

HOUSE

AMENDMENT NO. _____

Offered by

of

1 AMEND House Committee Substitute No. 2 for House Bill No. 1358,
2 Page 12, Section 94.902, Line 100, by inserting after all of said
3 line the following:

4 "143.782. As used in sections 143.782 to [143.788] 143.790,
5 unless the context clearly requires otherwise, the following
6 terms shall mean and include:

7 (1) "Court", the supreme court, court of appeals, or any
8 circuit court of the state;

9 (2) "Debt", any sum due and legally owed to any state
10 agency which has accrued through contract, subrogation, tort, or
11 operation of law regardless of whether there is an outstanding
12 judgment for that sum, court costs as defined in section 488.010,
13 fines and fees owed, or any support obligation which is being
14 enforced by the division of family services on behalf of a person
15 who is receiving support enforcement services pursuant to section
16 454.425, or any claim for unpaid health care services which is
17 being enforced by the [department of health and senior services]
18 claim clearinghouse on behalf of a [hospital or health care]
19 provider of ambulance services under section 143.790;

20 (3) "Debtor", any individual, sole proprietorship,
21 partnership, corporation or other legal entity owing a debt;

22 (4) "Department", the department of revenue of the state of
23 Missouri;

24 (5) "Refund", the Missouri income tax refund which the
25 department determines to be due any taxpayer pursuant to the
26 provisions of this chapter. The amount of a refund shall not
27 include any senior citizens property tax credit provided by
28 sections 135.010 to 135.035 unless such refund is being offset

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1 for a delinquency or debt relating to individual income tax or a
2 property tax credit; and

3 (6) "State agency", any department, division, board,
4 commission, office, or other agency of the state of Missouri,
5 including public community college districts and housing
6 authorities as defined in section 99.020.

7 143.789. The director of the department shall have the
8 authority to impose an offset against a refund owed to any
9 taxpayer for the following items and in the following order of
10 priority:

11 (1) Delinquent taxes owed by the taxpayer to the state of
12 Missouri;

13 (2) Debts owed by such taxpayer to any state agency or
14 support obligation owed by such taxpayer which is enforced by the
15 division of family services on behalf of a person who is
16 receiving support enforcement services under section 454.425;

17 (3) Collection assistance fees authorized under section
18 143.790;

19 (4) Eligible claims under section 143.790; and

20 (5) Delinquent taxes owed by the taxpayer to the United
21 States.

22 143.790. 1. [Any hospital or health care provider who has
23 provided health care services to an individual who was not
24 covered by a health insurance policy or was not eligible to
25 receive benefits under the state's medical assistance program of
26 needy persons, Title XIX, P.L. 89-97, 1965 amendments to the
27 federal Social Security Act, 42 U.S.C. Section 301, et seq.,
28 under chapter 208, RSMo, and the health insurance for uninsured
29 children under sections 208.631 to 208.657, RSMo, at the time
30 such health care services were administered, and such person has
31 failed to pay for such services for a period greater than ninety
32 days, may submit a claim to the director of the department of
33 health and senior services for the unpaid health care services.
34 The director of the department of health and senior services
35 shall review such claim. If the claim appears meritorious on its
36 face, the claim for the unpaid medical services shall constitute
37 a debt of the department of health and senior services for

1 purposes of sections 143.782 to 143.788, and the director may
2 certify the debt to the department of revenue in order to set off
3 the debtor's income tax refund. Once the debt has been
4 certified, the director of the department of health and senior
5 services shall submit the debt to the department of revenue under
6 the setoff procedure established under section 143.783.

7 2. At the time of certification, the director of the
8 department of health and senior services shall supply any
9 information necessary to identify each debtor whose refund is
10 sought to be set off pursuant to section 143.784 and certify the
11 amount of the debt or debts owed by each such debtor.

12 3. If a debtor identified by the director of the department
13 of health and senior services is determined by the department of
14 revenue to be entitled to a refund, the department of revenue
15 shall notify the department of health and senior services that a
16 refund has been set off on behalf of the department of health and
17 senior services for purposes of this section and shall certify
18 the amount of such setoff, which shall not exceed the amount of
19 the claimed debt certified. When the refund owed exceeds the
20 claimed debt, the department shall send the excess amount to the
21 debtor within a reasonable time after such excess is determined.

