurance Corporation or comparable deposit insurance and held in the state- or federally chartered financial institution authorized to do business in Missouri and located in this state. The income from the endowed care fund shall be distributed to the cemetery operator at least in annual or semiannual installments. The cemetery operator shall have the duty and responsibility to apply the income to provide care and maintenance only for that part of the cemetery in which burial space shall have been sold and with respect to which sales the endowed care fund shall have been established and not for any other purpose. The principal of such funds shall be kept intact and appropriately invested by the cemetery operator with written approval of either the administrator of the office of endowed care cemeteries or a licensed practicing attorney with escrow powers in this state. It shall be the duty of the cemetery owner in the investment of such funds to exercise the diligence and care a person of reasonable prudence, intelligence and discretion would employ, but with a view to permanency of investment considering probable safety of capital investment, income produced and appreciation of capital investment. The cemetery owner's duties shall be the maintenance of records and the accounting for an investment of moneys deposited by the operator to the endowed care fund. For purposes of sections 214.270 to 214.410, the administrator of the office of endowed care cemeteries or the licensed practicing attorney with escrow powers in this state shall not be deemed to be responsible for the care, maintenance, or operation of the cemetery. With respect to cemetery property maintained by cemetery care funds, the cemetery operator shall be responsible for the performance of the care and maintenance of the cemetery property owned by the cemetery operator and for the opening and closing of all graves, crypts, or niches for human remains in any cemetery property owned by the cemetery operator.

3. The cemetery operator shall be accountable to the owners of burial space in the cemetery for compliance with sections 214.270 to 214.410.

4. All endowed care funds shall be administered in accordance with an endowed care fund agreement. The endowed care fund agreement shall be subject to review and approval by the office of endowed care cemeteries or by a licensed practicing attorney with escrow powers in this state. The endowed care cemetery shall be notified in writing by the office of endowed care cemeteries or by a licensed practicing attorney with escrow powers in this state regarding the approval or disapproval of the endowed care fund agreement and regarding any changes required to be made for compliance with this chapter and the rules and regulations promulgated thereunder. A copy of the proposed endowed care fund agreement shall be submitted to the office of endowed care cemeteries. The office of endowed care cemeteries or a licensed practicing attorney with escrow powers in this state shall notify the endowed care cemetery in writing of approval and of any required change. Any amendment or change to the endowed care fund agreement shall be submitted to the office of endowed care cemeteries or to a licensed practicing attorney with escrow powers in this state for review and approval. Said amendment or change shall not be effective until approved by the office of endowed care cemeteries or by a licensed practicing attorney with escrow powers in this state. All endowed care cemeteries shall be under a continuing duty to file with the office of endowed care cemeteries or with a licensed practicing attorney with escrow powers in this state and to submit for approval any and all changes, amendment, or revisions of the endowed care fund agreement.

5. No principal shall be distributed from an endowed care trust fund except to the extent that a unitrust election is in effect with respect to such trust under the provisions of section 469.411, RSMo.] **The endowed care trust fund required by sections 214.270 to 214.410 shall be permanently set aside in trust or in accordance with the provisions of subsection 2 of this section. The trustee of the endowed care trust shall be a state or federally chartered financial institution authorized to exercise trust powers in Missouri. The contact information for a trust officer or duly appointed representative of the trustee with knowledge and access to the trust fund accounting and trust fund records must be disclosed to the office or its duly authorized representative upon request.**

(1) **The trust fund records, including all trust fund accounting records, shall be maintained in the state of Missouri at all times or shall be electronically stored so that the records may be made available in the state of Missouri within fifteen business days of receipt of a written request. The operator of an endowed care cemetery shall maintain a current name and address of the trustee and the records custodian for the endowed care trust fund and shall supply such information to the office, or its representative, upon request;**

(2) **Missouri law shall control all endowed care trust funds and the Missouri courts shall have jurisdiction over endowed care trusts regardless of where records may be kept or various administrative tasks may be performed.**

2. **An endowed care trust fund shall be administered in accordance with Missouri law governing trusts, including but not limited to the applicable provisions of chapters 456 and 469, except as specifically provided in this subsection or where the provisions of sections 214.270 to 214.410 provide differently, provided that a cemetery**

operator shall not in any circumstances be authorized to restrict, enlarge, change, or modify the requirements of this section or the provisions of chapters 456 and 469 by agreement or otherwise.

(1) Income and principal of an endowed care trust fund shall be determined under the provisions of law applicable to trusts, except that the provisions of section 469.405 shall not apply.

(2) No principal shall be distributed from an endowed care trust fund except to the extent that a unitrust election is in effect with respect to such trust under the provisions of section 469.411.

(3) No right to transfer jurisdiction from Missouri under section 456.1-108 shall exist for endowed care trusts.

(4) All endowed care trusts shall be irrevocable.

(5) No trustee shall have the power to terminate an endowed care trust fund under the provisions of section 456.4-414.

(6) A unitrust election made in accordance with the provisions of chapter 469 shall be made by the cemetery operator in the terms of the endowed care trust fund agreement itself, not by the trustee.

(7) No contract of insurance shall be deemed a suitable investment for an endowed care trust fund.

(8) The income from the endowed care fund may be distributed to the cemetery operator at least annually on a date designated by the cemetery operator, but no later than sixty days following the end of the trust fund year. Any income not distributed within sixty days following the end of the trust's fiscal year shall be added to and held as part of the principal of the trust fund.

3. The cemetery operator shall have the duty and responsibility to apply the income distributed to provide care and maintenance only for that part of the cemetery designated as an endowed care section and not for any other purpose.

4. In addition to any other duty, obligation, or requirement imposed by sections 214.270 to 214.410 or the endowed care trust agreement, the trustee's duties shall be the maintenance of records related to the trust and the accounting for and investment of moneys deposited by the operator to the endowed care trust fund.

(1) For the purposes of sections 214.270 to 214.410, the trustee shall not be deemed responsible for the care, the maintenance, or the operation of the cemetery, or for any other matter relating to the cemetery, or the proper expenditure of funds distributed by the trustee to the cemetery operator, including, but not limited to, compliance with environmental laws and regulations.

(2) With respect to cemetery property maintained by endowed care funds, the cemetery operator shall be responsible for the performance of the care and maintenance of the cemetery property.

5. If the endowed care cemetery fund is not permanently set aside in a trust fund as required by subsection 1 of this section, then the funds shall be permanently set aside in an escrow account in the state of Missouri. Funds in an escrow account shall be placed in an endowed care trust fund under subsection 1 if the funds in the escrow account exceed three hundred fifty thousand dollars, unless otherwise approved by the division for good cause. The account shall be insured by the Federal Deposit Insurance Corporation or comparable deposit insurance and held in a state or federally chartered financial institution authorized to do business in Missouri and located in this state.

(1) The interest from the escrow account may be distributed to the cemetery operator at least in annual or semiannual installments, but not later than six months following the calendar year. Any interest not distributed within six months following the end of the calendar year shall be added to and held as part of the principal of the account.

(2) The cemetery operator shall have the duty and responsibility to apply the interest to provide care and maintenance only for that part of the cemetery in which burial space shall have been sold and with respect to which sales the escrow account shall have been established and not for any other purpose. The principal of such funds shall be kept intact. The cemetery operator's duties shall be the maintenance of records and the accounting for an investment of moneys deposited by the operator to the escrow account. For purposes of sections 214.270 to 214.410, the administrator of the office of endowed care cemeteries shall not be deemed to be responsible for the care, maintenance, or operation of the cemetery. With respect to cemetery property maintained by cemetery care funds, the cemetery operator shall be responsible for the performance of the care and maintenance of the cemetery property owned by the cemetery operator.

(3) The division may approve an escrow agent if the escrow agent demonstrates the knowledge, skill, and ability to handle escrow funds and financial transactions and is of good moral character.

6. The cemetery operator shall be accountable to the owners of burial space in the cemetery for compliance with sections 214.270 to 214.410.

7. Excluding funds held in an escrow account, all endowed care trust funds shall be administered in accordance with an endowed care trust fund agreement, which shall be submitted to the office by the cemetery

operator for review and approval. The endowed care cemetery shall be notified in writing by the office of endowed care cemeteries regarding the approval or disapproval of the endowed care trust fund agreement and regarding any changes required to be made for compliance with sections 214.270 to 214.410 and the rules and regulations promulgated thereunder.

8. All endowed care cemeteries shall be under a continuing duty to file with the office of endowed care cemeteries and to submit for prior approval any and all changes, amendments, or revisions of the endowed care trust fund agreement, at least thirty days before the effective date of such change, amendment, or revision.

9. If the endowed care trust fund agreement, or any changes, amendments, or revisions filed with the office, are not disapproved by the office within thirty days after submission by the cemetery operator, the endowed care trust fund agreement, or the related change, amendment, or revision, shall be deemed approved and may be used by the cemetery operator and the trustee. Notwithstanding any other provision of this section, the office may review and disapprove an endowed care trust fund agreement, or any submitted change, amendment, or revision, after the thirty days provided herein or at any other time if the agreement is not in compliance with sections 214.270 to 214.410 or the rules promulgated thereunder. Notice of disapproval by the office shall be in writing and delivered to the cemetery operator and the trustee within ten days of disapproval.

10. Funds in an endowed care trust fund or escrow account may be commingled with endowed care funds for other endowed care cemeteries, provided that the cemetery operator and the trustee shall maintain adequate accounting records of the disbursements, contributions, and income allocated for each cemetery.

11. By accepting the trusteeship of an endowed care trust or accepting funds as an escrow agent pursuant to sections 214.270 to 214.410, the trustee or escrow agent submits personally to the jurisdiction of the courts of this state and the office of endowed care cemeteries regarding the administration of the trust or escrow account. A trustee or escrow agent shall consent in writing to the jurisdiction of the state of Missouri and the office in regards to the trusteeship or the operation of the escrow account and to the appointment of the office of secretary of state as its agent for service of process regarding any administrative or legal actions relating to the trust or the escrow account, if it has no designated agent for service of process located in this state. Such consent shall be filed with the office prior to accepting funds pursuant to sections 214.270 to 214.410 as trustee or as an escrow agent on a form provided by the office by rule.

214.335. 1. Any endowed care cemetery may require a contribution to the endowed care fund or to a separate memorial care fund for each memorial or monument installed on a grave in the cemetery. Such contribution, if required by a cemetery, shall not exceed twenty cents per square inch of base area, and shall be charged on every installation regardless of the person performing the installation. Each contribution made pursuant to a contract or agreement entered into after August 28, 1990, shall be entrusted and administered pursuant to sections 214.270 to 214.410 for the endowed care fund. Each contribution made pursuant to a contract or agreement entered into before August 28, 1990, shall be governed by the law in effect at the time the contract or agreement was entered into.

2. If the deposits to any endowed care trust fund are less than the total sum required to be set aside and deposited since the effective date of such sections, the cemetery operator shall correct such deficiency by depositing not less than twenty percent of such deficiency each year for five years and shall file, on the form provided by the division, a statement outlining the date and amount such deposits were made. If the cemetery operator fails to correct the deficiency with respect to funds maintained under section 214.330, the cemetery operator shall thereafter not represent the cemetery as an endowed care cemetery. Any funds held in the cemetery's endowed care trust shall continue to be used for endowed care for that cemetery. The cemetery operator shall remain subject to the provisions of sections 214.270 to 214.410 for any cemetery or any section of the cemetery for which endowed care payments have been collected, subject to the penalties contained in section 214.410, and civil actions, as well as subject to any regulations promulgated by the division. For purposes of this section, the term "deficiency" shall mean a deficiency in the amount required to be deposited pursuant to subsection 1 of this section, or a deficiency created by disbursements in excess of what is permitted under section 214.330 and shall not include or be affected by deficiencies or shortages caused by the fluctuating value of investments.

214.340. 1. Each operator of an endowed care cemetery shall maintain at an office in the cemetery or, if the cemetery has no office in the cemetery, at an office within a reasonable distance of the cemetery, the reports of the endowed care trust fund's operation for the preceding seven years. Each report shall contain, at least, the following information:

(1) Name and address of the trustee of the endowed care trust fund and the depository, if different from the trustee;

- (2) Balance per previous year's report;
- (3) Principal contributions received since previous report;
- (4) Total earnings since previous report;
- (5) Total distribution to the cemetery operator since the previous report;
- (6) Current balance;
- (7) A statement of all assets listing cash, real or personal property, stocks, bonds, and other assets, showing cost, acquisition date and current market value of each asset;
- (8) Total expenses, excluding distributions to cemetery operator, since previous report; and
- (9) A statement of the cemetery's total acreage and of its developed acreage.

2. Subdivisions (1) through (7) of the report described in subsection 1 above shall be certified to under oath as complete and correct by a corporate officer of the trustee. Subdivision (8) of such report shall be certified under oath as complete and correct by an officer of the cemetery operator. Both the trustee and cemetery operator or officer shall be subject to the penalty of making a false affidavit or declaration.

3. The report shall be placed in the cemetery's office within ninety days of the close of the trust's fiscal year. A copy of this report shall be filed by the cemetery operator with the division of professional registration as condition of license renewal as required by subsection 4 of section 214.275. [The report shall not be sent to the state board of embalmers and funeral directors.]

4. Each cemetery operator who establishes [a segregated] **an escrow or trust** account pursuant to [subsection 1 of section 214.385] **section 214.387** shall file with the report required under subsection 1 of this section [a segregated] **an escrow or trust** account report that shall provide the following information:

- (1) The [number of monuments, markers and memorials] **total face value of all contracts for burial merchandise and services** that have been deferred for delivery by purchase designation; **and**
- (2) [The aggregate wholesale cost of all such monuments, markers and memorials; and
- (3)] The amount on deposit in the [segregated] **escrow or trust** account established pursuant to section [214.385] **214.387**, and the account number **in the case of an escrow account**.

214.345. 1. Any cemetery operator who negotiates the sale of burial space in any cemetery located in this state shall provide each prospective owner of burial space a written statement, which may be a separate form or a part of the sales contract, which states and explains in plain language that the burial space is part of an endowed care cemetery; that the cemetery has established and maintains the endowed care **trust** fund required by law; and that the information regarding the fund described in section 214.340 is available to the prospective purchaser. If the burial space is in a nonendowed cemetery, or in a nonendowed section of an endowed care cemetery, the cemetery operator shall state he has elected not to establish an endowed care **trust** fund.

2. The operator of each endowed care cemetery shall, upon request, give to the public for retention a copy of the endowed care **trust** fund annual report prepared pursuant to the provisions of subsection 1 of section 214.340.

214.360. No cemetery operator, nor any director, officer or shareholder of any cemetery may borrow or in any other way make use of the endowed care **trust** funds for his own use, directly or indirectly, or for furthering or developing his or any other cemetery, nor may any trustee lend or make such funds available for said purpose or for the use of any operator or any director, officer or shareholder of any cemetery.

