

May 27, 2010

Overview

The Missouri legislature wrapped up the 2010 regular session on Friday, May 14 at 6:00 pm. Out of 1,756 bills only 105 received final passage. Some of the prominent bills that **passed** included: ethics reform, autism insurance coverage strict regulations on sexually oriented businesses, revamping the DWI laws and certain college scholarships, and banning a synthetic form of marijuana that currently is being legally sold in Missouri.

Several measures that passed are intended to aid the budget, including the merger of the state highway and water patrols, new fees benefiting the Department of Agriculture and a package of cost-cutting measures for the Medicaid program.

Some of the significant bills that **did not pass** were:

Economic Development - Let manufacturers such as Ford (assembly plant in Kansas City area) keep half of their withholding taxes for investing in factory improvements new products.

Education Departments Merger - Asked voters to combine DESE and Higher Education departments into one department overseen by a new Board of Education.

Fair Tax Proposal- Asked voters to change the constitution to phase out state income tax and replace lost revenue with higher sales tax on much broader base, including legal services.

Pensions - Required state employees hired after Jan. 1, 2011, to contribute 4 percent of their pay toward retirement and established an investment board to manage pooled pension system portfolios

Tax Credit Reform – Called for the annual cost of most tax credits to be capped at \$383 million, and caps for historic and low-income tax credits programs would have a guaranteed \$75 million entitlement each. The legislature could appropriate additional funds for the programs.

Texting - Would have banned all Missouri drivers from sending electronic messages while driving.

Voter ID/Advance voting - Asked state voters to change the constitution to allow voter identification requirements and advance voting before elections.

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UPCOMING EVENTS

- **June 30**
End of Fiscal Year
- **July 14**
Deadline for Action on Legislation by Governor
- **August 28**
Effective Date of New Laws
- **September 15**
Veto Session

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SUMMARIES OF BILLS OF INTEREST THAT PASSED

CCS SCS HCS HB 1311 & 1341 -- HEALTH INSURANCE COVERAGE FOR AUTISM SPECTRUM DISORDERS

This bill establishes provisions regarding health insurance coverage for individuals diagnosed with autism spectrum disorders (ASD). The bill:

(1) Establishes the Behavior Analyst Advisory Board under the State Committee of Psychologists within the Department of Insurance, Financial Institutions and Professional Registration to establish licensure requirements for behavior analysts and assistant behavior analysts who provide applied behavior analysis therapies to children with ASD;

(2) Requires all group health benefit plans that are delivered, issued, continued, or renewed on or after January 1, 2011, written inside or outside the state, to provide coverage for the diagnosis and treatment of ASD;

(3) Prohibits a carrier from denying or refusing to issue insurance coverage on, refusing to contract with, refusing to renew or reissue coverage on, or terminating or restricting coverage on an individual or his or her dependent because the individual is diagnosed with ASD;

(4) Limits the coverage provided by an insurance carrier for ASD to medically necessary treatment that is ordered by the insured individual's licensed treating physician or psychologist in accordance with a treatment plan. An ASD treatment plan must include all elements necessary for a health benefit plan or carrier to pay the claim. Except for inpatient services, the health carrier must have the right to review, at its expense, the treatment plan not more than once every six months unless the individual's treating physician or psychologist agrees that a more frequent review is necessary;

(5) Specifies that coverage for individuals younger than 19 years of age for applied behavior analysis (ABA) services will have a maximum benefit of \$40,000 per year adjusted annually, beginning January 1, 2012, for inflation based on the increase in the federal Consumer Price Index as calculated by the Director of the Department of Insurance, Financial Institutions and Professional Registration with no limit on the number of visits to an ASD service provider. However, the maximum limit may be exceeded, upon prior approval by the health benefit plan, if the additional service is medically necessary. Coverage of services may be subject to general exclusions and limitations of the contract or benefit plan including coordination of benefits, services provided by family members, and utilization review of health care services but cannot be denied on the basis that it is educational or habilitative in nature;

(6) Prohibits ASD services from being subject to any greater deductible, co-insurance, or co-payment than other physical health care services provided by the health benefit plan.

Payments and reimbursements for ABA services can only be made to the ASD service provider or the entity or group for whom the supervising board certified behavior analyst works or is associated;

(7) Requires ABA services provided by a line therapist under the supervision of a state-licensed ASD provider to be reimbursed to the provider if the services are included in the treatment plan and are deemed medically necessary;

(8) Specifies that a health carrier will not be liable for the actions of a line therapist in the performance of his or her duties;

(9) Requires these provisions to apply to any health care plan issued to employees and their dependents under the Missouri Consolidated Health Care Plan that is delivered, issued, continued, or renewed on or after January 1, 2011. These provisions also apply to plans that are established, extended, modified, or renewed on or after January 1, 2011, by self-insured governmental plans, self-insured group arrangements, multiple employer welfare arrangements, and self-insured school district health plans;

(10) Exempts the MO HealthNet Program and supplemental insurance policies from the provisions of the bill;

(11) Specifies that a health carrier is not required to reimburse for ABA services provided by any Part C Early Intervention Program, commonly known as First Steps, or any school district to an individual diagnosed with ASD and covered by the carrier;

(12) Requires the department director to grant a small employer who offers a group health plan a waiver from offering ASD coverage if the employer demonstrates by actual claims experience over any consecutive 12-month period that the cost of providing the coverage has resulted in at least a 2.5% increase in health plan premium costs to the employer over a calendar year; and

(13) Requires, beginning February 1, 2012, the department to submit an annual report to the General Assembly regarding the implementation of the coverage and specified cost analysis data for ASD service claims from health insurers.

SCS HCS HB 1316 -- PROPERTY TAXES

This bill changes the laws regarding the collection of property taxes and the assessment of property (*many provisions also passed in **SB 644***). The bill:

(1) Changes the laws regarding the sale of real property for the collection of delinquent taxes. A county collector is required to send up to three notices to the publicly recorded owner of record of the real property prior to the publishing of a tax sale with the first notice being by first class mail. A collector of revenue or other collection authority may refuse to accept a delinquent tax payment submitted without a copy of the tax statement. If the county collector determines that an adequate legal description of tax sale property cannot be obtained from documents available through the recorder of deeds, the collector may commission a professional land surveyor to prepare an adequate legal description of the property. The certificate of purchase will be conveyed to an agent if the purchaser is a nonresident, and the agent must convey the property to the nonresident. The highest bid at a sale on the third successive year must be at least equal to the sum of the delinquent taxes, interest, penalties, and costs as it is required when it was

initially offered and at the second successive year it was offered. After the third offering, the collector's deed or trustee's deed will have priority over all the other liens or encumbrances on the property sold except for real property taxes. Within 120 days prior to receiving a collector's deed, a tax sale purchaser must obtain a title search report from a licensed attorney or title company detailing the ownership and encumbrances on the property (Sections 32.230, 139.040, 140.110, 140.150, 140.170, 140.190, 140.230, 140.250, 140.260, 140.290, 140.310, 140.340, 140.405, and 140.420, RSMo);

(2) Specifies that in counties adopting a charter form of government after January 1, 2008, the county collector will continue to collect a 7% fee for the collection of delinquent and back taxes if provided for by the charter. Currently, this only applies to Jefferson County (Section 52.290);

(3) Specifies that a county adopting a charter form of government after January 1, 2008, will continue to have a tax maintenance fund. Currently, this only applies to Jefferson County (Sections 52.290 and 52.312);

(4) Authorizes counties of the first and second classification to collect and disburse property taxes using electronic records (Sections 52.361 and 52.370);

(5) Specifies that the county collector-treasurer will assume all duties, compensation, fee schedules, and requirements of the collector-treasurer if a county of the third or fourth classification abolishes its township form of government or a county collector becomes a collector-treasurer (Section 54.010);

(6) Requires county auditors in first and second classification counties to have access to all records for county-issued licenses and to receive a monthly listing of the licenses issued with the specified related information from each county office issuing the licenses. Currently, these county auditors are required to countersign all county-issued licenses and keep a record of them (Section 55.140);