22 4. The department of revenue shall notify the debtor by
23 certified mail the taxpayer whose refund is sought to be set off
24 that such setoff will be made. The notice shall contain the
25 provisions contained in subsection 3 of section 143.794,
26 including the opportunity for a hearing to contest the setoff
27 provided therein, and shall otherwise substantially comply with
28 the provisions of subsection 3 of section 143.784.

29 5. Once a debt has been set off and finally determined
30 under the applicable provisions of sections 143.782 to 143.788,
31 and the department of health and senior services has received the
32 funds transferred from the department of revenue, the department
33 of health and senior services shall settle with each hospital or
34 health care provider for the amounts that the department of
35 revenue set off for such party. At the time of each settlement,
36 each hospital or health care provider shall be charged for
37 administration expenses which shall not exceed twenty percent of

1 the collected amount.

2 6. Lottery prize payouts made under section 313.321, RSMo,
3 shall also be subject to the setoff procedures established in
4 this section and any rules and regulations promulgated thereto.

5 7. The director of the department of revenue shall have
6 priority to offset any delinquent tax owed to the state of
7 Missouri. Any remaining refund shall be offset to pay a state
8 agency debt or to meet a child support obligation that is
9 enforced by the division of family services on behalf of a person
10 who is receiving support enforcement services under section
11 454.425, RSMo.

12 8.] As used in this section, the following terms shall mean:

13 (1) "Appeals committee", a committee consisting of at least
14 three people appointed by a provider to hear patient appeals of
15 review officer rulings:

16 (a) That the provider has a valid claim;

17 (b) Regarding the amount of the claim;

18 (c) That a claim qualifies as an eligible claim under this
19 section;

20 (2) "Collection assistance fee", a fee in the amount of
21 fourteen dollars payable to the general fund of this state for
22 each debt setoff being processed and an additional seventeen
23 dollars payable to the claim clearinghouse for each debt being
24 processed by the claim clearinghouse shall be recovered from each
25 eligible claim to recover the costs incurred in collecting debts
26 under this section;

27 (3) "Court", the supreme court, court of appeals, or any
28 circuit court of the state, or any of their judicially or
29 legislatively created subdivisions;

30 (4) "Department", the department of revenue;

31 (5) "Claim", a claim by a provider to receive payment of
32 fifty dollars or more for health care services provided by such
33 provider to a patient which has not been paid in whole or in part
34 by the patient or third-party payer for more than one hundred
35 sixty days after the date the provider has exhausted all
36 available means of collecting the payment from the patient or the
37 third-party payer, provided that in order to exhaust its

1 available means of collecting the payment the provider will not
2 be required to file a legal claim against the patient or third-
3 party payer in state or federal court;

4 (6) "Claim clearinghouse", the entity selected by the
5 department to receive and submit eligible claims on behalf of a
6 provider in accordance with this section. The claim
7 clearinghouse shall be selected by the department through use of
8 and in compliance with the applicable requirements of chapter 34;

9 (7) "Financial hardship policy", a policy maintained by a
10 provider to establish the circumstances in which a patient will
11 be relieved of the obligation to pay a claim as a result of his
12 or her financial condition. The terms of the provider's
13 financial hardship policy shall be consistent with applicable
14 Medicare guidelines regarding financial hardship. Each provider
15 utilizing the claim clearinghouse to collect a claim shall
16 maintain and utilize a financial hardship policy;

17 (8) "Health care services", any services that a provider
18 renders to a patient in the course of such provider's furnishing
19 of ambulance services to the patient. Health care services shall
20 include, but not be limited to, treatment of patients and
21 transporting of patients incidental or pursuant to the delivery
22 of ambulance services by a provider or in furtherance of the
23 purposes for which such provider is organized and licensed,
24 provided that with respect to ground ambulance services provided
25 by a provider that is not owned and operated by a city, county,
26 municipality, political subdivision, governmental entity, or an
27 entity that is exempt from federal and state income taxation,
28 health care services shall only include those ground ambulance
29 services provided by the provider that qualify as emergency
30 services as defined in section 190.100 and are provided under the
31 terms of an agreement between the provider and a city, county,
32 municipality, political subdivision, or a governmental entity
33 under section 190.105;