214.363. In the event of a cemetery's bankruptcy, insolvency, or assignment for the benefit of creditors, the endowed care **trust** funds shall not be available to any creditor as assets of the cemetery's owner or to pay any expenses of any bankruptcy or similar proceeding, but shall be retained intact to provide for the future maintenance of the cemetery.

214.365. Prior to any action as provided in subsection 2 of section 214.205, and when the division has information that a [public] cemetery is not providing maintenance and care, has been abandoned, or has ceased operation, the division may investigate the cemetery to determine the cemetery's current status. If the division finds evidence that the cemetery is abandoned, is not conducting business, or is not providing maintenance and care, the division may apply to the circuit court for appointment as receiver, trustee, or successor in trust.

214.367. 1. **Prior to selling or otherwise disposing of a majority of the business assets of a cemetery, or a majority of its stock or other ownership interest, if a corporation or other organized business entity, the cemetery operator shall provide written notification to the division of its intent at least thirty days prior to the date set for the transfer, or the closing of the sale, or the date set for termination of its business. Such notice is**

confidential and shall not be considered a public record subject to the provisions of chapter 610 until the sale of the cemetery has been effectuated. Upon receipt of the written notification, the division may take reasonable and necessary action to determine that the cemetery operator has made proper plans to assure that trust funds or funds held in an escrow account for or on behalf of the cemetery will be set aside and used as provided in sections 214.270 to 214.410, including, but not limited to, an audit or examination of books and records. The division may waive the requirements of this subsection or may shorten the period of notification for good cause or if the division determines in its discretion that compliance with its provisions are not necessary.

2. A cemetery operator may complete the sale, transfer, or cessation if the division does not disapprove the transaction within thirty days after receiving notice. Nothing in this section shall be construed to restrict any other right or remedy vested in the division or the attorney general.

3. A prospective purchaser or transferee of [any endowed care] **endowed or unendowed** cemetery, with the written consent of the cemetery operator, may obtain a copy of the cemetery's most recent audit or inspection report from the division. The division shall inform the prospective purchaser or transferee, within thirty days, whether the cemetery may continue to operate and be represented as [an endowed care] a cemetery.

214.387. 1. [Upon written instructions from the purchaser of burial merchandise or burial services set forth in a cemetery prearranged contract, a cemetery may defer delivery of such burial merchandise or a warehouse receipt for the same under section 214.385, or performance of services, to a date designated by the purchaser, provided the cemetery operator, after deducting sales and administrative costs not to exceed twenty percent of the purchase price, deposits the remaining portion of the purchase price into an escrow or trust account as herein provided, within sixty days following receipt of payment from the purchaser. Funds so deposited pursuant to this section shall be maintained in such account until delivery of the property or the performance of services is made or the contract for the purchase of such property or services is canceled. The account is subject to inspection, examination or audit by the division. No withdrawals may be made from the escrow or trust account established pursuant to this section except as herein provided.

2. Upon written instructions from the purchaser of an interment, entombment, or inurnment cemetery service, a cemetery may defer performance of such service to a date designated by the purchaser, provided the cemetery operator, within forty-five days of the date the agreement is paid in full, deposits from its own funds an amount equal to eighty percent of the published retail price into a trustee account. Funds deposited in a trustee account pursuant to this section and section 214.385 shall be maintained in such account until delivery of the service is made or the agreement for the purchase of the service is canceled. No withdrawals may be made from the trustee account established pursuant to this section and section 214.385 except as provided herein. Money in this account shall be invested utilizing the prudent man theory and is subject to audit by the division. Names and addresses of depositories of such money shall be submitted with the annual report.

3. Upon the delivery of the interment, entombment, or inurnment cemetery service agreed upon by the cemetery or its agent, or the cancellation of the agreement for the purchase of such service, the cemetery operator may withdraw from the trustee account an amount equal to (i) the market value of the trustee account based on the most recent account statement issued to the cemetery operator, times (ii) the ratio the service's deposit in the account bears to the aggregate deposit of all services which are paid in full but not delivered. The trustee account may be inspected or audited by the division.

4. The provisions of this section shall apply to all agreements entered into after August 28, 2002.] **With the exception of sales made pursuant to section 214.385, all sales of prearranged burial merchandise and services shall be made pursuant to this section.**

2. Upon written instructions from the purchaser of burial merchandise or burial services set forth in a cemetery prearranged contract, a cemetery may defer delivery of such burial merchandise or a warehouse receipt for the same under section 214.385, or performance of services, to a date designated by the purchaser, provided the cemetery operator, after deducting sales and administrative costs associated with the sale, not to exceed twenty percent of the purchase price, deposits the remaining portion of the purchase price into an escrow or trust account as herein provided, within sixty days following receipt of payment from the purchaser. Funds so deposited pursuant to this section shall be maintained in such account until delivery of the property or the performance of services is made or the contract for the purchase of such property or services is cancelled, and fees and costs associated with the maintenance of the trust or escrow arrangement shall be charged to these funds. The account is subject to inspection, examination or audit by the division. No withdrawals may be made from the escrow or trust account established pursuant to this section except as herein provided.

3. Each escrow arrangement must comply with the following:

(1) The escrow agent shall be located in Missouri, authorized to exercise escrow powers, and shall maintain the escrow records so that they may be accessed and produced for inspection within five business days

of the agent's receipt of a written request made by the office or its duly authorized representative. A cemetery operator shall not serve as an escrow agent for the cemetery operator's account nor shall the escrow agent be employed by or under common ownership with the cemetery operator. The cemetery operator shall maintain a current name and address for the escrow agent with the office, and shall obtain written approval from the office before making any change in the name or address of the escrow agent. Notwithstanding any other provision of law, information regarding the escrow agent shall be deemed an open record;

(2) The escrow account funds shall be maintained in depository accounts at a Missouri financial institution that provides Federal Deposit Insurance Corporation or comparable deposit insurance;

(3) The escrow arrangement shall be administered by the escrow agent pursuant to an agreement approved by the office under the same filing and approval procedure as that set forth for endowed care trust fund agreements in section 214.330;

(4) The operator shall establish a separate depository account for each cemetery prearranged contract administered pursuant to this subsection;

(5) The division may promulgate by rule a form escrow agreement to be used by a cemetery operator operating pursuant to this section.

4. Each trust must comply with the following:

(1) The trustee shall be a state or federally chartered financial institution authorized to exercise trust powers in Missouri, provided that a foreign financial institution must be approved by the office;

(2) The trust fund records, including all trust fund accounting records, shall either be maintained in the state of Missouri or shall be electronically stored so that the records may be made available within fifteen business days of the trustee's receipt of a written request made by the office or its duly authorized representative. The cemetery operator shall maintain a current name and address of the trustee and the records custodian and shall supply such information to the office or its representative upon request;

(3) The principal of such funds shall be appropriately invested pursuant to the prudent investor rule under chapter 469, provided that no trust funds shall be invested in any term insurance product;

(4) Payments regarding two or more cemetery prearranged contracts may be deposited into and commingled in the same trust, so long as adequate records are made available to the trustee to account for cemetery prearranged contracts on an individual basis with regard to deposits, earnings, distributions, and any taxes;

(5) Trust instruments shall be subject to the same filing and approval procedure as that set forth for endowed care trust fund agreements under section 214.330;

(6) A trustee may commingle the funds from trusts of unrelated cemetery operators for investment purposes if the trustee has adequate accounting for the allocations, disbursements, payments, and income among the participating trusts.

5. The income from escrow accounts, after payment of expenses associated with the arrangement, shall be distributed to the cemetery operator. All other distributions from trusts and escrow accounts shall be made pursuant to forms approved by the office. For performance of a cemetery prearranged contract, a certificate of performance form signed by the cemetery operator shall be required for distribution. For cancellation of a cemetery prearranged contract, a certificate of cancellation form signed by the cemetery operator and the purchaser shall be required for distribution.

6. A cemetery prearranged contract is subject to cancellation as follows:

(1) At any time before the final disposition of the deceased, or before the services or merchandise described in this section are provided, the purchaser may cancel the contract without cause by delivering written notice thereof to the operator. Within fifteen days after its receipt of such notice, the cemetery operator shall pay to the purchaser a net amount equal to eighty percent of all payments made under the contract. The cemetery operator shall be entitled to keep one-half of the interest earned on trust funds. Upon delivery of the purchaser's receipt for such payment to the escrow agent or trustee, the escrow agent or trustee shall distribute to the cemetery operator from the escrow account or trust an amount equal to all deposits made into the escrow account or trust for the contract;

(2) Notwithstanding the provisions of subdivision (1) of this subsection, if a purchaser is eligible, becomes eligible, or desires to become eligible, to receive public assistance under chapter 208 or any other applicable state or federal law, the purchaser may irrevocably waive and renounce his right to cancel the contract pursuant to the provisions of subdivision (1) of this section, which waiver and renunciation shall be made in writing and delivered to the cemetery operator;

(3) Notwithstanding the provisions of subdivision (1) of this subsection, any purchaser, within thirty days of receipt of the executed contract, may cancel the contract without cause by delivering written notice thereof to the cemetery operator, and receive a full refund of all payments made on the contract;

(4) Notwithstanding the provisions of subdivision (1) of this subsection, once any purchase order is entered for the production or manufacture of burial merchandise, per the purchaser's written request, the purchaser's obligation to pay for said burial merchandise shall be noncancellable;

(5) No funds subject to a purchaser's right of cancellation hereunder shall be subject to the claims of the cemetery operator's creditors.

7. Burial merchandise sold through a contract with a cemetery or cemetery operator which is entered into after the death of the individual for whom the burial merchandise is intended shall not be subject to any trusting or escrow requirement of this section.

8. This section shall apply to all agreements entered into after August 28, 2010.

214.389. 1. The division may direct a trustee, financial institution, or escrow agent to suspend distribution from an endowed care trust fund or escrow account if the cemetery operator does not have a current and active cemetery operator license, has failed to file an annual report, or if, after an audit or examination, the division determines there is a deficiency in an endowed care trust fund or escrow account maintained under section 214.330 and the cemetery operator has failed to file a corrective action plan detailing how the deficiency shall be remedied. For purposes of this section, a deficiency shall only be deemed to exist if, after an audit or examination, the division determines a cemetery operator has failed to deposit the total aggregate of funds required to be deposited in trust or an escrow account pursuant to section 214.320 or subsection 1 of section 214.335, or has received disbursements from the trust or escrow account in excess of what is permitted under section 214.330. No deficiency shall be deemed to be created by fluctuations in the value of investments held in trust or escrow.

2. The division shall provide written notification to the cemetery operator and the trustee, financial institution, or escrow agent within fourteen days of discovering a potential violation as described in this section. Upon receipt of written notification from the division, the cemetery operator shall have sixty days to cure any alleged violations or deficiencies cited in the notification without a suspension of distribution. If, after the sixty-day time period, the division feels the cemetery has not cured the alleged violations or deficiencies cited in the notification, the division may send a notice of suspension to the cemetery operator that the division is ordering a suspension of distribution as described in this section. In the event of a suspension of distribution, the amount of any distribution suspended shall become principal, with credit against the deficiency, unless the cemetery operator files an appeal with a court of competent jurisdiction or with the administrative hearing commission, as provided herein. In the event of an appeal, a cemetery operator may request the court or administrative hearing commission stay the suspension of distribution after a showing of necessity and good cause or authorize payment from the endowed care trust fund or escrow account for necessary expenses from any amount subject to distribution.

3. Upon receipt of an order from the division suspending distribution pursuant to this section, a trustee, financial institution, or escrow agent shall immediately suspend distribution as required by the order. A trustee, financial institution, or escrow agent shall be exempt from liability for failure to distribute funds as ordered by the division.

4. A cemetery operator may appeal an order suspending distribution pursuant to this section to the administrative hearing commission. The administrative hearing commission shall receive notice of such appeal within thirty days from the date the notice of suspension was mailed by certified mail. Failure of a person whose license was suspended to notify the administrative hearing commission of his or her intent to appeal waives all rights to appeal the suspension. Upon notice of such person's intent to appeal, a hearing shall be held before the administrative hearing commission pursuant to chapter 621.

5. A cemetery operator may apply for reinstatement of distributions upon demonstration that the deficiencies or other problems have been cured or that the operator has otherwise come into compliance.

6. The division may promulgate rules to implement the provisions of this section. Any rule or portion of a rule, as that term is defined in section 536.010, that is created under the authority delegated in this section shall become effective only if it complies with and is subject to all of the provisions of chapter 536, and, if applicable, section 536.028. This section and chapter 536 are nonseverable and if any of the powers vested with the general assembly pursuant to chapter 536, to review, to delay the effective date, or to disapprove and annul a rule are subsequently held unconstitutional, then the grant of rulemaking authority and any rule proposed or adopted after August 28, 2010, shall be invalid and void.

214.392. 1. The division shall:

(1) Recommend prosecution for violations of the provisions of sections 214.270 to 214.410 to the appropriate prosecuting, circuit attorney or to the attorney general;

(2) Employ, within limits of the funds appropriated, such employees as are necessary to carry out the provisions of sections 214.270 to 214.410;

(3) Be allowed to convey full authority to each city or county governing body the use of inmates controlled by the department of corrections and the board of probation and parole to care for abandoned cemeteries located within the boundaries of each city or county;

(4) Exercise all budgeting, purchasing, reporting and other related management functions;

(5) **Be authorized, within the limits of the funds appropriated to conduct investigations, examinations, or audits to determine compliance with sections 214.270 to 214.410;**

(6) The division may promulgate rules necessary to implement the provisions of sections 214.270 to 214.516, including but not limited to:

(a) Rules setting the amount of fees authorized pursuant to sections 214.270 to 214.516. The fees shall be set at a level to produce revenue that shall not substantially exceed the cost and expense of administering sections 214.270 to 214.516. All moneys received by the division pursuant to sections 214.270 to 214.516 shall be collected by the director who shall transmit such moneys to the department of revenue for deposit in the state treasury to the credit of the endowed care cemetery audit fund created in section 193.265, RSMo;

(b) Rules to administer the inspection and audit provisions of the endowed care cemetery law;

(c) Rules for the establishment and maintenance of the cemetery registry pursuant to section 214.283.

2. 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, 2001, shall be invalid and void.

214.400. Sections 214.270 to 214.410 shall be known as the "Cemetery Endowed Care **Trust** Fund Law".

214.410. 1. Any cemetery operator who shall willfully violate any provisions of sections 214.270 to 214.410 for which no penalty is otherwise prescribed shall be deemed guilty of a misdemeanor and upon conviction thereof shall be fined a sum not to exceed five hundred dollars or shall be confined not more than six months or both.

2. Any cemetery operator who shall willfully violate any provision of [section] **sections** 214.320, 214.330, 214.335, 214.340, 214.360 [or], 214.385, **or 214.387** shall be deemed guilty of a class D felony and upon conviction thereof shall be fined a sum not to exceed ten thousand dollars or shall be confined not more than five years or both. This section shall not apply to cemeteries or cemetery associations which do not sell lots in the cemetery.