(7) Requires county collectors in first and second classification counties to file with the county clerk and auditor by the fifteenth day of each month a detailed statement, verified by affidavit, of all taxes and license fees collected during the preceding month and to disburse those funds, less commissions, to the appropriate taxing entities and the Director of the Department of Revenue. Taxing authorities are required to request notification of current taxes paid under protest by February 1, and county collectors must provide the information by March 1 (Sections 52.290, 52.312, 52.361, 52.370, 54.010, 55.140, 55.190, 139.031, 139.140, 139.150, 139.210, 139.220, 140.050, 140.070, 140.080, 140.160, and 165.071);

(8) Changes the deadline from September 1 to October 1 for charter counties and the City of St. Louis to set ad valorem property tax rates (Sections 67.100 and 134.243);

(9) Increases the monthly interest rate charged from 1% to 2%, increases the maximum annual interest rate from 10% to 18%, and repeals the prime rate limitation on the interest rate for delinquent property taxes in the City of St. Louis (Sections 92.715, 140.100, and 141.830);

(10) Requires all assessors in counties without a charter form of government and Jefferson County to give property owners additional information with the notice of increased assessed valuation instead of giving taxpayers a projected tax liability notice with the notice of increased assessed valuation beginning January 1, 2011. Beginning January 1 of the year following receipt of the software, assessors in all counties without a charter form of government and Jefferson County must give taxpayers a projected tax

liability notice with the notice of increased assessed valuation. Beginning January 1, 2011, in St. Louis County, the assessor must provide taxpayers with a notice that information regarding the assessment method and computation of value for real property is available on the assessor's web site, the web site address, and the assessor's contact information so taxpayers without Internet access can request and receive the information (Sections 137.180 and 137.355);

(11) Authorizes each party to an appeal that is scheduled to be heard before the State Tax Commission to request one change of the assigned hearing officer by filing a written application to disqualify the officer within 30 days of the assignment (Section 138.431);

(12) Authorizes the establishment of the Kansas City Zoological District which may be composed of the counties of Cass, Clay, Jackson, and Platte at the option of the voters of each county. Each member county may impose, upon voter approval, a sales tax of up to one-quarter of 1% for the financial support of zoological activities within the district (Sections 184.500 - 184.512);

(13) Changes the laws regarding the compromise of taxes and penalties for properties subject to certain actions as abandoned property in Jackson County (Section 141.535); and

(14) Specifies that the provisions of Section 262.802 regarding the abeyance of water and sewer assessments for certain farmland property will not apply to any drainage district or levee district established under state law (Section 246.310).

CCS SS HCS HB 1408 & 1514 -- INTEREST ON OVERPAYMENTS OF INCOME TAXES

This bill changes the time period before interest is paid on an overpayment of individual income tax from four months to 90 days after the last date to file a return, including an extension, or the date the return was filed, whichever is later.

CCS SS SCS HB 1442 -- LOCAL TAXES

This bill changes the laws regarding local taxes. The following are selected sections from the bill:

Clarifies that certain purchases made for resale are not to be considered as retail for sales and use tax purposes when the subsequent sale is taxed in the state or another state, is for resale, is excluded from tax, is subject to tax but is exempt, or is exempt in another state where the subsequent sale occurs;

Clarifies that operators of amusement parks and places of entertainment or recreation, including games or athletic events, must charge sales taxes on the amount of gross receipts charged for admission, but any subsequent sale of the admissions or seating accommodations will not be subject to the taxes if it was an arms length transaction for fair market value with an unaffiliated entity and clarifies that operators of hotels, motels, taverns, restaurants, drugstores, dining cars, tourist camps, or similar businesses must charge sales taxes on the amount of gross receipts charged for all rooms, meals, and drinks furnished at the establishment, but any subsequent sale of those same rooms, meals, and drinks is exempt from sales and use taxes if it was an arms length transaction for fair market value with an unaffiliated entity;

Authorizes a state and local sales and use tax exemption for any sale of utilities at cost by a sports complex authority which is ultimately consumed in the operation of a sports complex leased to a professional sports team;

Allows one change of a hearing officer for each party to an appeal heard by the State Tax Commission. A written application will suffice to disqualify the officer. An officer is deemed assigned once he or she signs a scheduling order unless otherwise stated in the order;

The bill contains an emergency clause for the provisions clarifying sales that are not to be considered as retail for sales and use tax purposes and for the provisions clarifying when certain operators must charge sales taxes.

SCS HB 1444 -- NOTICE REQUIREMENTS FOR CERTAIN PUBLIC MEETINGS *(also passed in SB 851)*

This bill requires the governing body of any county, city, town, or village or any entity created by these political subdivisions to give notice four business days prior to voting and hold a public meeting to allow public comment on an issue involving the implementation of a tax increase, a retail development project which utilizes the power of eminent domain, creation of a transportation development or community improvement district, or the approval of a redevelopment plan that pledges public funds as financing for the project or plan. If proper notice is not given, no vote can be taken until the proper notice has been given. Any legal action challenging the notice requirements must be filed within 30 days or the meeting will be deemed to have been properly noticed and held. These provisions will not apply to any votes or discussions related to proposed ordinances that require a minimum of two separate readings on different days for passage; and a tax increase under these provisions will not include the setting of the annual tax rates under Sections 67.110 and 137.055, RSMo.

HCS HB 1498 -- PAYMENT OF HEALTH INSURANCE CLAIMS

This bill changes the laws regarding the payment of health insurance claims. The bill:

(1) Requires health insurance carriers, including third-party contractors, to send an electronic acknowledgment of the date of receipt within 48 hours after an electronically filed health care claim is received;

(2) Increases the period of time, from within 10 working days to within 30 processing days, that a carrier or third-party contractor has to send an electronic or facsimile notice of the status of a health care claim that notifies the claimant whether the filed claim has any reason which will prevent timely payment or if more information is required. If the claim is properly filed, the carrier must pay or deny the claim;

(3) Requires a carrier to notify the health care provider, electronically or by fax, within 10 processing days, instead of the current 15 days, upon receiving the requested additional information from the provider to pay the claim, deny all or part of the claim specifying the reason, or make a final request for additional information. If the provider submits the additional information, the carrier must pay or deny the claim within five processing days, instead of the current 15 days, of receiving the additional information;

- (4) Adds a penalty equal to 1% of the total claim amount per day on unpaid claims if a carrier has not paid a claimant within 45 processing days of receiving the claim;
- (5) Increases the amount at which a carrier can combine interest and payments on unpaid claims from \$5 to \$100. Claims that were properly denied prior to the forty-fifth processing day will not be subject to interest or penalties;
- (6) Repeals the current penalty imposed on carriers that do not take the required action within 40 processing days;
- (7) Specifies that a claim for which a carrier has not communicated a specific reason for the denial of payment cannot be considered denied; and
- (8) Changes the requirements a carrier must follow when requesting the documentation and additional information that is necessary to process all of a claim.

The bill becomes effective January 1, 2011.

CCS SS#2 SCS HCS#2 HB 1543 -- ELEMENTARY AND SECONDARY EDUCATION

This bill changes the laws regarding elementary and secondary education. The following are selected sections of the bill:

Requires the Office of Administration to issue regulations for the contractors or subcontractors on public works construction projects at public schools which require these contractors to establish a drug and alcohol random testing program. Any program must be administered by a certified laboratory and must require notification to the employer and employee of the results of any positive drug and alcohol test. The school district must be notified of the action to protect the safety of the students as a result of a positive test. The employer will pay for the costs;

HB 1595 -- INDUSTRIAL DEVELOPMENT CORPORATIONS

This bill revises the definition of "project" as it relates to industrial development corporations to include the construction, extension, and improvement of public roads.

SCS HB 1612 -- COMMON SEWER DISTRICTS

This bill changes the laws regarding common sewer districts. The following is a selected section of the bill:

Authorizes a sewer district to establish and collect charges for sewer services including tap-on fees and requires private water companies and public water supply districts to provide water service data at a reasonable charge upon a reasonable request to a sewer district in order to calculate the rates for service. Currently, water supply districts are required to provide this data to cities, towns, and villages (*also passed in SB 791*).

HB 1654 -- GARNISHMENTS AND WRITS OF SEQUESTRATION

This bill requires a notice of garnishment and a writ of sequestration to contain only the last four digits of a person's Social Security number instead of the full number.