34 (9) "Patient", an individual who has received health care
35 services from a provider and who was not, at the time such health
36 care services were provided:

37 (a) Eligible to receive benefits under the state's medical

1 assistance program for needy persons under chapter 208 and the
2 health insurance for uninsured children under sections 208.631 to
3 208.657; and

4 (b) Eligible for relief from the claim pursuant to the
5 provider's financial hardship policy;

6 (10) "Provider", any provider of ambulance services
7 licensed by the Missouri department of health and senior services
8 in accordance with chapter 190, to include but not be limited to
9 any provider of air ambulance services licensed under section
10 190.108 and any provider of ground ambulance services licensed
11 under section 190.109;

12 (11) "Refund", a patient's Missouri income tax refund which
13 the department determines to be due under the provisions of this
14 chapter;

15 (12) "Review officer", a person designated by a provider to
16 review claims, at the request of a patient, to determine whether
17 such provider has a valid claim, the amount of such claim, and
18 whether such claim qualifies as an eligible claim under this
19 section.

20 2. Prior to submission of a claim to the claim
21 clearinghouse, a provider shall send written notice to a patient
22 that such provider intends to submit a claim to the claim
23 clearinghouse for collection by setoff under this section. The
24 notice shall:

25 (1) Provide the basis for the claim;

26 (2) State that the provider intends to request that the
27 department apply the patient's refund against the claim;

28 (3) State that a collection assistance fee will be added to
29 the claim if it is submitted for setoff;

30 (4) Inform the patient of the right to contest the validity
31 or amount of such claim by filing a request for a review with the
32 provider; and

33 (5) State the time limit and procedure for requesting such
34 review, and that failure to request a review within thirty days
35 following receipt of the notice required under this section shall
36 result in submission of the claim to the claim clearinghouse for
37 setoff of the debt by the department.

1 3. Upon receipt of the notice required under subsection 2
2 of this section, any patient seeking review of a claim with the
3 provider shall file a written request for review within thirty
4 days of receipt of such notice. A request for a review shall be
5 deemed filed when properly addressed and delivered to the United
6 States Postal Service for mailing with postage prepaid. A review
7 officer shall be appointed by the provider to review such claim.
8 In reviewing a claim, any issue that has previously been
9 litigated in a court proceeding shall not be considered by the
10 review officer. If the patient seeks a review of the claim and
11 the review officer finds either that the claim is invalid or the
12 claim does not qualify as an eligible claim under this section,
13 the review officer's determination shall be final and binding on
14 the provider and such provider shall have no right to appeal such
15 determination. If all or part of the claim is found by the
16 review officer to be valid and eligible for setoff under this
17 section, the review officer shall notify the provider and the
18 patient of such fact. Such notice shall:

19 (1) Inform the patient that the patient has the right to
20 appeal the review officer's determination by filing an appeal
21 with the appeals committee;

22 (2) State the time limit and procedure for requesting such
23 an appeal; and

24 (3) State that failure to request the appeal within thirty
25 days following receipt of the notice required under this
26 subsection shall result in submission of the claim to the claim
27 clearinghouse for setoff of the debt by the department.

28 4. Upon receipt of the notice required under subsection 3
29 of this section, any patient seeking an appeal of a determination
30 of a review officer under this section shall file a written
31 request for such appeal within thirty days following receipt of
32 such notice. An appeal shall be deemed filed when properly
33 addressed and delivered to the United States Postal Service for
34 mailing with postage prepaid. An appeal of a review officer's
35 determination shall be heard by an appeals committee. In an
36 appeal under this section, any issue that has been previously
37 litigated in a court proceeding shall not be considered. A

1 decision made after an appeal under this section shall determine
2 whether a claim is owed to the provider, the amount of the claim,
3 and whether the claim is an eligible claim under this section.