3. Any trustee who shall willfully violate any applicable provisions of sections 214.270 to 214.410 shall have committed an unsafe and unsound banking practice and shall be penalized as authorized by chapters 361 and 362, RSMo. This subsection shall be enforced exclusively by the Missouri division of finance for state chartered institutions and the Missouri attorney general for federally chartered institutions.

4. Any person who shall willfully violate any provision of section 214.320, 214.330, 214.335, 214.340, 214.360 or 214.385 or violates any rule, regulation or order of the division may, in accordance with the regulations issued by the division, be assessed an administrative penalty by the division. The penalty shall not exceed five thousand dollars for each violation and each day of the continuing violation shall be deemed a separate violation for purposes of administrative penalty assessment. However, no administrative penalty may be assessed until the person charged with the violation has been given the opportunity for a hearing on the violation. Penalty assessments received shall be deposited in the endowed care cemetery audit fund created in section 193.265, RSMo.

214.500. Any cemetery located in a city [not within a county,] which has become the property of such city pursuant to section 214.205 or a public tax sale may be sold to another cemetery operator or a not-for-profit corporation which is unrelated to the previous cemetery operator.

214.504. Any cemetery operator who purchases a cemetery from a city [not within a county] pursuant to sections 214.500 to 214.516 shall not be liable for any wrongful interments or errors made in the sale of plots prior to the cemetery operator's purchase of the cemetery, nor shall such cemetery operator be liable for multiple ownership of plots sold by such cemetery operator due to a lack of adequate records in such cemetery operator's possession at the time

of such cemetery operator's purchase of such cemetery from the city, provided the cemetery operator offers a plot of equal value for the interment, if such party can prove ownership of the right to bury a person by presenting a contract for the right to burial.

214.508. Any cemetery operator who purchases a cemetery from a city [not within a county] shall not be held liable or responsible for any conditions existing or actions taken which occurred prior to the cemetery operator's purchase from such city; except that, the exemption provided in this section shall not relieve any previous owner or wrongdoer for their actions related to such cemetery.

214.512. Any subsequent cemetery owner after a city [not within a county] shall be exempt from the provisions of section 214.325 and section 214.410 for any deficiency existing prior to such city's ownership; except that, such exemption shall not relieve any previous cemetery owners or wrongdoers from the provisions of such sections.

214.516. Any cemetery owner subsequent to a city [not within a county], regardless of whether such cemetery was previously registered as an endowed care cemetery, held itself out to be an endowed care cemetery or was a nonendowed care cemetery, shall comply with section 214.310 and register such cemetery as an endowed care cemetery as if it were a newly created cemetery with no interments at the time of such registration. Any contracts for the right of burial sold after compliance with section 214.310 and all subsequent action of a subsequent cemetery owner shall comply fully with the provisions of sections 214.270 to 214.410.

214.550. 1. For purposes of this section, the following terms mean:

(1) "Cremains", the [ashes that remain after cremation of a human corpse] **remains of a human corpse after cremation;**

(2) "Operator", a church that owns and maintains a religious cemetery;

(3) "Religious cemetery", a cemetery owned, operated, controlled, or managed by any church that has or would qualify for federal tax-exempt status as a nonprofit religious organization pursuant to section 501(c) of the Internal Revenue Code as amended;

(4) "Scatter garden", a location for the spreading of cremains set aside within a cemetery.

2. It shall be lawful for any operator of a religious cemetery adjacent to a church building or other building regularly used as a place of worship to establish a scatter garden for the purpose of scattering human cremains.

3. The operator of any religious cemetery containing a scatter garden shall maintain, protect, and supervise the scatter garden, and shall be responsible for all costs incurred for such maintenance, protection, and supervision. Such operator shall also maintain a record of all cremains scattered in the scatter garden that shall include the name, date of death, and Social Security number of each person whose cremains are scattered, and the date the cremains were scattered.

4. A scatter garden established pursuant to this section shall be maintained by the operator of the religious cemetery for as long as such operator is in existence. Upon dissolution of such operator, all records of cremains shall be transferred to the clerk of the city, town, or village in which the scatter garden is located, or if the scatter garden is located in any unincorporated area, to the county recorder."; and

Further amend said bill, Page 59, Section 1, Line 9, by inserting after all of said line the following:

"[214.290. Any cemetery operator who within ninety days from the effective date of sections 214.270 to 214.410 elects to operate a cemetery which exists on the effective date of sections 214.270 to 214.410 as an endowed care cemetery or who represents to the public that perpetual, permanent, endowed, continual, eternal care, care of duration or similar care will be furnished cemetery property sold, shall before selling or disposing of any interment space or lots in said cemetery after the date of such election, establish a minimum endowed care and maintenance fund in cash in the amount required by section 214.300 unless an endowed care fund is already in existence to which regular deposits have been made (whether or not the fund then existing shall be in the minimum amount required under section 214.300).]"; and

Further amend the title and enacting clause accordingly.

Senate Amendment No. 3

AMEND Senate Committee Substitute for House Bill No. 2226, House Bill No. 1824, House Bill No. 1832 & House Bill No. 1990, Page 3, Section A, Line 28, by inserting after all of said line the following:

"190.108. 1. The department shall, within a reasonable time after receipt of an application, cause such investigation as the department deems necessary to be made of the applicant for an air ambulance license.

2. The department shall have the authority and responsibility to license an air ambulance service in accordance with sections 190.001 to 190.245, and in accordance with rules adopted by the department pursuant to sections 190.001 to 190.245. The department may promulgate rules relating to the requirements for an air ambulance license including, but not limited to:

- (1) Medical control plans;
- (2) Medical director qualifications;
- (3) Air medical staff qualifications;
- (4) Response and operations standards to assure that the health and safety needs of the public are met;
- (5) Standards for air medical communications;
- (6) Criteria for compliance with licensure requirements;
- (7) Records and forms;
- (8) Equipment requirements;
- (9) Five-year license renewal;
- (10) Quality improvement committees; and
- (11) Response time, patient care and transportation standards.

3. Application for an air ambulance service license shall be made upon such forms as prescribed by the department in rules adopted pursuant to sections 190.001 to 190.245. The application form shall contain such information as the department deems necessary to make a determination as to whether the air ambulance service meets all the requirements of sections 190.001 to 190.245 and rules promulgated pursuant to sections 190.001 to 190.245.

4. Upon the sale or transfer of any air ambulance service ownership, the owner of such service shall notify the department of the change in ownership within thirty days of such sale or transfer. After receipt of such notice, the department shall conduct an inspection of the ambulance service to verify compliance with the licensure standards of sections 190.001 to 190.245.

5. The department shall promulgate rules prescribing the amount of fees to be required for licensure and relicensure under this section. All license fees shall be paid to the director of revenue and deposited in the state treasury to the credit of the general revenue fund.

190.109. 1. The department shall, within a reasonable time after receipt of an application, cause such investigation as the department deems necessary to be made of the applicant for a ground ambulance license.

2. Any person that owned and operated a licensed ambulance on December 31, 1997, shall receive an ambulance service license from the department, unless suspended, revoked or terminated, for that ambulance service area which was, on December 31, 1997, described and filed with the department as the primary service area for its licensed ambulances on August 28, 1998, provided that the person makes application and adheres to the rules and regulations promulgated by the department pursuant to sections 190.001 to 190.245.

3. The department shall issue a new ground ambulance service license to an ambulance service that is not currently licensed by the department, or is currently licensed by the department and is seeking to expand its ambulance service area, except as provided in subsection 4 of this section, to be valid for a period of five years, unless suspended, revoked or terminated, when the director finds that the applicant meets the requirements of ambulance service licensure established pursuant to sections 190.100 to 190.245 and the rules adopted by the department pursuant to sections 190.001 to 190.245. In order to be considered for a new ambulance service license, an ambulance service shall submit to the department a letter of endorsement from each ambulance district or fire protection district that is authorized to provide ambulance service, or from each municipality not within an ambulance district or fire protection district that is authorized to provide ambulance service, in which the ambulance service proposes to operate. If an ambulance service proposes to operate in unincorporated portions of a county not within an ambulance district or fire protection district that is authorized to provide ambulance service, in order to be considered for a new ambulance service license, the ambulance service shall submit to the department a letter of endorsement from the county. Any letter of endorsement required pursuant to this section shall verify that the political subdivision has conducted a public hearing regarding the endorsement and that the governing body of the political subdivision has adopted a resolution approving the endorsement. The letter of endorsement shall affirmatively state that the proposed ambulance service:

(1) Will provide a benefit to public health that outweighs the associated costs;
(2) Will maintain or enhance the public's access to ambulance services;
(3) Will maintain or improve the public health and promote the continued development of the regional emergency medical service system;

(4) Has demonstrated the appropriate expertise in the operation of ambulance services; and

(5) Has demonstrated the financial resources necessary for the operation of the proposed ambulance service.

4. A contract between a political subdivision and a licensed ambulance service for the provision of ambulance services for that political subdivision shall expand, without further action by the department, the ambulance service area of the licensed ambulance service to include the jurisdictional boundaries of the political subdivision. The termination of the aforementioned contract shall result in a reduction of the licensed ambulance service's ambulance service area by removing the geographic area of the political subdivision from its ambulance service area, except that licensed ambulance service providers may provide ambulance services as are needed at and around the state fair grounds for protection of attendees at the state fair.

5. The department shall renew a ground ambulance service license if the applicant meets the requirements established pursuant to sections 190.001 to 190.245, and the rules adopted by the department pursuant to sections 190.001 to 190.245.

6. The department shall promulgate rules relating to the requirements for a ground ambulance service license including, but not limited to:

(1) Vehicle design, specification, operation and maintenance standards;

(2) Equipment requirements;

(3) Staffing requirements;

(4) Five-year license renewal;

(5) Records and forms;

(6) Medical control plans;

(7) Medical director qualifications;

(8) Standards for medical communications;

(9) Memorandums of understanding with emergency medical response agencies that provide advanced life support;

(10) Quality improvement committees; and

(11) Response time, patient care and transportation standards.

7. Application for a ground ambulance service license shall be made upon such forms as prescribed by the department in rules adopted pursuant to sections 190.001 to 190.245. The application form shall contain such information as the department deems necessary to make a determination as to whether the ground ambulance service meets all the requirements of sections 190.001 to 190.245 and rules promulgated pursuant to sections 190.001 to 190.245.

8. The department shall promulgate rules prescribing the amount of fees to be required for licensure and relicensure under this section. All license fees shall be paid to the director of revenue and deposited in the state treasury to the credit of the general revenue fund.

190.131. 1. The department shall accredit or certify training entities for first responders, emergency medical dispatchers, emergency medical technicians-basic, emergency medical technicians-intermediate, and emergency medical technicians-paramedic, for a period of five years, if the applicant meets the requirements established pursuant to sections 190.001 to 190.245.

2. Such rules promulgated by the department shall set forth the minimum requirements for entrance criteria, training program curricula, instructors, facilities, equipment, medical oversight, record keeping, and reporting. **The rules shall prescribe the amount of fees to be required for certification and recertification under this section. All certification fees shall be paid to the director of revenue and deposited in the state treasury to the credit of the general revenue fund.**

3. Application for training entity accreditation or certification shall be made upon such forms as prescribed by the department in rules adopted pursuant to sections 190.001 to 190.245. The application form shall contain such information as the department deems reasonably necessary to make a determination as to whether the training entity meets all requirements of sections 190.001 to 190.245 and rules promulgated pursuant to sections 190.001 to 190.245.

4. Upon receipt of such application for training entity accreditation or certification, the department shall determine whether the training entity, its instructors, facilities, equipment, curricula and medical oversight meet the requirements of sections 190.001 to 190.245 and rules promulgated pursuant to sections 190.001 to 190.245.

5. Upon finding these requirements satisfied, the department shall issue a training entity accreditation or certification in accordance with rules promulgated by the department pursuant to sections 190.001 to 190.245.

6. Subsequent to the issuance of a training entity accreditation or certification, the department shall cause a periodic review of the training entity to assure continued compliance with the requirements of sections 190.001 to 190.245 and all rules promulgated pursuant to sections 190.001 to 190.245.

7. No person or entity shall hold itself out or provide training required by this section without accreditation or certification by the department.

190.133. 1. The department shall, within a reasonable time after receipt of an application, cause such investigation as the department deems necessary to be made of the applicant for an emergency medical response agency license.

2. The department shall issue a license to any emergency medical response agency which provides advanced life support if the applicant meets the requirements established pursuant to sections 190.001 to 190.245, and the rules adopted by the department pursuant to sections 190.001 to 190.245. The department may promulgate rules relating to the requirements for an emergency medical response agency including, but not limited to:

- (1) A licensure period of five years;
- (2) Medical direction;
- (3) Records and forms; and
- (4) Memorandum of understanding with local ambulance services.

3. Application for an emergency medical response agency license shall be made upon such forms as prescribed by the department in rules adopted pursuant to sections 190.001 to 190.245. The application form shall contain such information as the department deems necessary to make a determination as to whether the emergency medical response agency meets all the requirements of sections 190.001 to 190.245 and rules promulgated pursuant to sections 190.001 to 190.245.

4. No person or entity shall hold itself out as an emergency medical response agency that provides advanced life support or provide the services of an emergency medical response agency that provides advanced life support unless such person or entity is licensed by the department.

5. Only emergency medical response agencies, fire departments, and fire protection districts may provide certain ALS services with the services of EMT-Is.

6. Emergency medical response agencies functioning with the services of EMT-Is must work in collaboration with an ambulance service providing advanced life support with personnel trained to the emergency medical technician-paramedic level.

7. The department shall promulgate rules prescribing the amount of fees to be required for licensure and relicensure under this section. All license fees shall be paid to the director of revenue and deposited in the state treasury to the credit of the general revenue fund.

190.142. 1. The department shall, within a reasonable time after receipt of an application, cause such investigation as it deems necessary to be made of the applicant for an emergency medical technician's license. The director may authorize investigations into criminal records in other states for any applicant.

2. The department shall issue a license to all levels of emergency medical technicians, for a period of five years, if the applicant meets the requirements established pursuant to sections 190.001 to 190.245 and the rules adopted by the department pursuant to sections 190.001 to 190.245. The department may promulgate rules relating to the requirements for an emergency medical technician including but not limited to:

- (1) Age requirements;
- (2) Education and training requirements based on respective national curricula of the United States Department of Transportation and any modification to such curricula specified by the department through rules adopted pursuant to sections 190.001 to 190.245;
- (3) Initial licensure testing requirements;
- (4) Continuing education and relicensure requirements; and
- (5) Ability to speak, read and write the English language.

3. Application for all levels of emergency medical technician license shall be made upon such forms as prescribed by the department in rules adopted pursuant to sections 190.001 to 190.245. The application form shall contain such information as the department deems necessary to make a determination as to whether the emergency medical technician meets all the requirements of sections 190.001 to 190.245 and rules promulgated pursuant to sections 190.001 to 190.245.