SS SCS HCS#2 HB 1692, 1209, 1405, 1499, 1535 & 1811 – REAL ESTATE, CEMETERIES, AND CHILD SUPPORT

This bill changes the laws regarding real estate, cemeteries, and child support. The following are selected sections of the bill:

REAL ESTATE

The bill:

(1) Authorizes the Office of the State Land Surveyor within the Department of Natural Resources to establish rules setting minimum standards for digital cadastral parcel mapping. Any map designed and used to reflect legal property descriptions or boundaries for use in a digital cadastral mapping system must comply with the rules established by the office with certain exceptions. The bill also adds the determination of land boundaries and positions of the United States Public Land Survey System and the creation, preparation, and modification of electronic or computerized data to the list of work or services that a professional land surveyor can perform (Sections 60.670 and 327.272);

(2) Establishes the **Property Assessment Clean Energy Act** which:

(a) Authorizes one or more municipalities to form a clean energy development board to establish a property assessed clean energy program to finance energy efficiency or renewable energy improvement projects. A property owner can apply to the board to finance the costs of the project through annual special assessments levied under an assessment contract;

(b) Requires each board to consist of at least three members. The number of board members and their terms are to be specified in the ordinance or order establishing the board. If only one municipality is participating in the board, the chief elected officer will appoint board members with the consent of the governing body. If more than one municipality is participating, members will be appointed in a manner agreed to by all participating municipalities;

(c) Requires the board to be a subdivision of the state and have all powers necessary to carry out the provisions of the bill;

(d) Requires the board, by July 1 of each year, to submit a report with each municipality that participated in the formation of the board and the Director of the Department of Natural Resources. The report must include a brief description of each project financed by the board, the amount of assessments due and the amount collected, the board's administrative costs, the estimated cumulative energy savings from the projects financed during the preceding year, the estimated cumulative energy produced by all renewable energy improvements financed during the preceding year;

(e) Specifies that no lawsuit to set aside the formation or to otherwise question the proceedings related to the formation of the board may be brought after 60 days from the effective date of the ordinance or order establishing the board. No lawsuit can be brought to set aside the approval of a project, an assessment contract, or a special assessment by a clean energy development board after 60 days from the date that the assessment contract is executed;

(f) Specifies the contractual requirements for any assessment contract between the board and the benefitted property owner or owners;

(g) Specifies that the total special assessments levied against a property under an assessment contract cannot exceed the total cost of the project including any required energy audits and inspections;

(h) Requires the board to provide a copy of the assessment contract to the local county assessor and collector, as well as ensure that a copy of the assessment contract is recorded with the county recorder of deeds; and

(i) Specifies that the special assessments agreed to under the contract will be a lien on the property against which it is assessed by the board. The assessments will be collected by the county collector in the same manner as other real property taxes;

Specifies that the term "employment" does not include services performed by a licensed real estate salesperson or licensed real estate broker if substantially all, instead of the current at least 80%, of the remuneration, whether or not paid in cash, for the services performed, rather than to the number of hours worked, is directly related to sales or other output, including the performance of services, performed pursuant to a written contract between the individual and the person for whom the services are performed and the contract provides that the individual will not be treated as an employee with respect to the services for federal tax purposes (Section 288.034);

Changes the laws regarding the regulation of real estate brokers and salespersons to include limited partnerships, limited liability companies, and professional corporations and specifies that "real estate broker" will include these types of companies and "real estate salesperson" will include a single member limited liability company, partnership, limited partnership (*also passed in SB 754*), association, professional corporation, or corporation (Sections 339.010 - 339.710);

Requires appraisal management companies to register with the Missouri Real Estate Appraisers Commission. This registration is valid for two years. Applicants for registration must provide contact information for any individual or entity that owns 10% or more of the company, pay a fee, post a \$20,000 bond with the commission, complete an irrevocable Uniform Consent to Service of Process, and make certain certifications regarding their business processes. A person or entity that has had a license disciplined or denied in any state is prohibited from owning more than 10% of an appraisal management company, in order for the company to be registered in Missouri. Appraisal management companies are required to designate a compliance manager who, among other requirements, must submit to a background check. Appraisal management companies are prohibited from employing, contracting, or entering into another business relationship with any person or entity who has had an appraiser license disciplined or denied in Missouri or any other state. Letters of engagement from appraisal management companies are required to instruct appraisers to decline the assignment if the

appraiser is not geographically competent or the assignment is outside the appraiser's scope of practice restrictions. Appraisal management companies are required to certify twice a year to the commission that the company has systems in place to verify that: any individual added to the appraiser panel of the company has a license in good standing, any individual to whom the company makes an appraisal assignment has not been refused a license or certification or had their license or certification disciplined, and appraisal reviews are performed to the standards conducted according to Uniform Standards of Professional Appraisal Practice. The company is also required to certify that it maintains a detailed record of each service request for appraisal services. All appraisal management company records are required to be retained for five years. Appraisal management companies are required to separate out the fees the appraiser charged for the appraisal and the fees the company charged for managing the appraisal process on their statements to their clients. Appraisal management companies are prohibited from influencing appraisals through coercion, compensation, instruction, and several other means. These companies are also prohibited from requiring appraisers to modify reports, prepare certain reports, prepare reports under a short time frame, structuring an appraiser's fee based on a loan closing or achieving a certain dollar amount appraisal. Appraisal management companies are required to pay appraisers within 30 days from the completion of an appraisal assignment, except in cases of breach of contract or substandard performance of services. The real estate appraisers commission is required to issue a unique registration number to each appraisal management company. The company is required to put this number on each engagement letter for real estate appraisal assignments in Missouri. Appraisal management companies are not allowed to remove an appraiser from its appraisal panel without written notice to the appraiser and providing the appraiser an opportunity to respond. If an appraiser is removed from the panel for certain conduct, the appraiser can seek review from the real estate appraisers commission. After notice and opportunity for a hearing, the commission may order the appraiser added to the company's panel. The commission is authorized to discipline the registration of an appraisal management company, or impose civil penalties, not to exceed \$1,000 for each offense, with a maximum penalty of \$10,000 (Sections 339.1100 - 339.1240);

Exempts a tenant from liability for rent payments during the remainder of the term of a lease agreement when his or her residence is destroyed by an act of God or other natural or man-made disaster unless the tenant caused the disaster (Section 441.645);

Requires all public advertisements and orders of publication required by law, including amendments to the Missouri Constitution, legal publications affecting sales of real estate under a power of sale in a mortgage or deed of trust, and other legal publications affecting the title to real estate to be published in a newspaper (Section 493.055);

Requires the court or jury to visit the property alleged to be affected by a nuisance in an action for private nuisance where the amount in controversy exceeds \$1 million whenever any party requests a visit be made (Section 537.296); and

ENDOWED CARE CEMETERIES

Requires any person, entity, or political subdivision that purchases, receives, or holds real estate used for the burial of human remains, excluding a family burial ground, to notify the Office of Endowed Care Cemeteries within the department of the name, location, and address of the real estate before October 1, 2010, or within 30 days of acquiring the land;

*MISCELLANEOUS PROVISIONS (also passed in **SB 754**)*

Provides that in determining eligibility and the amount of benefits to be granted under federally aided state public assistance programs, the value of any life insurance policy where a seller or provider is made the beneficiary or the policy is assigned to a seller or provider, either being in consideration for an irrevocable prearranged funeral contract under chapter 436, will not be taken into account or considered an asset of the beneficiary named in the irrevocable prearranged funeral contract (Section 208.010);

(8) Establishes procedures for asserting a mechanic's lien against residential real property other than a mechanic's lien for the repair, remodeling, or addition to owner-occupied residential property of four units or less; and

HB 1741 -- BOARD MEETINGS OF CORPORATIONS

Currently, any action that must be taken at a meeting of a board of directors or the executive committee of a corporation can be done without a meeting if all the members of the board consent in writing to the action. This bill also allows the consent to be by electronic transmission and specifies that the board secretary must file the consent with the meeting minutes.