4 5. If the appeals committee finds a claim to be invalid or
5 otherwise ineligible under this section, the decision of the
6 appeals committee shall be final and binding on the provider and
7 may not be appealed by the provider. If all or part of the claim
8 is found by the appeals committee to be valid and eligible for
9 setoff under this section, the appeals committee shall notify the
10 provider and the patient of such fact. Such notice shall:

11 (1) Inform the patient that the patient has the right to
12 challenge the appeals committee determination by notifying the
13 provider that it disagrees with the determination and advising
14 the provider as to the basis of such disagreement;

15 (2) State that the patient must notify the provider of the
16 challenge within ninety days of the patient's receipt of the
17 notice from the appeals committee;

18 (3) Advise the patient that if the patient challenges the
19 appeals committee's determination under this subsection, the
20 provider will not be permitted to setoff the provider's claim
21 against the patient's refund under this section unless and until
22 the provider files suit against the patient in court seeking a
23 determination that the provider's claim is valid regarding the
24 amount of the claim and that the claim is eligible for setoff
25 under this section, and the court determines that the provider's
26 claim is valid, the amount of the provider's claim, and that
27 provider's claim is eligible for setoff under this section; and

28 (4) Advise the patient that if the patient does not
29 challenge the appeal committee's determination under this
30 subsection, the provider will submit the claim to the claim
31 clearinghouse for setoff by the department under this subsection.

32 6. If the provider prevails in the lawsuit filed under
33 subsection 5 of this section, the provider may submit the claim
34 to the claim clearinghouse for setoff by the department under
35 this section. If the patient prevails in the lawsuit filed by
36 the provider under subsection 5 of this section, the provider
37 shall be:

1 _____ (1) Forever barred from submitting the claim to the claim
2 clearinghouse for setoff by the department under this section;

3 _____ (2) Forever barred from taking any other steps to collect
4 the amount of the claim from the patient; and

5 _____ (3) Obligated to reimburse the patient for court costs and
6 attorney's fees associated with the lawsuit filed under
7 subsection 5 of this section.

8 _____ 7. Any provider may submit a claim to the claim
9 clearinghouse for review. In connection with its submission of a
10 claim to the claim clearinghouse, the provider, whenever
11 possible, shall provide the claim clearinghouse with the
12 patient's full name, Social Security number, address, and any
13 other identifying information that the department advises the
14 claim clearinghouse is necessary for the department to setoff the
15 claim under this section. The provider shall also provide the
16 claim clearinghouse with information demonstrating the provider's
17 compliance with the requirements of this section with respect to
18 the claim.

19 _____ 8. If the claim clearinghouse receives sufficient evidence
20 that a provider has fully complied with the requirements of this
21 section and finds the claim valid, the claim shall be deemed
22 eligible for setoff by the department under this section and
23 shall be forwarded to the department. In connection with its
24 submission of the claim to the department, the claim
25 clearinghouse, whenever possible, shall provide the department
26 with the patient's full name, Social Security number, address,
27 and any other identifying information that the department advises
28 the claim clearinghouse is necessary for the department to setoff
29 the claim under this section.

30 _____ 9. If the claim clearinghouse determines that the provider
31 has failed to comply with any applicable requirements in this
32 section or that the claim is not valid, the claim clearinghouse
33 shall return the claim to the provider.

34 _____ 10. If the department determines that a patient identified
35 by a provider in an eligible claim filed with the department is
36 entitled to a refund, the department shall notify the claim
37 clearinghouse that a refund is available for setoff and the

1 amount of such refund, and whether the refund results from a
2 joint or combined return. Notwithstanding any provision of
3 section 32.057 and any other confidentiality statute of this
4 state to the contrary, the department may provide the claim
5 clearinghouse with all information necessary to accomplish and
6 carry out the provisions of this section and section 143.789, but
7 shall not provide the claim clearinghouse with any information
8 whose disclosure is prohibited by Section 6103(d) of the Internal
9 Revenue Code of 1986, as amended. The information obtained by
10 the claim clearinghouse from the department in accordance with
11 this section and section 143.789 shall retain its confidentiality
12 and shall only be used by the claim clearinghouse for the purpose
13 described in this section and section 143.789.