4. All levels of emergency medical technicians may perform only that patient care which is:

- (1) Consistent with the training, education and experience of the particular emergency medical technician; and
 - (2) Ordered by a physician or set forth in protocols approved by the medical director.
5. No person shall hold themselves out as an emergency medical technician or provide the services of an emergency medical technician unless such person is licensed by the department.
6. **The department shall promulgate rules prescribing the amount of fees to be required for licensure and relicensure under this section. All license fees shall be paid to the director of revenue and deposited in the state treasury to the credit of the general revenue fund.**
7. 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, 2002, shall be invalid and void."; and

Further amend said bill, Page 3, Section 194.350, Line 30, by inserting after all of said the following:

- "210.221. 1. The department of health and senior services shall have the following powers and duties:
- (1) After inspection, to grant licenses to persons to operate child-care facilities if satisfied as to the good character and intent of the applicant and that such applicant is qualified and equipped to render care or service conducive to the welfare of children, and to renew the same when expired. No license shall be granted for a term exceeding two years. Each license shall specify the kind of child-care services the licensee is authorized to perform, the number of children that can be received or maintained, and their ages and sex;
 - (2) To inspect the conditions of the homes and other places in which the applicant operates a child-care facility, inspect their books and records, premises and children being served, examine their officers and agents, deny, suspend, place on probation or revoke the license of such persons as fail to obey the provisions of sections 210.201 to 210.245 or the rules and regulations made by the department of health and senior services. The director also may revoke or suspend a license when the licensee fails to renew or surrenders the license;
 - (3) To promulgate and issue rules and regulations the department deems necessary or proper in order to establish standards of service and care to be rendered by such licensees to children. No rule or regulation promulgated by the division shall in any manner restrict or interfere with any religious instruction, philosophies or ministries provided by the facility and shall not apply to facilities operated by religious organizations which are not required to be licensed; and
 - (4) To determine what records shall be kept by such persons and the form thereof, and the methods to be used in keeping such records, and to require reports to be made to the department at regular intervals.
2. Any child-care facility may request a variance from a rule or regulation promulgated pursuant to this section. The request for a variance shall be made in writing to the department of health and senior services and shall include the reasons the facility is requesting the variance. The department shall approve any variance request that does not endanger the health or safety of the children served by the facility. The burden of proof at any appeal of a disapproval of a variance application shall be with the department of health and senior services. Local inspectors may grant a variance, subject to approval by the department of health and senior services.
3. The department shall deny, suspend, place on probation or revoke a license if it receives official written notice that the local governing body has found that license is prohibited by any local law related to the health and safety of children. The department may, after inspection, find the licensure, denial of licensure, suspension or revocation to be in the best interest of the state.
4. **The department shall promulgate rules prescribing the amount of fees to be required for licensure and relicensure under this section. All license fees shall be paid to the director of revenue and deposited in the state treasury to the credit of the general revenue fund.**
5. 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 sections 210.201 to 210.245 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. All rulemaking authority delegated prior to August 28, 1999, is of no force and effect and repealed. Nothing in this section shall be interpreted to repeal or affect the validity of any rule filed or adopted prior to August 28, 1999, if it fully complied with all applicable provisions of law. 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, 1999, shall be invalid and void."; and

Further amend the title and enacting clause accordingly.

Senate Amendment No. 6

AMEND Senate Committee Substitute for House Bill No. 2226, House Bill No. 1824, House Bill No. 1832 & House Bill No. 1990, Page 40, Section 334.613, Line 279, by inserting immediately after said line the following:

"334.735. 1. As used in sections 334.735 to 334.749, the following terms mean:

- (1) "Applicant", any individual who seeks to become licensed as a physician assistant;
- (2) "Certification" or "registration", a process by a certifying entity that grants recognition to applicants meeting predetermined qualifications specified by such certifying entity;
- (3) "Certifying entity", the nongovernmental agency or association which certifies or registers individuals who have completed academic and training requirements;
- (4) "Department", the department of insurance, financial institutions and professional registration or a designated agency thereof;
- (5) "License", a document issued to an applicant by the board acknowledging that the applicant is entitled to practice as a physician assistant;
- (6) "Physician assistant", a person who has graduated from a physician assistant program accredited by the American Medical Association's Committee on Allied Health Education and Accreditation or by its successor agency, who has passed the certifying examination administered by the National Commission on Certification of Physician Assistants and has active certification by the National Commission on Certification of Physician Assistants who provides health care services delegated by a licensed physician. A person who has been employed as a physician assistant for three years prior to August 28, 1989, who has passed the National Commission on Certification of Physician Assistants examination, and has active certification of the National Commission on Certification of Physician Assistants;
- (7) "Recognition", the formal process of becoming a certifying entity as required by the provisions of sections 334.735 to 334.749;
- (8) "Supervision", control exercised over a physician assistant working within the same facility as the supervising physician sixty-six percent of the time a physician assistant provides patient care, except a physician assistant may make follow-up patient examinations in hospitals, nursing homes, patient homes, and correctional facilities, each such examination being reviewed, approved and signed by the supervising physician, except as provided by subsection 2 of this section. 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. The supervising physician must be readily available in person or via telecommunication during the time the physician assistant is providing patient care. The board shall promulgate rules pursuant to chapter 536, RSMo, for documentation of joint review of the physician assistant activity by the supervising physician and the physician assistant. The physician assistant shall be limited to practice at locations where the supervising physician is no further than thirty miles by road using the most direct route available, or in any other fashion so distanced as to create an impediment to effective intervention and supervision of patient care or adequate review of services. Any other provisions of this chapter notwithstanding, for up to ninety days following the effective date of rules promulgated by the board to establish the waiver process under subsection 2 of this section, any physician assistant practicing in a health professional shortage area as of April 1, 2007, shall be allowed to practice under the on-site requirements stipulated by the supervising physician on the supervising physician form that was in effect on April 1, 2007.

2. The board shall promulgate rules under chapter 536, RSMo, to direct the advisory commission on physician assistants to establish a formal waiver mechanism by which an individual physician-physician assistant team may apply for alternate minimum amounts of on-site supervision and maximum distance from the supervising physician. After review of an application for a waiver, the advisory commission on physician assistants shall present its recommendation to the board for its advice and consent on the approval or denial of the application. The rule shall establish a process by which the public is invited to comment on the application for a waiver, and shall specify that a waiver may only be granted if a supervising physician and physician assistant demonstrate to the board's satisfaction in accordance with its uniformly applied criteria that:

- (1) Adequate supervision will be provided by the physician for the physician assistant, given the physician assistant's training and experience and the acuity of patient conditions normally treated in the clinical setting;
- (2) The physician assistant shall be limited to practice at locations where the supervising physician is no further than fifty miles by road using the most direct route available, or in any other fashion so distanced as to create an impediment to effective intervention and supervision of patient care or adequate review of services;

(3) The community or communities served by the supervising physician and physician assistant would experience reduced access to health care services in the absence of a waiver;

(4) The applicant will practice in an area designated at the time of application as a health professional shortage area;

(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;

(6) If a waiver has been granted by the board of healing arts **on or after August 28, 2009**, to a **physician-physician assistant team** working in a rural health clinic under the federal Rural Health Clinic Services Act, P.L. 95-210, as amended, no additional waiver shall be required **for the physician-physician assistant team**, so long as the rural health clinic maintains its status as a rural health clinic under such federal act, and such [physician assistant and supervising physician] **physician-physician assistant team** comply with federal supervision requirements. **No supervision requirements in addition to the minimum federal law shall be required for the physician-physician assistant team in a rural health clinic if a waiver has been granted by the board. However, the board shall be able to void a current waiver after conducting a hearing and upon a finding of fact that the physician-physician assistant team has failed to comply with such federal act or either member of the team has violated a provision of this chapter;**

(7) A physician assistant shall only be required to seek a renewal of a waiver every five years or when his or her supervising physician is a different physician than the physician shown on the waiver application or they move their primary practice location more than ten miles from the location shown on the waiver application.

3. The scope of practice of a physician assistant shall consist only of the following services and procedures:

(1) Taking patient histories;

(2) Performing physical examinations of a patient;

(3) Performing or assisting in the performance of routine office laboratory and patient screening procedures;

(4) Performing routine therapeutic procedures;

(5) Recording diagnostic impressions and evaluating situations calling for attention of a physician to institute treatment procedures;

(6) Instructing and counseling patients regarding mental and physical health using procedures reviewed and approved by a licensed physician;

(7) Assisting the supervising physician in institutional settings, including reviewing of treatment plans, ordering of tests and diagnostic laboratory and radiological services, and ordering of therapies, using procedures reviewed and approved by a licensed physician;

(8) Assisting in surgery;

(9) Performing such other tasks not prohibited by law under the supervision of a licensed physician as the physician's assistant has been trained and is proficient to perform;

(10) Physician assistants shall not perform abortions.

4. Physician assistants shall not prescribe nor dispense any drug, medicine, device or therapy [independent of consultation with the supervising physician] **unless pursuant to a physician supervision agreement in accordance with the law**, nor prescribe lenses, prisms or contact lenses for the aid, relief or correction of vision or the measurement of visual power or visual efficiency of the human eye, nor administer or monitor general or regional block anesthesia during diagnostic tests, surgery or obstetric procedures. Prescribing and dispensing of drugs, medications, devices or therapies by a physician assistant shall be pursuant to a physician assistant supervision agreement which is specific to the clinical conditions treated by the supervising physician and the physician assistant shall be subject to the following:

(1) A physician assistant shall only prescribe controlled substances in accordance with section 334.747;

(2) The types of drugs, medications, devices or therapies prescribed or dispensed by a physician assistant shall be consistent with the scopes of practice of the physician assistant and the supervising physician;

(3) All prescriptions shall conform with state and federal laws and regulations and shall include the name, address and telephone number of the physician assistant and the supervising physician;

(4) A physician assistant or advanced practice nurse as defined in section 335.016, RSMo, may request, receive and sign for noncontrolled professional samples and may distribute professional samples to patients;

(5) A physician assistant shall not prescribe any drugs, medicines, devices or therapies the supervising physician is not qualified or authorized to prescribe; and

(6) A physician assistant may only dispense starter doses of medication to cover a period of time for seventy-two hours or less.

5. A physician assistant shall clearly identify himself or herself as a physician assistant and shall not use or permit to be used in the physician assistant's behalf the terms "doctor", "Dr." or "doc" nor hold himself or herself out in any way to be a physician or surgeon. No physician assistant shall practice or attempt to practice without physician

supervision or in any location where the supervising physician is not immediately available for consultation, assistance and intervention, except as otherwise provided in this section, and in an emergency situation, nor shall any physician assistant bill a patient independently or directly for any services or procedure by the physician assistant.

6. For purposes of this section, the licensing of physician assistants shall take place within processes established by the state board of registration for the healing arts through rule and regulation. The board of healing arts is authorized to establish rules pursuant to chapter 536, RSMo, establishing licensing and renewal procedures, supervision, supervision agreements, fees, and addressing such other matters as are necessary to protect the public and discipline the profession. An application for licensing may be denied or the license of a physician assistant may be suspended or revoked by the board in the same manner and for violation of the standards as set forth by section 334.100, or such other standards of conduct set by the board by rule or regulation. Persons licensed pursuant to the provisions of chapter 335, RSMo, shall not be required to be licensed as physician assistants. All applicants for physician assistant licensure who complete a physician assistant training program after January 1, 2008, shall have a master's degree from a physician assistant program.

7. "Physician assistant supervision agreement" means a written agreement, jointly agreed-upon protocols or standing order between a supervising physician and a physician assistant, which provides for the delegation of health care services from a supervising physician to a physician assistant and the review of such services.

8. When a physician assistant supervision agreement is utilized to provide health care services for conditions other than acute self-limited or well-defined problems, the supervising physician or other physician designated in the supervision agreement shall see the patient for evaluation and approve or formulate the plan of treatment for new or significantly changed conditions as soon as practical, but in no case more than two weeks after the patient has been seen by the physician assistant.

9. At all times the physician is responsible for the oversight of the activities of, and accepts responsibility for, health care services rendered by the physician assistant.

10. It is the responsibility of the supervising physician to determine and document the completion of at least a one-month period of time during which the licensed physician assistant shall practice with a supervising physician continuously present before practicing in a setting where a supervising physician is not continuously present.

11. No contract or other agreement shall require a physician to act as a supervising physician for a physician assistant against the physician's will. A physician shall have the right to refuse to act as a supervising physician, without penalty, for a particular physician assistant. No contract or other agreement shall limit the supervising physician's ultimate authority over any protocols or standing orders or in the delegation of the physician's authority to any physician assistant, but this requirement shall not authorize a physician in implementing such protocols, standing orders, or delegation to violate applicable standards for safe medical practice established by hospital's medical staff.

12. Physician assistants shall file with the board a copy of their supervising physician form.

13. No physician shall be designated to serve as supervising physician for more than three full-time equivalent licensed physician assistants. This limitation shall not apply to physician assistant agreements of hospital employees providing inpatient care service in hospitals as defined in chapter 197, RSMo."; and

Further amend the title and enacting clause accordingly.

Senate Amendment No. 7

AMEND Senate Committee Substitute for House Bill No. 2226, House Bill No. 1824, House Bill No. 1832 & House Bill No. 1990, Page 3, Section A, Line 28, by inserting immediately after said line the following:

"23.156. 1. Every employee of the oversight division of the joint committee on legislative research shall, before entering upon his or her duties, take and file in the offices of the secretary of the senate and the chief clerk of the house of representatives an oath:

- (1) To support the constitution of the state, to faithfully demean himself or herself in office;**
- (2) To not disclose to any unauthorized person any information furnished by any state department, state agency, political subdivision, or instrumentality of the state; and**
- (3) To not accept as presents or emoluments any pay, directly or indirectly, for the discharge of any act in the line of his or her duty other than the remuneration fixed and accorded to the employee by law.**

2. For any violation of his or her oath of office or of any duty imposed upon him or her by this section, any employee shall be guilty of a class A misdemeanor."; and

Further amend the title and enacting clause accordingly.