SS SCS HCS HB 1750 -- TELECOMMUNICATION ACCESS RATES

This bill requires an incumbent local exchange telecommunications company to reduce for a period of three years its composite intrastate switched access exchange rates annually by 6% of the difference, as determined immediately preceding the first required reduction, between its composite interstate switched exchange access rates and its composite intrastate switched exchange access rates. The first reduction must occur by March 1, 2011, and each subsequent reduction by March 1 of the next two subsequent years. A company impacted by this reduction must submit a report with a chair in the Senate, designated by the President Pro Tem, and a chair in the House of Representatives, designated by the Speaker, between January 15 and January 30 of each year a reduction occurs regarding the company's quality of consumer service, infrastructure build-out, the financial impact of the bill on the company, and other non-proprietary matters as requested by the committee chairs. This requirement will not apply to a small incumbent local exchange telecommunications company serving fewer than 25,000 access lines as of January 1, 2010, or a rural alternative local exchange telecommunications company as specified in the bill.

SS SCS HCS HB 1764 -- INSURANCE

This bill prohibits any person, employer, or health care provider from being compelled to participate in any health care system. Individuals and employers may pay directly for lawful health care services, and health care providers can accept payment for health care services from individuals or employers without being subject to fines or penalties. The purchase or sale of health insurance in private health care systems cannot be prohibited by law or rule.

A domestic insurance company that is organized as a stock insurance company is allowed to voluntarily dissolve and liquidate as a corporation if the Director of the Department of Insurance, Financial Institutions and Professional Registration approves the articles of dissolution prior to filing the articles with

the Secretary of State and the company files a copy of the director's approval along with the articles of dissolution with the Secretary of State.

In determining whether to approve a dissolution, the department director must consider whether the insurers' annual financial statements show no written insurance premiums for five years, the insurer has demonstrated that all policyholder claims have been satisfied or transferred to another insurer, and an examination pursuant to Sections 374.202 - 374.207, RSMo, has been completed within the last five years.

The bill contains a referendum clause and will be submitted to voters in August 2010.

CCS SCS HB 1868 -- STATE GOVERNMENT ENTITIES

This bill changes the laws regarding, state agencies, MO HealthNet claims, and establishes the Joint Committee on the Reduction and Reorganization of Programs Within State Government. The following are selected sections of the bill:

Establishes the Joint Committee on the Reduction and Reorganization of Programs Within State Government. The requirements for membership are specified in the bill. The committee must publish a report by December 31, 2010, with recommendations for reducing, eliminating, or combining state programs and departments. All state departments must provide the committee with requested information;

Transfers the jurisdiction over certain employee claims in Chapters 36 and 105 from the Personnel Advisory Board to the Administrative Hearing Commission. The commission is also granted power to hear an appeal from a merit employee who has been fired or demoted. The appeals process and possible remedies provided by the commission are specified in the bill;

Establishes criteria for the payment of MO HealthNet subrogation claims by health benefit plans, third-party administrators, administrative service organizations, and pharmacy benefits managers. A claim will be paid for up to three years from the date services were provided or rendered but will not be required to reimburse for items or services which are not covered under MO HealthNet or for items or services not covered by a plan subject to a subrogation claim. The state must enforce the claim within six years. A claim may not be denied solely based on the date the claim is submitted, the type or format of the claim form, failure to present proper documentation at the point of sale, or failure to provide prior authorization. The amount of reimbursement is limited to the amount properly billed at the point of sale. The computerized records of the MO HealthNet Division, certified by the department director or his or her designee, will be prima facie evidence of proof of moneys expended and due to the state; and

HB 1894 -- MENTAL HEALTH SERVICES

This bill changes the laws regarding mental health services. The following are selected sections of the bill:

Currently, public hospitals which are operated primarily for the care and treatment of mental disorders are exempt from the payment of a federal reimbursement allowance for the privilege of engaging in the business of providing inpatient health care in this state. The bill removes that exemption.

Currently, an overdue patient account of a residential facility or day program under the control of the department submitted to a court for collection must be certified by the head of a residential facility or day program, with the seal of the institution attached, in order to constitute prima facie evidence of the amount due (*also passed in SB 774*). The bill requires the certification to be completed by the department director or his or her designee instead of the head of the facility or program.

CCS SCS HCS HB 1965 -- STATE GOVERNMENT

This bill repeals various expired provisions of law, changes the laws regarding the publication of the Official Manual of the State of Missouri and state laws and resolutions, and the criteria to qualify for certain state programs and establishes the Joint Committee on Missouri's Promise and the Joint Subcommittee on Recovery Accountability and Transparency. The following are selected sections of the bill:

CRITERIA TO QUALIFY FOR CERTAIN STATE PROGRAMS

Several state programs require an area to meet specific income, population, and unemployment thresholds based on the last decennial census in order to qualify for certain state programs. The bill requires that these thresholds be based on the most recent estimate from the United States Census Bureau's American Community Survey. This estimate must encompass a five-year period, the last year of which must end in either a 0 or a 5. This criteria will apply to the following:

- (1) An enhanced enterprise zone (Sections 135.205, 135.207, and 135.230);
- (2) Tax credits for investment in or relocating a business to a distressed community (Section 135.530);
- (3) A rural empowerment zone (Sections 135.903 and 135.953);
- (4) The Missouri Downtown and Rural Economic Stimulus Act (Section 99.918);
- (5) The Downtown Revitalization Preservation Program (Section 99.1082);
- (6) Affordable housing (Section 215.263); and
- (7) The Business Extension Service Team Fund (Section 620.1023).

The provisions regarding the joint subcommittee on recovery accountability and transparency will expire March 1, 2013.

The repeal and reenactment of the provisions regarding the criteria to qualify for certain state programs become effective April 1, 2011, or when the data becomes available, whichever occurs first.

HB 2056 -- LIENS FOR FAILURE TO PAY CHILD SUPPORT OR MAINTENANCE

This bill requires a lien on real estate that is obtained based on a judgment or order for unpaid child support or maintenance to state only the last four digits of the obligor's Social Security number instead of the full number.

SS SCS HCS HB 2058 -- MECHANIC'S LIENS AGAINST RESIDENTIAL REAL PROPERTY

This bill establishes procedures for asserting a mechanic's lien against residential real property other than a mechanic's lien for the repair, remodeling, or addition to owner-occupied residential property of four units or less. In its main provisions, the bill:

(1) Requires a claimant seeking to retain the right to assert a mechanic's lien against residential real property to record a notice of rights with the recorder of deeds for each county in which the property is located. The notice will only apply to any work, labor, or materials performed or used to, on, or for the property in, not less than five days prior to the intended date of closing stated in a notice of intended sale as contemplated in these provisions. Any claimant failing to record a notice of rights will be deemed to waive and forfeit any right to assert a mechanic's lien against the property but will retain the rights and remedies allowed by law to collect payment for any work, labor, and materials;

(2) Requires a notice of rights to comply with Section 59.310, RSMo, and to be in a form as specified in the bill;

(3) Requires the title owner of residential real property, who has contracted for the performance or provision of work, labor, or materials for the improvement of the property to facilitate the sale of the property to record a notice of intended sale within 45 days prior to the earliest calendar date the owner intends to close on the sale of the property. The notice must state the date on which the owner intends to close. The notice is a condition precedent to a claimant's obligation to record a notice of rights as to the subject property in order to retain a claimant's mechanic's lien rights as to the property. The owner must provide a copy of the notice with any claimant and post on the subject property, at an entrance to the subject property, or at any jobsite office located at or near the subject property a copy of the owner's notice of intended sale. If the owner or agent fails to comply, the claimant will be entitled to receive his or her actual and reasonable costs, excluding attorney fees, to obtain the necessary legal description for the claimant to record his or her notice of rights. The provisions of the bill will not relieve the claimant from his or her obligation to record a notice of rights including, without limitation, the claimant receiving a legal description with an error, omission, or inaccuracy in the content or the owner or his or her designated agent's failure to otherwise comply;

(4) Specifies that any notice of rights or renewal notice of rights will be valid for only one year after recording unless the claimant records a new notice of rights prior to the expiration date. If a claimant fails to file prior to the expiration date, the claimant's lien rights will be extinguished. A renewal notice of rights will be substantially the same as the notice of rights. A renewal notice of rights affecting multiple lots must omit any lot for which the claimant has executed an unconditional final lien waiver;