14 11. (1) At that time, the department shall also notify the
15 patient by regular mail that setoff against the patient's tax
16 refund has been authorized under this section. The notice shall
17 include the following information:

18 (a) The amount of the eligible claim and the name of the
19 provider seeking setoff;

20 (b) That a setoff to the patient's refund against the
21 eligible claim has been performed; and

22 (c) Any amount of the refund remaining after the offset of
23 the eligible claim.

24 (2) In the case of a joint or combined return, the notice
25 shall also state the name of the nonobligated taxpayer named in
26 the return, if any, against whom no claim is asserted, the fact
27 that no claim is asserted against such taxpayer, and the fact
28 that such taxpayer is entitled to receive a refund if it is due
29 the taxpayer regardless of the claim asserted against the
30 taxpayer's spouse. In order to obtain the refund due the
31 taxpayer, the taxpayer shall apply in writing for an
32 apportionment of the refund with the department within thirty
33 days of the date of receipt of the notice unless, in anticipation
34 of the setoff of the taxpayer's spouse's refund, such
35 nonobligated taxpayer provided the department with a request for
36 apportionment of the anticipated refund which was filed at the
37 same time the original tax return was filed, in which case the

1 department shall determine the apportionment of the refund and
2 forward the determination of apportionment and the nonobligated
3 taxpayer's portion of the refund to the nonobligated taxpayer
4 within fifteen working days of the transfer of the obligated
5 taxpayer's portion of the refund to the claim clearinghouse.
6 Unless a request for apportionment of the anticipated refund was
7 provided to the department as provided in this section, within
8 ninety days after the filing of such taxpayer's application for
9 apportionment of the refund with the department a determination
10 of apportionment shall be mailed to the nonobligated taxpayer by
11 the department. The apportionment of the refund shall be final
12 upon the expiration of thirty days from the date on which the
13 determination of apportionment is mailed to the nonobligated
14 taxpayer unless, within such thirty-day period, the nonobligated
15 taxpayer applies in writing for a hearing with the department.

16 12. (1) The department shall then pay to the claim
17 clearinghouse the amount that the department has setoff for such
18 provider, which shall include the collection assistance fee
19 allocable to the claim clearinghouse. In the event the
20 department is unable to setoff the entire eligible claim and
21 collection assistance fee under this section, the setoff of the
22 collection assistance fee shall have priority over the setoff of
23 the eligible claim.

24 (2) If, in addition to the collection assistance fee, any
25 portion of the eligible claim is setoff under this section, the
26 provider shall be:

27 (a) Forever barred from resubmitting the remainder of the
28 claim to the claim clearinghouse for setoff by the department
29 under this section; and

30 (b) Forever barred from taking any other steps to collect
31 the amount of the claim from the patient.

32 (3) If, after the department has paid to the claim
33 clearinghouse the amount that the department has setoff for the
34 provider, the provider is found not to have complied with any
35 applicable requirement of this section, the provider shall send
36 to the patient the entire amount of the claim offset by the
37 department for the provider plus an amount equal to the

1 collection assistance fee.

2 13. In addition to refunds, lottery prize payouts made
3 under section 313.321 shall be subject to the setoff procedures
4 established in this section, provided, however, that a provider
5 receiving a partial claim setoff against a lottery prize payout
6 shall not be subject to the prohibitions under subdivision (2) of
7 subsection 12 of this section.