Senate Amendment No. 11

AMEND Senate Committee Substitute for House Bill No. 2226, House Bill No. 1824, House Bill No. 1832 & House Bill No. 1990, Page 3, Section 194.350, Line 30, by inserting after all of said line the following:

“208.215. 1. MO HealthNet is payer of last resort unless otherwise specified by law. When any person, corporation, institution, public agency or private agency is liable, either pursuant to contract or otherwise, to a participant receiving public assistance on account of personal injury to or disability or disease or benefits arising from a health insurance plan to which the participant may be entitled, payments made by the department of social services or MO HealthNet division shall be a debt due the state and recoverable from the liable party or participant for all payments made [in] on behalf of the participant and the debt due the state shall not exceed the payments made from MO HealthNet benefits provided under sections 208.151 to 208.158 and section 208.162 and section 208.204 on behalf of the participant, minor or estate for payments on account of the injury, disease, or disability or benefits arising from a health insurance program to which the participant may be entitled. **Any health benefit plan as defined in section 376.1350, third party administrator, administrative service organization, and pharmacy benefits manager, shall process and pay all properly submitted medical assistance subrogation claims or MO HealthNet subrogation claims using standard electronic transactions or paper claim forms:**

(1) For a period of three years from the date services were provided or rendered; however, an entity:

(a) Shall not be required to reimburse for items or services which are not covered under MO HealthNet;

(b) Shall not deny a claim submitted by the state solely on the basis of the date of submission of the claim, the type or format of the claim form, failure to present proper documentation of coverage at the point of sale, or failure to provide prior authorization;

(c) Shall not be required to reimburse for items or services for which a claim was previously submitted to the health benefit plan, third party administrator, administrative service organization, or pharmacy benefits manager by the health care provider or the participant and the claim was properly denied by the health benefit plan, third party administrator, administrative service organization, or pharmacy benefits manager for procedural reasons, except for timely filing, type or format of the claim form, failure to present proper documentation of coverage at the point of sale, or failure to obtain prior authorization;

(d) Shall not be required to reimburse for items or services which are not covered under or were not covered under the plan offered by the entity against which a claim for subrogation has been filed; and

(e) Shall reimburse for items or services to the same extent that the entity would have been liable as if it had been properly billed at the point of sale, and the amount due is limited to what the entity would have paid as if it had been properly billed at the point of sale; and

(2) If any action by the state to enforce its rights with respect to such claim is commenced within six years of the state's submission of such claim.

2. The department of social services, MO HealthNet division, or its contractor may maintain an appropriate action to recover funds paid by the department of social services or MO HealthNet division or its contractor that are due under this section in the name of the state of Missouri against the person, corporation, institution, public agency, or private agency liable to the participant, minor or estate.

3. Any participant, minor, guardian, conservator, personal representative, estate, including persons entitled under section 537.080, RSMo, to bring an action for wrongful death who pursues legal rights against a person, corporation, institution, public agency, or private agency liable to that participant or minor for injuries, disease or disability or benefits arising from a health insurance plan to which the participant may be entitled as outlined in subsection 1 of this section shall upon actual knowledge that the department of social services or MO HealthNet division has paid MO HealthNet benefits as defined by this chapter promptly notify the MO HealthNet division as to the pursuit of such legal rights.

4. Every applicant or participant by application assigns his right to the department of social services or MO HealthNet division of any funds recovered or expected to be recovered to the extent provided for in this section. All applicants and participants, including a person authorized by the probate code, shall cooperate with the department of social services, MO HealthNet division in identifying and providing information to assist the state in pursuing any third party who may be liable to pay for care and services available under the state's plan for MO HealthNet benefits as provided in sections 208.151 to 208.159 and sections 208.162 and 208.204. All applicants and participants shall cooperate with the agency in obtaining third-party resources due to the applicant, participant, or child for whom assistance is claimed. Failure to cooperate without good cause as determined by the department of social services, MO HealthNet division in accordance with federally prescribed standards shall render the applicant or participant ineligible for MO HealthNet benefits under sections 208.151 to 208.159 and sections 208.162 and 208.204. A [recipient]

participant who has notice or who has actual knowledge of the department's rights to third-party benefits who receives any third-party benefit or proceeds for a covered illness or injury is either required to pay the division within sixty days after receipt of settlement proceeds the full amount of the third-party benefits up to the total MO HealthNet benefits provided or to place the full amount of the third-party benefits in a trust account for the benefit of the division pending judicial or administrative determination of the division's right to third-party benefits.

5. Every person, corporation or partnership who acts for or on behalf of a person who is or was eligible for MO HealthNet benefits under sections 208.151 to 208.159 and sections 208.162 and 208.204 for purposes of pursuing the applicant's or participant's claim which accrued as a result of a nonoccupational or nonwork-related incident or occurrence resulting in the payment of MO HealthNet benefits shall notify the MO HealthNet division upon agreeing to assist such person and further shall notify the MO HealthNet division of any institution of a proceeding, settlement or the results of the pursuit of the claim and give thirty days' notice before any judgment, award, or settlement may be satisfied in any action or any claim by the applicant or participant to recover damages for such injuries, disease, or disability, or benefits arising from a health insurance program to which the participant may be entitled.

6. Every participant, minor, guardian, conservator, personal representative, estate, including persons entitled under section 537.080, RSMo, to bring an action for wrongful death, or his attorney or legal representative shall promptly notify the MO HealthNet division of any recovery from a third party and shall immediately reimburse the department of social services, MO HealthNet division, or its contractor from the proceeds of any settlement, judgment, or other recovery in any action or claim initiated against any such third party. A judgment, award, or settlement in an action by a [recipient] **participant** to recover damages for injuries or other third-party benefits in which the division has an interest may not be satisfied without first giving the division notice and a reasonable opportunity to file and satisfy the claim or proceed with any action as otherwise permitted by law.

7. The department of social services, MO HealthNet division or its contractor shall have a right to recover the amount of payments made to a provider under this chapter because of an injury, disease, or disability, or benefits arising from a health insurance plan to which the participant may be entitled for which a third party is or may be liable in contract, tort or otherwise under law or equity. Upon request by the MO HealthNet division, all third-party payers shall provide the MO HealthNet division with information contained in a 270/271 Health Care Eligibility Benefits Inquiry and Response standard transaction mandated under the federal Health Insurance Portability and Accountability Act, except that third-party payers shall not include accident-only, specified disease, disability income, hospital indemnity, or other fixed indemnity insurance policies.

8. The department of social services or MO HealthNet division shall have a lien upon any moneys to be paid by any insurance company or similar business enterprise, person, corporation, institution, public agency or private agency in settlement or satisfaction of a judgment on any claim for injuries or disability or disease benefits arising from a health insurance program to which the participant may be entitled which resulted in medical expenses for which the department or MO HealthNet division made payment. This lien shall also be applicable to any moneys which may come into the possession of any attorney who is handling the claim for injuries, or disability or disease or benefits arising from a health insurance plan to which the participant may be entitled which resulted in payments made by the department or MO HealthNet division. In each case, a lien notice shall be served by certified mail or registered mail, upon the party or parties against whom the applicant or participant has a claim, demand or cause of action. The lien shall claim the charge and describe the interest the department or MO HealthNet division has in the claim, demand or cause of action. The lien shall attach to any verdict or judgment entered and to any money or property which may be recovered on account of such claim, demand, cause of action or suit from and after the time of the service of the notice.

9. On petition filed by the department, or by the participant, or by the defendant, the court, on written notice of all interested parties, may adjudicate the rights of the parties and enforce the charge. The court may approve the settlement of any claim, demand or cause of action either before or after a verdict, and nothing in this section shall be construed as requiring the actual trial or final adjudication of any claim, demand or cause of action upon which the department has charge. The court may determine what portion of the recovery shall be paid to the department against the recovery. In making this determination the court shall conduct an evidentiary hearing and shall consider competent evidence pertaining to the following matters:

(1) The amount of the charge sought to be enforced against the recovery when expressed as a percentage of the gross amount of the recovery; the amount of the charge sought to be enforced against the recovery when expressed as a percentage of the amount obtained by subtracting from the gross amount of the recovery the total attorney's fees and other costs incurred by the participant incident to the recovery; and whether the department should, as a matter of fairness and equity, bear its proportionate share of the fees and costs incurred to generate the recovery from which the charge is sought to be satisfied;

(2) The amount, if any, of the attorney's fees and other costs incurred by the participant incident to the recovery and paid by the participant up to the time of recovery, and the amount of such fees and costs remaining unpaid at the time of recovery;

(3) The total hospital, doctor and other medical expenses incurred for care and treatment of the injury to the date of recovery therefor, the portion of such expenses theretofore paid by the participant, by insurance provided by the participant, and by the department, and the amount of such previously incurred expenses which remain unpaid at the time of recovery and by whom such incurred, unpaid expenses are to be paid;

(4) Whether the recovery represents less than substantially full recompense for the injury and the hospital, doctor and other medical expenses incurred to the date of recovery for the care and treatment of the injury, so that reduction of the charge sought to be enforced against the recovery would not likely result in a double recovery or unjust enrichment to the participant;

(5) The age of the participant and of persons dependent for support upon the participant, the nature and permanency of the participant's injuries as they affect not only the future employability and education of the participant but also the reasonably necessary and foreseeable future material, maintenance, medical rehabilitative and training needs of the participant, the cost of such reasonably necessary and foreseeable future needs, and the resources available to meet such needs and pay such costs;

(6) The realistic ability of the participant to repay in whole or in part the charge sought to be enforced against the recovery when judged in light of the factors enumerated above.

10. The burden of producing evidence sufficient to support the exercise by the court of its discretion to reduce the amount of a proven charge sought to be enforced against the recovery shall rest with the party seeking such reduction. **The computerized records of the MO HealthNet division, certified by the director or his designee, shall be prima facie evidence of proof of moneys expended and the amount of the debt due the state.**

11. The court may reduce and apportion the department's or MO HealthNet division's lien proportionate to the recovery of the claimant. The court may consider the nature and extent of the injury, economic and noneconomic loss, settlement offers, comparative negligence as it applies to the case at hand, hospital costs, physician costs, and all other appropriate costs. The department or MO HealthNet division shall pay its pro rata share of the attorney's fees based on the department's or MO HealthNet division's lien as it compares to the total settlement agreed upon. This section shall not affect the priority of an attorney's lien under section 484.140, RSMo. The charges of the department or MO HealthNet division or contractor described in this section, however, shall take priority over all other liens and charges existing under the laws of the state of Missouri with the exception of the attorney's lien under such statute.

12. Whenever the department of social services or MO HealthNet division has a statutory charge under this section against a recovery for damages incurred by a participant because of its advancement of any assistance, such charge shall not be satisfied out of any recovery until the attorney's claim for fees is satisfied, [irrespective] **regardless** of whether [or not] an action based on participant's claim has been filed in court. Nothing herein shall prohibit the director from entering into a compromise agreement with any participant, after consideration of the factors in subsections 9 to 13 of this section.

13. This section shall be inapplicable to any claim, demand or cause of action arising under the workers' compensation act, chapter 287, RSMo. From funds recovered pursuant to this section the federal government shall be paid a portion thereof equal to the proportionate part originally provided by the federal government to pay for MO HealthNet benefits to the participant or minor involved. The department or MO HealthNet division shall enforce TEFRA liens, 42 U.S.C. 1396p, as authorized by federal law and regulation on permanently institutionalized individuals. The department or MO HealthNet division shall have the right to enforce TEFRA liens, 42 U.S.C. 1396p, as authorized by federal law and regulation on all other institutionalized individuals. For the purposes of this subsection, "permanently institutionalized individuals" includes those people who the department or MO HealthNet division determines cannot reasonably be expected to be discharged and return home, and "property" includes the homestead and all other personal and real property in which the participant has sole legal interest or a legal interest based upon co-ownership of the property which is the result of a transfer of property for less than the fair market value within thirty months prior to the participant's entering the nursing facility. The following provisions shall apply to such liens:

(1) The lien shall be for the debt due the state for MO HealthNet benefits paid or to be paid on behalf of a participant. The amount of the lien shall be for the full amount due the state at the time the lien is enforced;

(2) The MO HealthNet division shall file for record, with the recorder of deeds of the county in which any real property of the participant is situated, a written notice of the lien. The notice of lien shall contain the name of the participant and a description of the real estate. The recorder shall note the time of receiving such notice, and shall record and index the notice of lien in the same manner as deeds of real estate are required to be recorded and indexed. The director or the director's designee may release or discharge all or part of the lien and notice of the release shall also be

filed with the recorder. The department of social services, MO HealthNet division, shall provide payment to the recorder of deeds the fees set for similar filings in connection with the filing of a lien and any other necessary documents;

(3) No such lien may be imposed against the property of any individual prior to the individual's death on account of MO HealthNet benefits paid except:

(a) In the case of the real property of an individual:

a. Who is an inpatient in a nursing facility, intermediate care facility for the mentally retarded, or other medical institution, if such individual is required, as a condition of receiving services in such institution, to spend for costs of medical care all but a minimal amount of his or her income required for personal needs; and

b. With respect to whom the director of the MO HealthNet division or the director's designee determines, after notice and opportunity for hearing, that he cannot reasonably be expected to be discharged from the medical institution and to return home. The hearing, if requested, shall proceed under the provisions of chapter 536, RSMo, before a hearing officer designated by the director of the MO HealthNet division; or

(b) Pursuant to the judgment of a court on account of benefits incorrectly paid on behalf of such individual;

(4) No lien may be imposed under paragraph (b) of subdivision (3) of this subsection on such individual's home if one or more of the following persons is lawfully residing in such home:

(a) The spouse of such individual;

(b) Such individual's child who is under twenty-one years of age, or is blind or permanently and totally disabled;

or

(c) A sibling of such individual who has an equity interest in such home and who was residing in such individual's home for a period of at least one year immediately before the date of the individual's admission to the medical institution;

(5) Any lien imposed with respect to an individual pursuant to subparagraph b of paragraph (a) of subdivision (3) of this subsection shall dissolve upon that individual's discharge from the medical institution and return home.

14. The debt due the state provided by this section is subordinate to the lien provided by section 484.130, RSMo, or section 484.140, RSMo, relating to an attorney's lien and to the participant's expenses of the claim against the third party.

15. Application for and acceptance of MO HealthNet benefits under this chapter shall constitute an assignment to the department of social services or MO HealthNet division of any rights to support for the purpose of medical care as determined by a court or administrative order and of any other rights to payment for medical care.

16. All participants receiving benefits as defined in this chapter shall cooperate with the state by reporting to the family support division or the MO HealthNet division, within thirty days, any occurrences where an injury to their persons or to a member of a household who receives MO HealthNet benefits is sustained, on such form or forms as provided by the family support division or MO HealthNet division.

17. If a person fails to comply with the provision of any judicial or administrative decree or temporary order requiring that person to maintain medical insurance on or be responsible for medical expenses for a dependent child, spouse, or ex-spouse, in addition to other remedies available, that person shall be liable to the state for the entire cost of the medical care provided pursuant to eligibility under any public assistance program on behalf of that dependent child, spouse, or ex-spouse during the period for which the required medical care was provided. Where a duty of support exists and no judicial or administrative decree or temporary order for support has been entered, the person owing the duty of support shall be liable to the state for the entire cost of the medical care provided on behalf of the dependent child or spouse to whom the duty of support is owed.

18. The department director or the director's designee may compromise, settle or waive any such claim in whole or in part in the interest of the MO HealthNet program. Notwithstanding any provision in this section to the contrary, the department of social services, MO HealthNet division is not required to seek reimbursement from a liable third party on claims for which the amount it reasonably expects to recover will be less than the cost of recovery or for which recovery efforts will not be cost-effective. Cost-effectiveness is determined based on the following:

(1) Actual and legal issues of liability as may exist between the [recipient] **participant** and the liable party;

(2) Total funds available for settlement; and

(3) An estimate of the cost to the division of pursuing its claim.”; and

Further amend the title and enacting clause accordingly.