(5) Specifies that a claimant satisfies the just and true account requirement in Section 429.080, RSMo, by providing the following information and documentation as part of the mechanic's lien claim filed with the clerk of the circuit court:

(a) A photocopy of the file-stamped notice of rights and any renewals of notice of rights recorded by or identifying the claimant;

(b) The name and address of the person the claimant contracted with to perform the work;

- (c) A copy of any contract, purchase order, or proposal and any agreed change order or modification to the agreement;
 - (d) A general description of the scope of work agreed to be performed in the absence of any written agreement;
 - (e) All invoices submitted by a claimant for work on the property and any payments made, an accurate statement of account showing all payments or credits against the amount due for work performed, and the calculation for the amount claimed; and
 - (f) The last date that work or labor was performed or any materials or equipment provided;
- (6) Allows any person having interest in a residential real property against which a mechanic's lien has been filed to release the lien by depositing in the office of the circuit clerk a sum of money in cash or certified check; an irrevocable letter of credit issued by a federally or state chartered bank, savings and loan association, or savings bank authorized to do business in Missouri; or a surety bond and by recording the amount of the deposit including the claimant's name and the amount being released on the property;
- (7) Specifies that a deposit of substitute collateral and release of a claimant's mechanic's lien will not modify any aspect of the priority of the claimant's interest or obligations regarding enforcement of a mechanic's lien nor will it relieve any claimant of potential liability for slander of title or otherwise due to the filing of a claimant's mechanic's lien;
- (8) Allows a claimant to waive his or her right to assert a mechanic's lien by executing a partial or full waiver of mechanic's lien rights, but this waiver will not be deemed to waive or release a mechanic's lien rights in exchange for a lesser payment unless the mechanic's lien waiver is an unconditional, final mechanic's lien waiver in compliance with these provisions;
- (9) Specifies that an unconditional, final mechanic's lien waiver will only be valid if it is on a form as specified in the bill; and
- (10) Requires any claimant who has recorded a notice of rights and who has been paid in full for the work performed to timely execute an unconditional, final mechanic's lien waiver; to not unreasonably withhold the waiver when circumstances require prompt execution; and in no event fail to provide a waiver any later than five days after the claimant's receipt of a written request to do so by any person or entity. A claimant who fails or refuses to timely execute an unconditional, final lien waiver will be presumed liable for slander of title and for any damages sustained as a result, together with a statutory penalty of \$500.

The provisions of the bill will not apply to any conveyance closing on or after November 1, 2010.

SS SCS HCS HB 2201 -- RESIDENTIAL MORTGAGE PROFESSIONALS AND CONSERVATOR INVESTMENTS

This bill renames the Missouri Secure and Fair Enforcement for Mortgage Licensing and Residential Mortgage Brokers Licensing Act to the Missouri Secure and Fair Enforcement for Mortgage Licensing Act. Any exempt person as defined by Section 443.803, RSMo, on July 7, 2009, will be exempt from the licensing requirements of the Nationwide Mortgage Licensing System and Registry under the Secure and

Fair Enforcement (SAFE) for Mortgage Licensing Act provisions of the federal Housing and Recovery Act of 2008 until June 1, 2010. Any exempt entity licensed between July 8, 2009, and June 1, 2010, will not be eligible for any refund of licensure fees.

The probate code is revised to allow a conservator of an estate of a protectee to invest liquid assets in financial institutions insured by the National Credit Union Share Insurance Fund in addition to the Federal Deposit Insurance Corporation.

The bill contains an emergency clause for the provisions regarding the renaming of the Missouri Secure and Fair Enforcement for Mortgage Licensing Act.

CCS SCS HB 2226, HB 1824, HB 1832 & HB 1990 -- REGULATION AND LICENSING OF CERTAIN PROFESSIONS

This bill changes the laws regarding certain professions regulated by the Department of Insurance, Financial Institutions and Professional Registration; the Joint Committee on Legislative Research - Oversight Division; MO HealthNet reimbursements; and hospital premises licenses. The following are selected sections of the bill:

MO HEALTHNET REIMBURSEMENT

When a MO HealthNet recipient also has a third-party insurer, the third-party administrator, administrative service organization, and pharmacy benefits manager must process and pay all properly submitted medical assistance subrogation claims for up to three years from the date of the services, unless MO HealthNet does not evoke its right to the claim within six years after the claim is submitted. The computerized records of the MO HealthNet Division, certified by the division director or his or her designee, will be prima facie evidence of proof of moneys expended and the amount due the state.

Subject to appropriations, the Department of Social Services must establish a rate of reimbursement for certain professionals under the MO HealthNet Program which provides equal reimbursement for the same or similar health services. The computerized records of the Missouri HealthNet Division, certified by the department director, or his designee, will be prima facie evidence of proof of moneys expended and the amount of the debt due to the state.

ADVANCED PRACTICE REGISTERED NURSES

An advanced practice registered nurse is added to the list of approved health care providers who are authorized to write a prescription to refer a patient to a physical therapist.

SUPERVISION REQUIREMENTS FOR PHYSICIAN ASSISTANTS (also passed in **SB 754**)

The State Board of Registration for the Healing Arts within the department is prohibited from requiring additional supervision requirements for a physician and physician assistant team prior to granting a supervision waiver to work in a rural health clinic as defined by the federal Rural Health Clinic Services Act if the minimum federal standards are met.

A physician assistant must be in a collaborative agreement with a supervising physician prior to prescribing or dispensing any drug, medicine, therapy, or device allowed by current law.

LICENSURE OF NURSES

An employer of nurses is required to have a system in place for verifying that the applicant for a position as a registered, licensed practical, or advanced practice registered nurse has a current valid license and to verify the licensure status at the time of the nurse's license renewal.

The bill also exempts a person from licensure as a nurse in Missouri if he or she holds an out-of-state license and is transporting a patient into, out of, or through the state and the transport does not exceed 48 hours.

LICENSURE OF WHOLESALE DRUG DISTRIBUTORS

Certain wholesale drug distributors who distribute drug-related devices in this state are exempted from obtaining a license for out-of-state distribution sites from the State Board of Pharmacy within the department if a licensed Missouri wholesale drug distributor is responsible for all shipments received from the out-of-state distribution sites.

RESIDENTIAL CARE FACILITIES

The Missouri Board of Nursing Home Administrators within the Department of Insurance, Financial Institutions and Professional Registration is authorized to issue a separate license to the administrator of a residential care facility which was licensed as a residential care facility II on or before August 27, 2006, if it continues to meet all licensure standards for a residential care facility II in effect as of that date.

Anyone licensed to operate a residential care facility will not be considered authorized to operate any intermediate care or skilled nursing facility.

DISCIPLINARY ACTIONS AGAINST CERTAIN HEALTH CARE PROFESSIONALS

Home health agencies, nursing homes or facilities, or certain entities employing or contracting with licensed health care professionals are added to the list of health care providers that must report to the appropriate health care professional licensing authority any disciplinary action against any health care professional or the voluntary resignation of any professional against whom any complaints or reports have been made which might have led to disciplinary action.

HOSPITAL PREMISES LICENSES

The bill allows an applicant for or holder of a hospital license to define or revise the premises of a hospital campus to include tracts of property which are adjacent except for a common street or highway and its accompanying public right-of-way.

CCS SCS HCS HB 2297 -- KANSAS CITY ZOOLOGICAL DISTRICT

This bill authorizes the establishment of the Kansas City Zoological District which may be composed of the counties of Cass, Clay, Jackson, and Platte at the option of the voters of each county. Each member

county may impose, upon voter approval, a sales tax of up to 0.25% for the financial support of zoo activities within the district. However, the tax will not be effective in Cass, Clay, or Platte County unless Jackson County also collects the tax.

The district will be governed by a commission with up to 10 members as follows:

- (1) One member of the governing body of each county that is part of the district;
- (2) One member of the Kansas City, Missouri Board of Parks and Recreation;
- (3) The Executive Director of the Zoo; and
- (4) One member appointed by the governing body of each eligible county from a list of candidates provided by the Friends of the Zoo, Incorporated. The Friends of the Zoo, Incorporated, will provide a list of three names to the governing body of each county. Each candidate must be at least 21 years of age, and a resident and registered voter of the county which will be appointing them. Jackson County must appoint its member by a simple majority vote. The counties of Cass, Clay, and Platte must appoint a member with a unanimous vote.