8 14. The director of the department of revenue and the
9 director of the department of health and senior services shall
10 promulgate rules and regulations necessary to administer the
11 provisions of this section. Any rule or portion of a rule, as
12 that term is defined in section 536.010, that is created under
13 the authority delegated in this section shall become effective
14 only if it complies with and is subject to all of the provisions
15 of chapter 536 and, if applicable, section 536.028. This section
16 and chapter 536 are nonseverable and if any of the powers vested
17 with the general assembly pursuant to chapter 536 to review, to
18 delay the effective date, or to disapprove and annul a rule are
19 subsequently held unconstitutional, then the grant of rulemaking
20 authority and any rule proposed or adopted after August 28, 2007,
21 shall be invalid and void."; and

22 Further amend said bill, Page 20, Section 301.120, Line 42,
23 by inserting after all of said line the following:

24 "313.321. 1. The money received by the Missouri state
25 lottery commission from the sale of Missouri lottery tickets and
26 from all other sources shall be deposited in the "State Lottery
27 Fund", which is hereby created in the state treasury. At least
28 forty-five percent, in the aggregate, of the money received from
29 the sale of Missouri lottery tickets shall be appropriated to the
30 Missouri state lottery commission and shall be used to fund
31 prizes to lottery players. Amounts in the state lottery fund may
32 be appropriated to the Missouri state lottery commission for
33 administration, advertising, promotion, and retailer
34 compensation. The general assembly shall appropriate remaining
35 moneys not previously allocated from the state lottery fund by
36 transferring such moneys to the general revenue fund. The
37 lottery commission shall make monthly transfers of moneys not

1 previously allocated from the state lottery fund to the general
2 revenue fund as provided by appropriation.

3 2. The commission may also purchase and hold title to any
4 securities issued by the United States government or its agencies
5 and instrumentalities thereof that mature within the term of the
6 prize for funding multi-year payout prizes.

7 3. The "Missouri State Lottery Imprest Prize Fund" is
8 hereby created. This fund is to be established by the state
9 treasurer and funded by warrants drawn by the office of
10 administration from the state lottery fund in amounts specified
11 by the commission. The commission may write checks and disburse
12 moneys from this fund for the payment of lottery prizes only and
13 for no other purpose. All expenditures shall be made in
14 accordance with rules and regulations established by the office
15 of administration. Prize payments may also be made from the
16 state lottery fund. Prize payouts made pursuant to this section
17 shall be subject to the provisions of section 143.781; and prize
18 payouts made pursuant to this section shall be subject to set off
19 for delinquent child support payments as assessed by a court of
20 competent jurisdiction or pursuant to section 454.410. Prize
21 payouts made under this section shall be subject to set off for
22 unpaid health care services provided by [hospitals and health
23 care] ambulance service providers under the procedure established
24 in section 143.790.

25 4. Funds of the state lottery commission not currently
26 needed for prize money, administration costs, commissions and
27 promotion costs shall be invested by the state treasurer in
28 interest-bearing investments in accordance with the investment
29 powers of the state treasurer contained in chapter 30. All
30 interest earned by funds in the state lottery fund shall accrue
31 to the credit of that fund.

32 5. No state or local sales tax shall be imposed upon the
33 sale of lottery tickets or shares of the state lottery or on any
34 prize awarded by the state lottery. No state income tax or local
35 earnings tax shall be imposed upon any lottery game prizes which
36 accumulate to an amount of less than six hundred dollars during a
37 prize winner's tax year. The state of Missouri shall withhold

1 for state income tax purposes from a lottery game prize or
2 periodic payment of six hundred dollars or more an amount equal
3 to four percent of the prize.

4 6. The director of revenue is authorized to enter into
5 agreements with the lottery commission, in conjunction with the
6 various state agencies pursuant to sections 143.782 to 143.788,
7 in an effort to satisfy outstanding debts to the state from the
8 lottery winning of any person entitled to receive lottery
9 payments which are subject to federal withholding. The director
10 of revenue is also authorized to enter into agreements with the
11 lottery commission in conjunction with the department of health
12 and senior services pursuant to section 143.790 in an effort to
13 satisfy outstanding debts owed to [hospitals and health care]
14 ambulance service providers for unpaid health care services of
15 any person entitled to receive lottery payments which are subject
16 to federal withholding.

17 7. In addition to the restrictions provided in section
18 313.260, no person, firm, or corporation whose primary source of
19 income is derived from the sale or rental of sexually oriented
20 publications or sexually oriented materials or property shall be
21 licensed as a lottery game retailer and any lottery game retailer
22 license held by any such person, firm, or corporation shall be
23 revoked."; and

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