Senate Amendment No. 12

AMEND Senate Committee Substitute for House Bill No. 2226, House Bill No. 1824, House Bill No. 1832 & House Bill No. 1990, Page 57, Section 338.337, Line 20, by inserting immediately after said line the following:

“344.010. As used in this chapter the following words or phrases mean:

- (1) “Board”, the Missouri board of nursing home administrators;
- (2) “Long-term care facility”, any residential care facility, assisted living facility, intermediate care facility or skilled nursing facility, as defined in section 198.006, RSMo, or similar facility licensed by states other than Missouri;
- (3) “Nursing home”, any institution or facility defined as an assisted living facility, **residential care facility**, intermediate care facility, or skilled nursing facility for licensing purposes by section 198.006, RSMo, whether proprietary or nonprofit;
- (4) “Nursing home administrator”, a person who administers, manages, supervises, or is in general administrative charge of a nursing home, whether such individual has an ownership interest in the home, and whether his functions and duties are shared with one or more individuals.

344.020. No person shall act or serve in the capacity of a nursing home administrator without first procuring a license from the Missouri board of nursing home administrators as provided in sections 344.010 to 344.108. The board may issue a separate license to administrators of **residential care facilities that were licensed as a residential care facility II on or before August 27, 2006, that continue to meet the licensure standards for a residential care facility II in effect on August 27, 2006, and** assisted living facilities, as defined in section 198.006, RSMo. Any individual who receives a license to operate **a residential care facility or** an assisted living facility is not thereby authorized to operate any intermediate care facility or skilled nursing facility as those terms are defined in section 198.006, RSMo.”; and

Further amend the title and enacting clause accordingly.

Senate Amendment No. 14

AMEND Senate Committee Substitute for House Bill No. 2226, House Bill No. 1824, House Bill No. 1832 and House Bill No. 1990, Page 22, Section 324.1147, Line 3, by inserting after said line the following:

“327.031. 1. The “Missouri Board for Architects, Professional Engineers, Professional Land Surveyors and Landscape Architects” is hereby established and shall consist of [~~fourteen~~] **fifteen** members: a chairperson, who may be either an architect, a professional engineer [or], a professional land surveyor, **or a landscape architect**; three architects, who shall constitute the architectural division of the board; [~~three~~] **four** professional engineers, who shall constitute its professional engineering division; three professional land surveyors, who shall constitute its professional land surveying division; three landscape architects, who shall constitute its landscape [~~architecture~~] **architectural** division; and a voting public member.

2. After receiving his or her commission and before entering upon the discharge of his or her official duties, each member of the board shall take, subscribe to and file in the office of the secretary of state the official oath required by the constitution.

3. The chairperson shall be the administrative and executive officer of the board, and it shall be his or her duty to supervise and expedite the work of the board and its divisions, and, at his or her election, when a tie exists between the divisions of the board, to break the tie by recording his or her vote for or against the action upon which the divisions are in disagreement. Each member of the architectural division shall have one vote when voting on an action pending before the board; each member of the professional engineering division shall have one vote when voting on an action pending before the board; [~~the chairperson of the landscape architecture division or the chairperson's designee~~] **each member of the professional land surveying division shall have one vote when voting on an action pending before the board; and each member of the landscape architectural division shall have one vote when voting on an action pending before the board**; and each member of the professional land surveying division shall have one vote when voting on an action pending before the board]. Every motion or proposed action upon which the divisions of the board are tied shall be deemed lost, and the chairperson shall so declare, unless the chairperson shall elect to break the tie as provided in this section. [~~Seven~~] **Eight** voting members of the board [~~and two members~~] **including at least one member** of each division shall constitute a quorum, respectively, for the transaction of **board** business.

4. Each division of the board shall, at its first meeting in each even-numbered year, elect one of its members as division chairperson for a term of two years. **Two voting members of each division of the board shall constitute**

a quorum for the transaction of division business. The chairpersons of the architectural division, professional engineering division [and the], professional land surveying division, **and landscape architectural division** so elected shall be vice chairpersons of the board, and when the chairperson of the board is an architect, the chairperson of the architectural division shall be the ranking vice chairperson, and when the chairperson of the board is a professional engineer, the chairperson of the professional engineering division shall be the ranking vice chairperson, [and] when the chairperson of the board is a professional land surveyor, the chairperson of the professional land surveying division shall be the ranking vice chairperson, **and when the chairperson of the board is a landscape architect, the chairperson of the landscape architectural division shall be the ranking vice chairperson.** The chairperson of each division shall be the administrative and executive officer of his or her division, and it shall be his or her duty to supervise and expedite the work of the division, and, in case of a tie vote on any matter, the chairperson shall, at his or her election, break the tie by his or her vote. Every motion or question pending before the division upon which a tie exists shall be deemed lost, and so declared by the chairperson of the division, unless the chairperson shall elect to break such tie by his or her vote.

5. Any person appointed to the board, except a public member, shall be a currently licensed architect, licensed professional engineer, licensed professional land surveyor or registered or licensed landscape architect in Missouri, as the vacancy on the board may require, who has been a resident of Missouri for at least five years, who has been engaged in active practice as an architect, professional engineer, professional land surveyor or landscape architect, as the case may be, for at least ten consecutive years immediately preceding such person's appointment and who is and has been a citizen of the United States for at least five years immediately preceding such person's appointment. Active service as a faculty member while holding the rank of assistant professor or higher in an accredited school of engineering shall be regarded as active practice of engineering, for the purposes of this chapter. Active service as a faculty member, after meeting the qualifications required by section 327.314, while holding the rank of assistant professor or higher in an accredited school of engineering and teaching land surveying courses shall be regarded [an] **as active practice of land surveying for the purposes of this chapter. Active service as a faculty member while holding the rank of assistant professor or higher in an accredited school of landscape architecture shall be regarded as active practice of landscape architecture, for the purposes of this chapter.** Active service as a faculty member while holding the rank of assistant professor or higher in an accredited school of architecture shall be regarded as active practice of architecture for the purposes of this chapter; provided, however, that no faculty member of an accredited school of architecture shall be eligible for appointment to the board unless such person has had at least three years' experience in the active practice of architecture other than in teaching. The public member shall be, at the time of appointment, a citizen of the United States; a resident of this state for a period of one year and a registered voter; a person who is not and never was a member of any profession licensed or regulated pursuant to this chapter or the spouse of such person; and a person who does not have and never has had a material, financial interest in either the providing of the professional services regulated by this chapter, or an activity or organization directly related to any profession licensed or regulated pursuant to this chapter. All members, including public members, shall be chosen from lists submitted by the director of the division of professional registration. The duties of the public member shall not include the determination of the technical requirements to be met for licensure or whether any person meets such technical requirements or of the technical competence or technical judgment of a licensee or a candidate for licensure.

6. The governor shall appoint the chairperson and the other members of the board when a vacancy occurs either by the expiration of a term or otherwise, and each board member shall serve until such member's successor is appointed and has qualified. **Beginning August 28, 2010,** the position of chairperson shall [alternate among an architect, a professional engineer and a professional land surveyor] **rotate sequentially with an architect, then professional engineer, then professional land surveyor, then landscape architect, and shall be a licensee who has previously served as a member of the board. The appointment of the chairperson shall be for a term of four years which shall be deemed to have begun on the date of his or her appointment and shall end upon the appointment of the chairperson's successor. The chairperson shall not serve more than one term.** All other appointments, except to fill an unexpired term, shall be for terms of four years; but no person shall serve on the board for more than two consecutive four-year terms, and each four-year term shall be deemed to have begun on the date of the expiration of the term of the board member who is being replaced or reappointed, as the case may be. Any appointment to the board which is made when the senate is not in session shall be submitted to the senate for its advice and consent at its next session following the date of the appointment.

7. In the event that a vacancy is to occur on the board because of the expiration of a term, then ninety days prior to the expiration, or as soon as feasible after a vacancy otherwise occurs, [the president of the American Institute of Architects/Missouri if the vacancy to be filled requires the appointment of an architect,] the president of the Missouri Association of Landscape Architects if the vacancy to be filled requires the appointment of a landscape architect, the president of the Missouri Society of Professional Engineers if the vacancy to be filled requires the appointment of an engineer, [and] the president of the Missouri Society of Professional Surveyors if the vacancy to be filled requires the

appointment of a land surveyor, **and the president of the Missouri Association of Landscape Architects if the vacancy to be filled requires the appointment of a landscape architect**, shall submit to the director of the division of professional registration a list of five architects or five professional engineers, [five landscape architects] or five professional land surveyors, **or five landscape architects** as the case may require, qualified and willing to fill the vacancy in question, with the recommendation that the governor appoint one of the five persons so listed; and with the list of names so submitted, the president of the appropriate organization shall include in a letter of transmittal a description of the method by which the names were chosen. This subsection shall not apply to public member vacancies.

8. The board may sue and be sued as the Missouri board for architects, professional engineers, professional land surveyors and landscape architects, and its members need not be named as parties. Members of the board shall not be personally liable either jointly or severally for any act or acts committed in the performance of their official duties as board members, nor shall any board member be personally liable for any court costs which accrue in any action by or against the board.

9. Upon appointment by the governor and confirmation by the senate of the landscape [architecture] **architectural** division, the landscape architectural council is hereby abolished and all of its powers, duties and responsibilities are transferred to and imposed upon the Missouri board for architects, professional engineers, professional land surveyors and landscape architects established pursuant to this section. Every act performed by or under the authority of the Missouri board for architects, professional engineers, professional land surveyors and landscape architects shall be deemed to have the same force and effect as if performed by the landscape architectural council pursuant to sections 327.600 to 327.635. All rules and regulations of the landscape architectural council shall continue in effect and shall be deemed to be duly adopted rules and regulations of the Missouri board [of] **for** architects, professional engineers, professional [landscape architects and land surveyors] **land surveyors and landscape architects** until such rules and regulations are revised, amended or repealed by the board as provided by law, such action to be taken by the board on or before January 1, 2002.

10. Upon appointment by the governor and confirmation by the senate of the landscape [architecture] **architectural** division, all moneys deposited in the landscape architectural council fund created in section 327.625 shall be transferred to the state board for architects, professional engineers, professional land surveyors and landscape architects fund created in section 327.081. The landscape architectural council fund shall be abolished upon the transfer of all moneys in it to the state board [of] **for** architects, professional engineers, **professional** land surveyors and landscape architects.

327.041. 1. The board shall have the duty and the power to carry out the purposes and to enforce and administer the provisions of this chapter, to require, by summons or subpoena, with [the advice of the attorney general and upon] the vote of two-thirds of the voting board members, the attendance and testimony of witnesses, and the production of drawings, plans, plats, specifications, books, papers or any document representing any matter under hearing or investigation, pertaining to the issuance, probation, suspension or revocation of certificates of registration or certificates of authority provided for in this chapter, or pertaining to the unlawful practice of architecture, professional engineering, professional land surveying or landscape architecture.

2. The board shall, within the scope and purview of the provisions of this chapter, prescribe the duties of its officers and employees and adopt, publish and enforce the rules and regulations of professional conduct which shall establish and maintain appropriate standards of competence and integrity in the professions of architecture, professional engineering, professional land surveying and landscape architecture, and adopt, publish and enforce procedural rules and regulations as may be considered by the board to be necessary or proper for the conduct of the board's business and the management of its affairs, and for the effective administration and interpretation of the provisions of this chapter. 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 chapter 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, 2001, shall be invalid and void.

3. Rules promulgated by the board pursuant to sections 327.272 to 327.635 shall be consistent with and shall not supersede the rules promulgated by the department of natural resources pursuant to chapter 60, RSMo.

327.351. 1. The professional license issued to every professional land surveyor in Missouri, including certificates of authority issued to corporations as provided in section 327.401, shall be renewed on or before the license or certificate renewal date provided that the required fee is paid. The license of any professional land surveyor or the certificate of authority of any such corporation which is not renewed within three months of the renewal date shall be

suspended automatically, subject to the right of the holder of such suspended license or certificate to have it reinstated within nine months of the date of suspension, if the reinstatement fee is paid. Any license or certificate of authority suspended and not reinstated within nine months of the suspension date shall expire and be void and the holder of such expired license or certificate shall have no rights or privileges thereunder, but any person or corporation whose license or certificate has expired may, within the discretion of the board and upon payment of the required fee, be reregistered or relicensed under such person's or corporation's original license number.

2. Each application for the renewal of a license or of a certificate of authority shall be on a form furnished to the applicant and shall be accompanied by the required fee; but no renewal fee need be paid by any professional land surveyor over the age of seventy-five.

3. Beginning January 1, 1996, as a condition for renewal of a license issued pursuant to section 327.314, a license holder shall be required to successfully complete twenty units of professional development that meet the standards established by the board regulations within the preceding two calendar years. Any license holder who completes more than twenty units of professional development within the preceding two calendar years may have the excess, not to exceed ten units, applied to the requirement for the next two-year period.

4. The board shall not renew the license of any license holder who has failed to complete the professional development requirements pursuant to subsection 3 of this section, unless such license holder can show good cause why he or she was unable to comply with such requirements. If the board determines that good cause was shown, the board shall permit the license holder to make up all outstanding required units of professional development.

5. A license holder may at any time prior to the termination of his or her license request to be classified as inactive. Inactive licenses may be maintained by payment of an annual fee determined by the board. Holders of inactive licenses shall not be required to complete professional development as required in subsection 3 of this section. Holders of inactive licenses shall not practice as professional land surveyors **within this state, but may continue to use the title "professional land surveyor" or the initials "PLS" after such person's name.** If the board determines that good cause was shown, the board shall permit the professional land surveyor to make up all outstanding required units of professional development.

6. A holder of an inactive license may return such license to an active license to practice professional land surveying by paying the required fee, and either:

(1) Completing one-half of the two-year requirement for professional development multiplied by the number of years of lapsed or inactive status. The maximum requirement for professional development units shall be two and one-half times the two-year requirement. The minimum requirement for professional development units shall be no less than the two-year requirement. Such requirement shall be satisfied within the two years prior to the date of reinstatement; or

(2) Taking such examination as the board deems necessary to determine such person's qualifications. Such examination shall cover areas designed to demonstrate the applicant's proficiency in current methods of land surveying practice.

7. Exemption to the required professional development units shall be granted to registrants during periods of serving honorably on full-time active duty in the military service.

8. At the time of application for license renewal, each licensee shall report, on a form provided by the board, the professional development activities undertaken during the preceding renewal period to satisfy the requirements pursuant to subsection 3 of this section. The licensee shall maintain a file in which records of activities are kept, including dates, subjects, duration of program, and any other appropriate documentation, for a period of four years after the program date.