The administrative expenses of the district incurred during the first six months after its creation must be appropriated to the commission by the member counties; thereafter, the district will be financed by the sales tax revenues collected and deposited into the newly created Kansas City Zoological District Sales Tax Trust Fund. Five years after its creation, the commission will be authorized to borrow money for the construction, operation, improvement, and maintenance of zoo facilities. The commission must submit an annual report to the governing body of each member county; the Kansas City, Missouri Board of Parks and Recreation; and the Friends of the Zoo, Incorporated, detailing the commission's operations and transactions.

HCS SCS SB 583 -- INSURANCE REGULATION

This bill changes the laws regarding the regulation of insurance. The following are selected sections from the bill:

PAYMENTS FROM THIRD-PARTY PAYERS TO THE MO HEALTHNET DIVISION (Section 208.215, RSMo)

The bill changes the laws regarding the authority of the MO HealthNet Division within the Department of Social Services to collect payments from third-party payers. In its main provisions, the bill:

- (1) Requires health benefit plans, third-party administrators, administrative service organizations, and pharmacy benefits managers to process and pay properly submitted medical assistance or MO HealthNet subrogation claims using standard electronic transactions or paper claim forms:
 - (a) For a period of three years from the date of services that were provided by an entity. The entity cannot be required to reimburse for items or services not covered by MO HealthNet; cannot deny a claim based on the date of submission, the 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; cannot be required

to reimburse for items or services previously submitted to the third-party payer by the provider or the participant and the claim was properly denied for procedural reasons; and cannot be required to reimburse for items or services which are not covered under the plan offered by the entity against which a claim form for subrogation has been filed. An entity must reimburse for items or services to the same extent that the entity would have been liable if it had been properly billed at the point of sale, and the amount due is limited to what the entity would have paid if properly billed at the point of sale; and

(b) If the state enforces its right to a claim within six years of the submission of the claim; and

(2) Allows computerized records of the division, if certified by the division director or his designee, to be considered prima facie evidence of proof of moneys expended and the amount of the debt due the state.

NONRESIDENT MOTORIST FINANCIAL RESPONSIBILITY (Sections 303.025 and 303.040)

A nonresident motorist operating a vehicle within the state is required to maintain financial responsibility that meets the requirements of his or her state. If a nonresident motorist is found guilty of not maintaining financial responsibility, he or she will have his or her driving privileges suspended in Missouri and the Director of the Department of Revenue must notify the appropriate official of his or her state.

An uninsured nonresident motorist involved in an accident in this state and the responding law enforcement must notify the department director of the accident, and any resident motorist involved in an accident with an uninsured nonresident motorist may report it to the department director.

DISCLOSURE OF HEALTH INSURANCE INFORMATION (Sections 354.442 and 376.1450)

The bill allows an insurer to provide health insurance information regarding an enrollee's health benefit plan online unless a paper copy is requested by the enrollee by written, oral, or electronic means. Requests for a paper copy must be provided to the enrollee within 15 business days of the request.

LIFE INSURANCE PRODUCER LICENSE EXAMINATIONS (Section 375.024)

The Director of the Department of Insurance, Financial Institutions and Professional Registration or a vendor under contract with the department is required to review life insurance producer license examinations if, during any 12-month period beginning on September 1, the overall pass rate of first-time examinees is less than 70%. The department must collect certain specified demographic information, in conformance with the appropriate privacy laws, from examinees and compile an annual report based on the review. The report must indicate if there was any disparity in the pass rate based on the demographic information. The department director may establish procedures to collect the necessary information to implement the provisions of the bill. Beginning December 1, 2011, the department director must deliver an annual report on the review to the Governor, Lieutenant Governor, Speaker of the House of Representatives, and President Pro Tem of the Senate no later than December 1.

*REGULATORY ACTIONS AGAINST INSURANCE COMPANIES OPERATING IN HAZARDOUS FINANCIAL CONDITIONS (Sections 375.539 and 375.1255) (also passed in **SB 777**)*

The Director of the Department of Insurance, Financial Institutions and Professional Registration is authorized to determine whether an insurance company is in a hazardous financial condition. The department director may deem any property or casualty insurance company which has any policy in force with a net retained risk that exceeds 10% of the company's capital and surplus to be in a hazardous financial condition. The bill specifies the factors for the department director to consider when determining whether an insurance company may be in a hazardous financial condition. The department director may consider adverse findings reported in financial condition and market conduct examination reports, audit reports, and actuarial opinions, reports, or summaries when determining whether the continued operation of the insurer may be hazardous to Missouri's policyholders, creditors, or the general public. If the department director determines that the continued operation of an insurer may be hazardous, the department director may issue an order requiring the insurer to take various actions including requiring the insurer to reduce its total amount of present and potential liability for policy benefits by reinsurance, reduce its volume of business, increase its capital and surplus, or document the adequacy of premium rates in relation to the risks insured. Any insurer subject to an order from the department director can request a hearing to be conducted in private unless the insurer requests a public hearing.

Risk-based capital (RBC) reporting requirements for property and casualty insurance companies are revised to allow the department to require a property and casualty insurance company to take action if its risk-based capital fails the National Association of Insurance Commissioners (NAIC) RBC trend test. The RBC trend test for property and casualty insurance companies is specified as a company action level event where the insurer has total adjusted capital which is greater than or equal to its Company Action Level RBC but less than the product of its Authorized Control Level RBC and 3.0 triggers the trend test determined in accordance with the trend test calculation included in the Property and Casualty RBC report instructions. Risk-based capital tests the adequacy of an insurance company's capital to meet the risks posed by its investment portfolio and the types and volume of insurance it underwrites.

INSURERS SUPERVISION, REHABILITATION AND LIQUIDATION ACT (Sections 375.1152, 375.1155, and 375.1191)

The bill changes the laws regarding the Insurers Supervision, Rehabilitation and Liquidation Act to provide for the treatment of qualified financial contracts in insurance insolvency proceedings. In its main provisions, the bill:

(1) Defines "qualified financial contract" as a commodity contract, forward contract, repurchase agreement, securities contract, swap agreement, and any similar agreement that the department director determines by rule to be a qualified financial contract and "netting agreement" as a contract or agreement that documents one or more transactions between the parties to the agreement for or involving one or more qualified financial contracts and that provides for the netting, liquidation, setoff, termination, acceleration, or close out under or in connection with one or more qualified financial contracts or present or future payment or delivery obligations or payment of delivery entitlements thereunder among the parties to the netting agreement;

(2) Specifies that the commencement of a delinquency proceeding does not operate as a stay or prohibition of any right to cause of netting, liquidation, setoff, termination, acceleration, or close out of obligations or an enforcement of any security agreement or other credit guarantee in connection with any netting agreement or qualified financial contract;

(3) Requires any net or settlement amount owed under a qualified financial contract by the nondefaulting party to an insurer to be transferred to or on the order of the receiver for the insurer;

(4) Requires a receiver to transfer all netting agreements and qualified financial contracts between an insurer and a single counterparty and its affiliates together if a bulk transfer of insurer liabilities or contracts is made by the receiver;

(5) Prohibits a receiver from avoiding a transfer of money or property under a netting agreement or qualified financial contract made prior to the commencement of a formal delinquency proceeding unless the transfer was made with the intent to hinder, delay, or defraud the insurer, a receiver appointed for the insurer, or existing or future creditors; and

(6) Requires the receiver for the insurer to disaffirm or repudiate all contracts if the receiver disaffirms or repudiates any qualified financial contract or netting agreement with a counterparty and establishes the amount of the counterparty's claim in the event of disaffirmance or repudiations. The amount of a claim for damages must be the actual direct compensatory damages determined as of the date of the disaffirmance or repudiation of the netting agreement or qualified financial contract.

LIQUIDATION OF CERTAIN DOMESTIC INSURANCE COMPANIES (Section 375.1175) (Also passed in SB 842)

A domestic insurance company that is organized as a stock insurance company is allowed to voluntarily dissolve and liquidate as a corporation if the Director of the Department of Insurance, Financial Institutions and Professional Registration approves the articles of dissolution prior to filing the articles with the Secretary of State and the company files a copy of the director's approval along with the articles of dissolution with the Secretary of State.

In determining whether to approve a dissolution, the department director must consider whether the insurers' annual financial statements show no written insurance premiums for five years, the insurer has demonstrated that all policyholder claims have been satisfied or transferred to another insurer, and an examination pursuant to Sections 374.202 - 374.207, RSMo, has been completed within the last five years.

MISSOURI LIFE AND HEALTH INSURANCE GUARANTY ASSOCIATION ACT (Sections 376.717, 376.718, 376.724, 376.725, 376.732 - 376.735, 376.737, 376.738, 376.740, 376.743, and 376.758)

The laws regarding the Missouri Life and Health Insurance Guaranty Association Act are revised to make them consistent with the model act adopted by the National Association of Insurance Commissioners. The bill:

(1) Clarifies that structured settlement annuities are covered by the guaranty association and are subject to a cap of \$250,000 and specifies the rules for determining how the responsibility for coverage of these types of annuities is allocated among state guaranty associations;

(2) Expands the list of areas in which the guaranty association will not provide coverage including:

(a) Any portion of a policy or contract to the extent that the required assessments are preempted by federal or state law;

- (b) An obligation that does not arise under the express written terms of the policy or contract issued by the insolvent insurer;
 - (c) Certain contracts which establish benefits by reference to a portfolio of assets not owned by the insurer;
 - (d) An unallocated annuity contract;
 - (e) Certain types of indexed policies; and
 - (f) A policy providing any hospital, medical, prescription drug, or other health care benefits pursuant to Part C or Part D of Subchapter XVIII, Chapter 7 of Title 42 of the United States Code, commonly known as Medicare Part C & D, or any of its regulations;
- (3) Defines the "principal place of business" of a corporation for the purpose of applying the residency test that determines which state guaranty association has coverage responsibility;
- (4) Makes several technical changes regarding:
- (a) The guaranty association's options in providing coverage;
 - (b) The handling of terminated policies;
 - (c) The guaranty association's standing to appear or intervene in litigation;
 - (d) The guaranty association's assignment and subrogation rights;
 - (e) The guaranty association's general powers and the handling of reinsurance contracts;
 - (f) The handling of assessments of insurers to fund the guaranty association's operations; and
 - (g) Additional requirements for the association's plan of operation; and
- (5) Exempts any member insurer who is impaired or insolvent prior to August 28, 2010, from these provisions.

HEALTH INSURANCE FOR ADOPTED CHILDREN (Section 376.816)

All health carriers or health benefit plans, except Missouri Medicaid plans, which are issued, delivered, continued, or renewed to a Missouri resident on or after January 1, 2011, are required to include coverage for adopted children on the same basis as other dependents of the enrollee.

MEDICARE SUPPLEMENT AND LONG-TERM CARE INSURANCE POLICIES (Sections 376.882 and 376.1109)

When any federal Medicare supplement or long-term care insurance policy issued, delivered, or renewed in Missouri on or after January 1, 2011, is canceled for any reason, the insurer must refund the unearned

portion of any premium paid beyond the month in which the cancellation is effective. Any refund must be returned to the policyholder within 20 days from the date the insurer receives notice of the cancellation. A policyholder may cancel a federal Medicare supplement policy by sending a written or electronic notification.

A long-term care insurance policy must contain a notice which informs an applicant that he or she is entitled to a refund of unearned premiums if the policy is canceled for any reason.

SCS SB 630 -- MANUFACTURED HOMES

This bill changes the laws regarding manufactured homes. In its main provisions, the bill:

(1) Requires a manufactured home to be permanently affixed if it is anchored to real estate by attachment to a permanent foundation and connected to residential utilities to qualify as real property and requires an affidavit of affixation to contain certain specified information and to be filed with the recorder of deeds of the county in which the real estate is located;

(2) Allows a manufactured home once deemed to be real estate to be governed by the laws applicable to real estate;

(3) Requires a certified copy of an affidavit of severance to be filed with the Director of the Department of Revenue when a manufactured home is removed from its permanent foundation stating the name, residence, and mailing address of the owner as well as the property description and any information that could affect the validity of the title of the manufactured home or the existence of a security interest or lien;

(4) Prohibits the department director from issuing a certificate of title to a manufactured home when an affidavit of affixation has been recorded. The issuance is only allowed upon the recording of an affidavit of severance. The department director must maintain a record of each affidavit of affixation and each affidavit of severance;

(5) Requires the department to establish standard affidavit of affixation forms, affidavit of severance forms, and confirmation of conversion forms that comply with the provisions of Section 700.111, RSMo;

(6) Authorizes the Missouri Public Service Commission to suspend, revoke, or place on probation the license of a manufactured home dealer for failure to obtain a written notice signed and dated by the purchaser of a used manufactured home or modular unit which states that the commission does not regulate the setup of used manufactured homes and modular units sold by the dealer;

(7) Requires a lienholder to notify the department director within 10 business days of any release of a lien if an electronic certificate of ownership is being held by the department director;

(8) Requires the holder of any security interest in a manufactured home to verify to the department that he or she has paid all past due rent which the holder is obligated to pay to the landowner if the home was repossessed;

(9) Specifies the conditions which determine a manufactured home to be abandoned when located on another person's property;

- (10) Changes the process for enforcing liens for unpaid rent against a manufactured home. Landowners must provide the homeowner with written notice prior to enforcing the lien and give him or her the opportunity to pay any rent owed. The notice must advise the homeowner of his or her legal rights including the right to contest the lien; and if the homeowner does not redeem the home within 30 days from the date of mailing the notice and no petition has been filed in circuit court to contest the lien within 10 days of the receipt of the notice, the landowner may apply for a certificate of title;
- (11) Authorizes the landowner to begin proceedings to sell a home within 30 days of receipt of the lien title;
- (12) Requires the homeowner to be given at least 20 days' notice of the sale of a home;
- (13) Specifies how the proceeds of a sale are to be distributed;
- (14) Allows an owner of an abandoned manufactured home to contest a lien brought by the landowner by filing a petition within 10 days of the mailing of the notice in the appropriate circuit court; and
- (15) Prohibits perfected lienholders or homeowners of an abandoned manufactured home located on property which is being leased from removing the home until the landlord is paid any rent owed.

The provisions regarding a manufactured home as real property become effective March 1, 2011.

CCS#2 HCS SCS SB 754 -- PROFESSIONS, FACILITIES, AND COUNCILS

This bill changes the laws regarding the electronic death registration system; an asset exemption for certain prearranged funeral and burial contracts; endowed care cemeteries; regulations of the Department of Insurance, Financial Institutions and Professional Registration; and residential care facilities and establishes the Missouri Eating Disorder Council. The following are selected sections of the bill:

PHARMACY RECORD KEEPING

The bill allows licensed pharmacies to keep their records through a suitable electronic record-keeping system if the original written and faxed prescriptions are physically maintained on file at the pharmacy as required by federal law. All electronic records must be readily retrievable, maintain the original prescription, and show any annotations reflecting any changes in the prescription.

RESIDENTIAL CARE FACILITIES

The Missouri Board of Nursing Home Administrators within the Department of Insurance, Financial Institutions and Professional Registration is authorized to issue a separate license to the administrator of a residential care facility which was licensed as a residential care facility II on or before August 27, 2006, if it continues to meet all licensure standards for a residential care facility II in effect as of that date.

Anyone licensed to operate a residential care facility will not be considered authorized to operate any intermediate care or skilled nursing facility.

HCS SCS SB 777 -- BOAT SLIPS, AUTOMATED TELLER MACHINES, INSURANCE COMPANIES, AND LOANS

This bill changes the laws regarding boat and watercraft slips, automatic teller machines, regulation of insurance companies, and financial products associated with certain loan transactions. The following are selected sections of the bill:

AUTOMATED TELLER MACHINES (Section 362.111)

An owner or operator of an automated teller machine (ATM) is allowed to charge an access fee or surcharge to an individual conducting a transaction using a foreign bank account. Currently, foreign banks may charge fees, but domestic ones cannot.