327.411. 1. Each architect and each professional engineer and each professional land surveyor and each landscape architect shall have a personal seal in a form prescribed by the board, and he or she shall affix the seal to all final documents including, but not limited to, plans, specifications, estimates, plats, reports, surveys, proposals and other documents or instruments prepared by the licensee, or under such licensee's immediate personal supervision. **Such licensee shall either prepare or personally supervise the preparation of all documents sealed by the licensee, and such licensee shall be held personally responsible for the contents of all such documents sealed by such licensee, whether prepared or drafted by another licensee or not.**

2. The personal seal of an architect or professional engineer or professional land surveyor or landscape architect shall be the legal equivalent of the licensee's signature whenever and wherever used, and the owner of the seal shall be responsible for the architectural, engineering, surveying, or landscape architectural documents, as the case may be, when the licensee places his or her personal seal on such plans, specifications, estimates, plats, reports, surveys or other documents or instruments for, or to be used in connection with, any architectural or engineering project, survey, or landscape architectural project. **Licensees shall undertake to perform architectural, professional engineering,**

professional land surveying and landscape architectural services only when they are qualified by education, training, and experience in the specific technical areas involved.

3. **Notwithstanding any provision of this section**, any architect, professional engineer, professional land surveyor, or landscape architect may, but is not required to, attach a statement over his or her signature, authenticated by his or her personal seal, specifying the particular plans, specifications, plats, reports, surveys or other documents or instruments, or portions thereof, intended to be authenticated by the seal, and disclaiming any responsibility for all other plans, specifications, estimates, reports, or other documents or instruments relating to or intended to be used for any part or parts of the architectural or engineering project or survey or landscape architectural project.

4. Nothing in this section, or any rule or regulation of the board shall require any professional to seal preliminary or incomplete documents.”; and

Further amend the title and enacting clause accordingly.

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 has taken up and passed **SS HCS HB 2357**, entitled:

An act to repeal sections 56.809, 70.605, 104.190, 104.480, 169.020, 169.270, 169.280, 169.301, 169.324, and 169.328, RSMo, and to enact in lieu thereof twenty new sections relating to public retirement plans.

With Senate Amendment No. 1.

Senate Amendment No. 1

AMEND Senate Substitute for House Committee Substitute for House Bill No. 2357, Page 13, Section 70.605, Line 11 of said page, by inserting after all of said line the following:

“86.252. 1. Notwithstanding any provision of sections 86.200 to 86.366 to the contrary, the entire interest of a member shall be distributed or begin to be distributed no later than the member's required beginning date. The general required beginning date of a member's benefit is April first of the calendar year following the calendar year in which the member attains age seventy and one-half years or, if later, in which the member terminates employment as a police officer and actually retires.

2. All distributions required pursuant to this section prior to January 1, 2003, shall be determined and made in accordance with the income tax regulations under Section 401(a)(9) of the Internal Revenue Code in effect prior to January 1, 2003, including the minimum distribution incidental benefit requirement of Section 1.401(a)(9)-2 of the income tax regulations. As of the first distribution year, distributions, if not made in a single sum, may only be made over one of the following periods, or a combination thereof:

- (1) The life of the member;
- (2) The life of the member and a designated beneficiary;
- (3) A period certain not extending beyond the life expectancy of the member; or
- (4) A period certain not extending beyond the joint and last survivor expectancy of the member and a designated beneficiary.

3. (1) This subsection shall apply for purposes of determining required minimum distributions for calendar years beginning on and after January 1, 2003, and shall take precedence over any inconsistent provisions of section 86.200 to 86.366. All distributions required under this subsection shall be determined and made in accordance with the United States Treasury regulations under Section 401(a)(9) of the Internal Revenue Code of 1986, as amended.

(2) (a) The member's entire interest shall be distributed or begin to be distributed to the member no later than the member's required beginning date.

(b) If the member dies before distributions begin, the member's entire interest shall be distributed or begin to be distributed no later than as follows:

a. If the member's surviving spouse is the member's sole designated beneficiary, distributions to the surviving spouse shall begin by December thirty-first of the calendar year immediately following the calendar year in which the member died, or by December thirty-first of the calendar year in which the member would have attained age seventy and one-half years, if later;

b. If the member's surviving spouse is not the member's sole designated beneficiary, distributions to the designated beneficiary shall begin by December thirty-first of the calendar year immediately following the calendar year in which the member died;

c. If there is no designated beneficiary as of September thirtieth of the calendar year following the calendar year of the member's death, the member's entire interest shall be distributed by December thirty-first of the calendar year containing the fifth anniversary of the member's death;

d. If the member's surviving spouse is the member's sole designated beneficiary and the surviving spouse dies after the member but before distribution to the surviving spouse begins, this paragraph, except for subparagraph a. of this paragraph, shall apply as if the surviving spouse were the member. For purposes of this paragraph and subdivision (5) of this subsection, distributions shall be considered to begin on the member's required beginning date, or if subparagraph d. of this paragraph applies, the date distributions are required to begin to the surviving spouse under subparagraph a. of this paragraph. If annuity payments irrevocably commence to the member before the member's required beginning date, or to the member's surviving spouse before the date of distributions are required to begin to the surviving spouse under subparagraph a. of this paragraph, the date of distributions shall be considered to begin the date distributions actually commence.

(c) Unless the member's interest is distributed in the form of an annuity purchased from an insurance company or in a single sum on or before the required beginning date, as of the first distribution calendar year distributions shall be made in accordance with subdivisions (3), (4), and (5) of this subsection. If the member's interest is distributed in the form of an annuity purchased from an insurance company, distributions shall be made in accordance with the requirements of Section 401(a)(9) of the Internal Revenue Code of 1986, as amended, and the United States Treasury regulations.

(3) (a) If the member's interest is paid in the form of annuity distributions under sections 86.200 to 86.366, payments under the annuity shall satisfy the following requirements:

a. The annuity distributions shall be paid in periodic payments made at intervals not longer than one year;

b. The distribution period shall be over a life or lives, or over a period certain not longer than the period described in subdivision (4) or (5) of this subsection;

c. Once payments have begun over a period certain, the period certain shall not be changed even if the period certain is shorter than the maximum permitted;

d. Payments shall either be nonincreasing or increase only as [follows:

(i) By an annual percentage increase that does not exceed the annual percentage increase in a cost-of-living index that is based on prices of all items and issued by the federal Bureau of Labor Statistics;

(ii) To the extent of the reduction in the amount of the member's payments to provide for a surviving benefit upon death, but only if the beneficiary whose life was being used to determine the distribution period described in subdivision (4) of this subsection dies or is no longer the member's beneficiary under a qualified domestic relations order with the meaning of Section 414(p) of the Internal Revenue Code of 1986, as amended;

(iii) To provide cash refunds of employee contributions upon the member's death; or

(iv) To pay increased benefits that result from a revision of sections 86.200 to 86.366] **permitted under Q&A of Section 1.401(a)(9)-6 of the United States Treasury regulations.**

(b) The amount distributed on or before the member's required beginning date, or if the member dies before distribution begins, the date distributions are required to begin under subparagraph a. or b. of paragraph (b) of subdivision (2) of this subsection, shall be the payment that is required for one payment interval. The second payment need not be made until the end of the next payment interval even if the payment interval ends in the next calendar year. "Payment intervals" means the periods for which payments are received, such as bimonthly, monthly, semiannually, or annually. All of the member's benefit accruals as of the last day of the first distribution calendar year shall be included in the calculation of the amount of the annuity payments for payment intervals ending on or after the member's required beginning date.

(c) Any additional benefits accruing to the member in a calendar year after the first distribution calendar year shall be distributed beginning with the first payment interval ending in the calendar year immediately following the calendar year in which such amount accrues.

(4) (a) If the member's interest is being distributed in the form of a joint and survivor annuity for the joint lives of the member and a nonspouse beneficiary, annuity payments to be made on or after the member's required beginning date to the designated beneficiary after the member's death shall not at any time exceed the applicable percentage of the annuity payment for such period that would have been payable to the member using the table set forth in Q&A-2 of Section 1.401(a)(9)-6T of the United States Treasury regulations.

(b) The period certain for an annuity distribution commencing during the member's lifetime shall not exceed the applicable distribution period for the member under the Uniform Lifetime Table set forth in Section 1.401(a)(9)-9

of the United States Treasury regulations for the calendar year that contains the annuity starting date. If the annuity starting date precedes the year in which the member reaches age seventy, the applicable distribution period for the member shall be the distribution period for age seventy under the Uniform Lifetime Table set forth in Section 1.401(a)(9)-9 of the United States Treasury regulations plus the excess of seventy over the age of the member as of the member's birthday in the year that contained the annuity starting date.

(5) (a) If the member dies before the date distribution of his or her interest begins and there is a designated beneficiary, the member's entire interest shall be distributed, beginning no later than the time described in subparagraph a. or b. of paragraph (b) of subdivision (2) of this subsection, over the life of the designated beneficiary or over a period certain not exceeding:

a. Unless the annuity starting date is before the first distribution calendar year, the life expectancy of the designated beneficiary determined using the beneficiary's age as of the beneficiary's birthday in the calendar year immediately following the calendar year of the member's death; or

b. If the annuity starting date is before the first distribution calendar year, the life expectancy of the designated beneficiary determined using the beneficiary's age as of the beneficiary's birthday in the calendar year that contains the annuity starting date.

(b) If the member dies before the date distributions begin and there is no designated beneficiary as of September thirtieth of the calendar year following the calendar year of the member's death, distribution of the member's entire interest shall be completed by December thirty-first of the calendar year containing the fifth anniversary of the member's death.

(c) If the member dies before the date distribution of his or her interest begins, the member's surviving spouse is the member's sole designated beneficiary, and the surviving spouse dies before distributions to the surviving spouse begin, this subdivision shall apply as if the surviving spouse were the member; except that, the time by which distributions shall begin shall be determined without regard to subparagraph a. of paragraph (b) of subdivision (2) of this subsection.

(6) As used in this subsection, the following terms mean:

(a) "Designated beneficiary", the surviving spouse or the individual who is designated as the beneficiary under subdivision (4) of section 86.200 or any individual who is entitled to receive death benefits under section 86.283 or 86.287 and is the designated beneficiary under Section 401(a)(9) of the Internal Revenue Code of 1986, as amended, and Section 1.401(a)(9)-1, Q&A-4 of the United States Treasury regulations;

(b) "Distribution calendar year", a calendar year for which a minimum distribution is required. For distributions beginning before the member's death, the first distribution calendar year is the calendar year immediately preceding the calendar year which contains the member's required beginning date. For distributions beginning after the member's death, the first distribution calendar year is the calendar year in which distributions are required to begin under paragraph (b) of subdivision (2) of this subsection;

(c) "Life expectancy", life expectancy as computed by use of the Single Life Table in Section 1.401(a)(9)-9 of the United States Treasury regulations;

(d) "Required beginning date", April first of the calendar year following the calendar year in which the member attains age seventy and one-half years or, if later, in which the member terminates employment as a police officer and actually retires.

(7) Notwithstanding any provision in this subsection to the contrary:

(a) A distribution for calendar years 2003, 2004, and 2005 shall not fail to satisfy Section 401(a)(9) of the Internal Revenue Code of 1986, as amended, merely because the payments do not satisfy Section 1.401(a)(9)-1, Q&A-1 to Q&A-16 of the United States Treasury regulations, provided the payments satisfy Section 401(a)(9) of the Internal Revenue Code of 1986, as amended; and

(b) [In the case of an annuity distribution option provided under the terms of sections 86.200 to 86.366 shall not fail to satisfy Section 401(a)(9) of the Internal Revenue Code of 1986, as amended, merely because the annuity payments do not satisfy the requirements of Section 1.401(a)(9)-1, Q&A-1 to Q&A-15 of the United States Treasury regulations, provided the distribution option satisfies Section 401(a)(9) of the Internal Revenue Code of 1986, as amended, based on a reasonable and good faith interpretation of the provisions of Section 401(a)(9) of the Internal Revenue Code of 1986, as amended.] **Pursuant to Section 1.401(a)(9)-1, Q&A-2 of the United States Treasury regulations, the plan shall be treated as having complied with Section 401(a)(9) of the Internal Revenue Code for all years to which Section 401(a)(9) of the Internal Revenue Code applies to the plan if the plan complies with a reasonable and good faith interpretation of Section 401(a)(9) of the Internal Revenue Code.**

86.255. 1. Notwithstanding any other provision of the plan established in sections 86.200 to 86.366, if an eligible rollover distribution becomes payable to a distributee, the distributee may elect, at the time and in the manner

prescribed by the board of trustees, to have any of the eligible rollover distribution paid directly to an eligible retirement plan specified by the distributee in a direct rollover.

2. For purposes of this section, the following terms mean:

(1) "Direct rollover", a payment by the board of trustees from the fund to the eligible retirement plan specified by the distributee;

(2) "Distributee", a member, a surviving spouse or a spouse **or, effective for distributions made on or after January 1, 2010, a nonspouse beneficiary;**

(3) "Eligible retirement plan", an individual retirement account described in Section 408(a) of the Internal Revenue Code, an individual retirement annuity described in Section 408(b) of the Internal Revenue Code, or a qualified trust described in Section 401(a) of the Internal Revenue Code that accepts the distributee's eligible rollover distribution or, effective for eligible rollover distributions made on or after January 1, 2002, an annuity contract described in Section 403(b) of the Internal Revenue Code or an eligible plan under Section 457(b) of the Internal Revenue Code which is maintained by a state, political subdivision of a state, or any agency or instrumentality of a state or political subdivision of a state and which agrees to separately account for amounts transferred into such plan from this plan, and shall include, for eligible rollover distributions made on or after January 1, [2002, a distribution to a surviving spouse or to a spouse or former spouse who is the alternate payee under a qualified domestic relations order, as defined in Section 414(p) of the Internal Revenue Code] **2008, a Roth IRA as described in Section 408 of the Internal Revenue Code, provided that for distributions made on or after January 1, 2010 to a non-spouse beneficiary, an eligible retirement plan shall include only an individual retirement account described in Section 408(a) of the Internal Revenue Code, an individual retirement annuity described in Section 408(b) of the Internal Revenue Code, or a Roth IRA described in Section 408A of the Internal Revenue Code that is an inherited individual retirement account or annuity under Section 408 of the Internal Revenue Code;**

(4) "Eligible rollover distribution", any distribution of all or any portion of a member's benefit, other than:

(a) A distribution that is one of a series of substantially equal periodic payments, made not less frequently than annually, for the life or life expectancy of the distributee or for the joint lives or joint life expectancies of the distributee and the distributee's designated beneficiary, or for a specified period of ten years or more;

(b) The portion of a distribution that is required under Section 401(a)(9) of the Internal Revenue Code; or

(c) Effective for distributions made on or after January 1, 2002, a portion of a distribution shall not fail to be an eligible rollover distribution merely because the portion consists of after-tax employee contributions which are not includable in gross income. However, **for distributions made before January 1, 2007**, such portion may be transferred only to an individual retirement account or annuity described in Section 408(a) or (b) of the Internal Revenue Code, or to a qualified defined contribution plan described in Section 401(a) or 403(a) of the Internal Revenue Code that agrees to separately account for amounts so transferred, including to separately account for the portion of such distribution which is includable in gross income and the portion that is not so includable; **for distributions made on or after January 1, 2007, such portion may also be transferred to an annuity contract described in Section 403(b) of the Internal Revenue Code or to a qualified defined benefit plan described in Section 401(a) of the Internal Revenue Code that agrees to separately account for amounts so transferred, including to separately account for the portion of such distribution which is includable in gross income and the portion that is not so includable; and for distributions made on or after January 1, 2008, such portion may also be transferred to a Roth IRA described in Section 408A of the Internal Revenue Code.**

3. The board of trustees shall, at least thirty days, but not more than ninety days, before making an eligible rollover distribution, provide a written explanation to the distributee in accordance with the requirements of Section 402(f) of the Internal Revenue Code.

4. If the eligible rollover distribution is not subject to Sections 401(a) and 417 of the Internal Revenue Code, such eligible rollover distribution may be made less than thirty days after the distributee has received the notice described in subsection 3 of this section, provided that:

(1) The board of trustees clearly informs the distributee of the distributee's right to consider whether to elect a direct rollover, and if applicable, a particular distribution option, for at least thirty days after the distributee receives the notice; and

(2) The distributee, after receiving the notice, affirmatively elects a distribution.

5. Notwithstanding any provision of sections 86.200 to 86.366 to the contrary, in no event shall the trustees pay an eligible rollover distribution in the amount of five thousand dollars or less to a member or retired member who has not attained age sixty-two unless such member or retired member consents in writing either to receive such distribution in cash or to have such distribution directly rolled over in accordance with the provisions of this section.

86.256. 1. In no event shall a member's annual benefit paid under the plan established pursuant to sections 86.200 to 86.366 exceed the amount specified in Section 415(b)(1)(A) of the Internal Revenue Code, as adjusted for any applicable increases in the cost of living, as in effect on the last day of the plan year, including any increases after the member's termination of employment.

2. Effective for limitation years beginning after December 31, 2001, in no event shall the annual additions to the plan established pursuant to sections 86.200 to 86.366, on behalf of the member, including the member's own mandatory contributions, exceed the [lesser of:

(1) One hundred percent of the member's compensation, as defined for purposes of Section 415(c)(3) of the Internal Revenue Code, for the limitation year; or

(2) Forty thousand dollars, as adjusted for increases in the cost of living under Section 415(d) of the Internal Revenue Code.

3. Effective for limitation years beginning prior to January 1, 2000, in no event shall the combined plan limitation of Section 415(e) of the Internal Revenue Code be exceeded; provided that, if necessary to avoid exceeding such limitation, the member's annual benefit under the plan established pursuant to sections 86.200 to 86.366 shall be reduced to the extent necessary to satisfy such limitations.

4.] amount specified in Section 415(c) of the Internal Revenue Code, as adjusted for any applicable increases in the cost of living pursuant to Section 415(d) of the Internal Revenue Code, as in effect on the last day of the plan year.

3. For purposes of this section, Section 415 of the Internal Revenue Code, including the special rules under Section 415(b) applicable to governmental plans and qualified participants employed by a police or fire department, is incorporated in this section by reference.

86.294. 1. Notwithstanding any other provision of the plan established in sections 86.200 to 86.366, and subject to the provisions of subsections 2[, 3,] and [4] **3** of this section, effective January 1, 2002, the plan shall accept a member's rollover contribution or direct rollover of an eligible rollover distribution made on or after January 1, 2002, from a qualified plan described in Section 401(a) or 403(a) of the Internal Revenue Code, or an annuity contract described in Section 403(b) of the Internal Revenue Code, or an eligible plan under Section 457(b) of the Internal Revenue Code which is maintained by a state, political subdivision of a state, or any agency or instrumentality of a state or political subdivision of a state, **and that would otherwise be includable in gross income.** The plan will also accept a member's rollover contribution of the portion of a distribution from an individual retirement account or annuity described in Section 408(a) or (b) of the Internal Revenue Code that is eligible to be rolled over and would otherwise be includable in gross income. **The plan will accept a member's direct rollover of an eligible rollover distribution made on or after October 1, 2010, from a qualified plan described in Section 401(a) or 403(a) of the Internal Revenue Code or an annuity contract described in 403(b) of the Internal Revenue Code that includes after-tax employee contributions, other than Roth contributions described in Section 402A of the Internal Revenue Code, that are not includable in gross income and shall separately account for such after-tax amounts.**

2. **Except to the extent specifically permitted under procedures established by the board of trustees,** the amount of such rollover contribution or direct rollover of an eligible rollover distribution shall not exceed the amount required to repay the member's accumulated contributions plus the applicable members' interest thereon from the date of withdrawal to the date of repayment in order to receive credit for such prior service in accordance with section 86.210, to the extent that Section 415 of the Internal Revenue Code does not apply to such repayment by reason of subsection (k)(3) thereof, or to purchase permissive service credit, as defined in Section 415(n)(3)(A) of the Internal Revenue Code, for the member under the plan in accordance with the provisions of section 105.691, RSMo.

3. Acceptance of any rollover contribution or direct rollover of **an** eligible rollover distribution under this section shall be subject to the approval of the board of trustees and shall be made in accordance with procedures established by the board of trustees.

[4. In no event shall the plan accept any rollover contribution or direct rollover distribution to the extent that such contribution or distribution consists of after-tax employee contributions which are not includable in gross income.]

86.295. Notwithstanding any provision of sections 86.200 to 86.366 to the contrary, if a member dies on or after January 1, 2007, while performing qualified military service, as defined in Section 414(u)(5) of the Internal Revenue Code, the member's surviving spouse or other dependents shall be entitled to any benefits, other than benefit increases relating to the period of qualified military service, and the rights and features associated with those benefits which would have been provided under sections 86.280 and 86.290 if the member had returned to service as a police officer and died while in active service.”; and

Further amend the title and enacting clause accordingly.

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 **HCS SB 795, as amended**, and requests the House recede from its position and failing to do so grant the Senate a conference thereon.

**CONFERENCE COMMITTEE REPORT
ON
SENATE SUBSTITUTE
FOR
SENATE COMMITTEE SUBSTITUTE
FOR
HOUSE BILL NO. 1442**

The Conference Committee appointed on Senate Substitute for Senate Committee Substitute for House Bill No. 1442, with Senate Amendment No. 1 and Senate Amendment No. 2, 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 Senate Committee Substitute for House Bill No. 1442, as amended;
2. That the House recede from its position on House Bill No. 1442;
3. That the attached Conference Committee Substitute for Senate Substitute for Senate Committee Substitute for House Bill No. 1442, be Third Read and Finally Passed.

FOR THE HOUSE:

/s/ Tim Jones
/s/ Shane Schoeller
/s/ David Day
/s/ Trent Skaggs
/s/ Jeff Roorda

FOR THE SENATE:

/s/ Gary Nodler
/s/ Jason Crowell
/s/ John Griesheimer
/s/ Timothy Green
/s/ Victor Callahan

ADJOURNMENT

On motion of Representative Tilley, the House adjourned until 4:00 p.m., Monday, May 10, 2010.

COMMITTEE MEETINGS

FISCAL REVIEW

Tuesday, May 11, 2010, 8:30 a.m. House Chamber south gallery.
All bills referred to committee.
Executive session may follow. CORRECTED

FISCAL REVIEW

Wednesday, May 12, 2010, 8:00 a.m. House Chamber south gallery.
All bills referred to committee.
Executive session may follow. CORRECTED

FISCAL REVIEW

Thursday, May 13, 2010, 8:00 a.m. House Chamber south gallery.
All bills referred to committee.
Executive session may follow. CORRECTED

HIGHER EDUCATION

Tuesday, May 11, 2010, 8:00 a.m. Hearing Room 6.
Executive session may follow.

RETIREMENT

Tuesday, May 11, 2010, 12:00 p.m. Hearing Room 4.
Session debriefing.
Executive session may follow.

RULES - PURSUANT TO RULE 25(32)(f)

Tuesday, May 11, 2010, Hearing Room 6 upon morning recess.
Any bills referred to committee.
Possible Executive session.

SPECIAL STANDING COMMITTEE ON GENERAL LAWS

Monday, May 10, 2010, 2:30 p.m. Hearing Room 1.
Executive session may be held.
Public hearing to be held on: SS SCS SB 884, SCR 34

SPECIAL STANDING COMMITTEE ON WORKFORCE DEVELOPMENT AND WORKPLACE SAFETY

Tuesday, May 11, 2010, 8:00 a.m. Hearing Room 5.
Executive session may follow.
Public hearing to be held on: SB 1026

HOUSE CALENDAR

SIXTY-SEVENTH DAY, MONDAY, MAY 10, 2010

HOUSE JOINT RESOLUTIONS FOR PERFECTION

HCS HJRs 45, 69 & 70 - Kingery

HOUSE BILLS FOR PERFECTION

- 1 HCS HB 1684, as amended, HA 2, pending - Zerr
- 2 HCS HB 2026 - Hobbs
- 3 HB 1254 - Wilson (119)
- 4 HCS HB 2053 - Wallace
- 5 HB 1960 - Ruestman
- 6 HCS#2 HB 1812 - Kingery
- 7 HCS HB 1905 - Wilson (130)
- 8 HB 1945 - Brown (149)
- 9 HB 2250 - Curls
- 10 HCS HB 1238 - Davis
- 11 HCS HB 1383 - Nolte
- 12 HCS HB 1451 - Lipke
- 13 HCS HB 1833 - Munzlinger
- 14 HCS HB 2388 - Wasson
- 15 HB 1647 - Cooper
- 16 HB 1911 - Schad
- 17 HCS HB 2042 - Brown (30)
- 18 HCS HB 2102 - Munzlinger
- 19 HCS HB 2152 - Hobbs
- 20 HCS#2 HB 2225 - Loehner
- 21 HCS HB 1583 - Jones (117)
- 22 HCS HB 1725 - Davis
- 23 HB 2255 - Jones (89)

HOUSE CONCURRENT RESOLUTIONS FOR THIRD READING

HCR 77, (4-21-10, Pages 1036-1037) - Franz

HOUSE JOINT RESOLUTIONS FOR THIRD READING

HCS HJR 63 - Parson

HOUSE BILLS FOR THIRD READING

HCS HB 2156 - Molendorp

HOUSE BILLS FOR THIRD READING - INFORMAL

HCS HB 1994 - Zerr

HOUSE CONCURRENT RESOLUTIONS

- 1 HCR 67, (4-29-10, Pages 1179-1182) - Sutherland
- 2 HCR 79, (4-27-10, Pages 1097-1098) - Webb

SENATE BILLS FOR THIRD READING

- 1 HCS SS SCS SBs 586 & 617, Part I, Part II, Part III, Part IV, pending - Emery
- 2 HCS SCS SB 777 - Jones (89)
- 3 HCS SB 791, E.C. - Emery
- 4 HCS SB 686, E.C. - Sutherland
- 5 HCS#2 SCS SB 778, E.C. - McGhee
- 6 HCS SCS SB 808, E.C. - Sutherland
- 7 HCS#2 SB 848 - Loehner
- 8 HCS SS SCS SB 920 - Stevenson
- 9 HCS SB 981, E.C. - Sutherland
- 10 HCS SB 741, (Fiscal Review 5-6-10) - Dugger
- 11 HCS SCS SB 583, (Fiscal Review 5-6-10), E.C. - Hobbs
- 12 HCS SB 940 - Hoskins (121)

HOUSE BILLS WITH SENATE AMENDMENTS

- 1 SCS HB 1677, E.C. - Hoskins (80)
- 2 HB 1336, SA 1 - Brandom
- 3 HB 1691, SA 1, SA 2 - Kraus
- 4 SCS HB 1941, as amended - Parson
- 5 HB 1942, SA 1 - Parson
- 6 HB 1643, SA1, SA2 - Brown (50)
- 7 SS HCS HB 1806, as amended, E.C. - Franz
- 8 SCS HB 1612 - Molendorp
- 9 HCS HB 1977, SA1, SA2 - Wasson
- 10 SS SCS HB 2317, as amended, E.C. - Tracy
- 11 SCS HB 1392 - Kirkton
- 12 SCS HB 1892 - Nasheed
- 13 SS HCS HB 1848 - Holsman
- 14 SCS HCS HB 1903, E.C. - Icet
- 15 SS#2 HB 1268, as amended, E.C. - Meiners
- 16 SS HB 1713, (Fiscal Review 5-5-10) - Sander
- 17 SCS HCS HB 1831 - Jones (117)
- 18 SS SCS HCS HB 1764 - Diehl
- 19 HCS#2 HB 1472, SA 1, E.C. - Franz
- 20 HCS HBs 2262 & 2264, SA 1, E.C. - Day
- 21 SCS HCS HB 1516 - Smith (150)

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- 22 SCS HCS HB 1858 - Zimmerman
- 23 HCR 38, SCA 1 - Icet
- 24 SS HCS HBs 1408 & 1514, E.C. - Smith (150)
- 25 SCS HB 1868, as amended, E.C. - Scharnhorst
- 26 HB 1894, SA 1, SA 2 - Bringer
- 27 SCS HCS HB 1965, as amended - McNary
- 28 SCS HB 2226, HB 1824, HB 1832 & HB 1990, as amended - Wasson
- 29 SS HCS HB 2357, as amended - Smith (150)
- 30 SCS HCS HB 1311 & 1341 - Scharnhorst

BILLS CARRYING REQUEST MESSAGES

- 1 HCS SB 987, as amended, (request House recede/grant conference), E.C. - Hobbs
- 2 HCS SB 795, as amended, (request House recede/grant conference), E.C. - Loehner

BILLS IN CONFERENCE

- 1 CCR SS SCS HB 1442, as amended, E.C. - Jones (89)
- 2 SCS HCS HB 2297, as amended - Molendorp
- 3 HCS SCS SB 754, as amended - Wasson
- 4 HCS SS SCS SB 605, as amended, E.C. - Stevenson
- 5 HCS SCS SB 733, as amended, E.C. - Kingery

SENATE CONCURRENT RESOLUTIONS

- 1 HCS SCR 36, (4-13-10, Page 943) - Icet
- 2 SCR 33, (3-24-10, Pages 676-677) - Cunningham
- 3 HCS SCR 54, (4-20-10, Pages 1019-1020) - Allen
- 4 SCR 51, (3-31-10, Pages 815-817) - Munzlinger
- 5 SCR 56, (4-27-10, Pages 1111-1112) - Bivins

HOUSE BILLS TAKEN FROM COMMITTEE PER CONSTITUTION - INFORMAL

HCS HB 2300 - Wilson (130)

SENATE BILLS TAKEN FROM COMMITTEE PER CONSTITUTION - INFORMAL

SS#2 SCS SB 577 - Wilson (130)