SALE OF CERTAIN FINANCIAL PRODUCTS AND PLANS ASSOCIATED WITH LOAN TRANSACTIONS (Sections 408.052, 408.140, 408.233, and 408.300)

A lending institution is allowed to offer, sell, and finance automobile club memberships, certain service contracts, and vehicle protection devices issued by providers, and other plans and services providing a benefit to the borrower if the cost is disclosed separately from the loan contract, the lender does not require the purchase of the plan as a condition for the approval of the loan, the plan can be canceled within 30 days and a refund received, and the plan has a separate written acknowledgment of the intent to purchase the plan by the customer. However, no plan may include reimbursement for a deductible on a property insurance claim, and all optional products must be clearly identified as optional.

The sale of a deficiency waiver addendum, guaranteed asset protection, or a similar product purchased as part of a loan transaction with collateral and at the borrower's consent is authorized if the cost of the product is disclosed in the loan contract, is reasonable, and meets specified requirements. A debtor may cancel an addendum, protection, or other similar product within 15 days of its purchase and must receive a full refund or a refund adjusted by the pro rata method if terminated after 15 days.

CCS HCS SB 791 -- UTILITIES

This bill changes the laws regarding utilities. The following are selected sections of the bill:

Requires a small utility whenever it decides to sell or otherwise dispose of its water or sewer system to a large public utility to authorize an appraisal of the system and set a date that the appraisal is due by ordinance, resolution, or board action;

Requires the appraisal to be performed by three disinterested individuals who are certified general appraisers under Chapter 339. One will be appointed by the small utility, one by the large public utility, and one by the two appraisers appointed by the utilities;

Requires the appraisers to jointly prepare an appraisal of the fair market value of the system and return the appraisal, in writing, to the small and large public utilities by the required due date. If all three appraisers cannot agree on the appraised value, an appraisal signed by two of them will constitute a valid appraisal;

Allows either utility, after receiving the appraisal, to decline to proceed with the sale or disposition; and

Specifies that the purchase price or the appraised value of the system, whichever is less, and the transaction, closing, and transition costs incurred by the large public utility will be the ratemaking rate base for the small utility as incorporated into the ratemaking rate base of the district designated by the large public utility. If the small utility is governed by the Missouri Public Service Commission, the commission may establish a rate base in its order authorizing the acquisition of the small utility. The criteria for selecting a rate base are specified in the bill. Large water public utilities will bear responsibility for past due fees to the state of small utilities that they acquire. The commission will provide a plan to resolve all outstanding compliance issues when a large and small water utility merge. The provisions relating to the merger of large and small water utilities will not be interpreted to apply to other utilities regulated by the commission.

SS SCS SB 793 -- ABORTION

This bill specifies that except in the case of a medical emergency, abortions cannot be performed or induced without the voluntary, informed, and uncoerced consent of the woman at least 24 hours prior to the abortion. The physician performing or inducing the abortion must provide orally and in writing. The following is a selected section of the bill:

Health insurance exchanges established or operating in Missouri or any exchange administered by the federal government or its agencies are prohibited from offering health insurance contracts, plans, policies, or optional riders that provide coverage for elective abortions.

CCS HCS SB 795 -- ANIMALS AND AGRICULTURE

This bill changes the laws regarding animals and agriculture. The following are selected sections of the bill:

ANHYDROUS AMMONIA

The Department of Agriculture is required to adopt the American National Standards Institute minimum general safety standards for the storage and handling of anhydrous ammonia, except that the department must not adopt the standards prior to December 1, 2015. The provision of the bill regarding the storage of anhydrous ammonia will not apply to any storage equipment in use as of August 28, 2010, and which is found by the department to be in substantial compliance with generally accepted standards of safety regarding life and property.

RENEWABLE ENERGY STANDARD

Currently, the Missouri Public Service Commission and the Department of Natural Resources are required to make rules to satisfy the provisions of the Renewable Energy Standard, commonly known as Proposition C, passed by voters in November 2008. The bill revises the definition of "renewable energy resources" to include methane from agricultural operations and thermal depolymerization or pyrolysis for converting waste material to energy. The commission and the department must include methane generated from the anaerobic digestion of farm animal waste and thermal depolymerization or pyrolysis

for converting waste material to energy as renewable energy resources as it relates to the production requirements of the standard.

CCS HCS SCS SB 842, 799 & 809 -- STATE HEALTH CARE PROGRAMS

This bill changes the laws regarding certain health care programs operated by the departments of Social Services and Health and Senior Services.

HEALTH CARE PROVIDER TAX (Sections 208.453, 660.425, 660.430, 660.435, 660.445, 660.455, 660.460, and 660.465, RSMo)

The bill removes public hospitals which are operated primarily for the care and treatment of mental disorders from exemption of a federal reimbursement allowance.

MO HealthNet in-home services providers are no longer exempt from the in-home provider tax assessed by the Department of Social Services. The expiration date for the tax is extended from September 1, 2011, to September 1, 2012.

MO HEALTHNET PROGRAM (Sections 208.010, 208.152, 208.215, 208.895, and 660.300)

The MO HealthNet Program will be exempt from paying Medicare Part B deductible and co-insurance amounts for outpatient hospital services but is required to provide two visits for newly diagnosed diabetics for diabetic education and initial diabetic management training services.

When a MO HealthNet recipient also has a third-party insurer, the third-party administrator, administrative service organization, and pharmacy benefits manager must process and pay all properly submitted medical assistance subrogation claims for up to three years from the date of the services, unless MO HealthNet does not evoke its right to the claim within six years after the claim is submitted. The computerized records of the MO HealthNet Division, certified by the division director or his or her designee, will be prima facie evidence of proof of moneys expended and the amount due the state.

The Department of Health and Senior Services may contract with an independent third party for initial home and community-based assessments. The contract must include:

- (1) A requirement that the assessment be conducted by the third-party assessor face-to-face with the patient and an assessment by telephone is not permitted. The contractor must notify the referring entity within five days of receipt of referral if additional information is needed. The contract must also include the same requirements for the assessments as of January 1, 2010, related to timeliness of assessments and the beginning of service. Reassessment visits conducted by a nurse must be reviewed and approved by the independent third-party assessor; and
- (2) An assessment of needed care and a plan of care by the contractor within 15 days of receipt of a referral for service.

Currently, all in-home services clients must be advised of their rights by the Department of Health and Senior Services, including the right to call the department to report dissatisfaction with the provider or

services. The bill specifies that the department's designee can give the notification and that the department may contract for services relating to receiving complaints.

TELEPHONE TRACKING SYSTEM (Sections 208.905, 208.918, and 660.023)

By July 1, 2015, all personal care service vendors must have, maintain, and use a telephone tracking system to report and verify the delivery of consumer-directed care services as authorized by the Department of Health and Senior Services to ensure accurate billing. The department, in collaboration with other appropriate agencies including centers for independent living, must establish a telephone tracking system pilot project in an urban and a rural area. The department must submit a report by December 31, 2013, to the Governor and General Assembly detailing the outcomes of these pilot projects.

In order to be a department-contracted vendor, the vendor must be able to provide fiscal conduit services through a telephone tracking system by July 1, 2015.

By July 1, 2015, all in-home service provider agencies must have, maintain, and use a telephone tracking system to report and verify the delivery of home and community-based services as authorized by the department.

PHYSICIAN REIMBURSEMENT RATES (Section 208.198)

Subject to appropriations, the Department of Social Services must establish reimbursement rate for services rendered by physicians and optometrists to MO HealthNet Program participants which provides equal reimbursement for the same or similar services.

The provisions of the bill regarding the MO HealthNet Program expire three years from the effective date.

CCS#3 HCS#2 SB 844 -- ETHICS

This bill changes the laws regarding ethics. The following are selected sections of the bill:

Specifies that the crime of bribery of a public servant includes when a statewide elected official, member of the General Assembly, or agent of the official makes an offer of paid employment in exchange for an official vote on a public matter by the statewide official or member of the General Assembly. The crime of acceding to corruption under Section 576.020 includes when a statewide elected official or member of the General Assembly accepts an offer of paid employment in exchange for an official vote on a public matter;

Requires all appointees before being confirmed by the Senate to disclose, within 30 days of the submission of their name to the Governor, their political contributions for the four-year period prior to the appointment. The Missouri Ethics Commission will provide financial information to appointees so that it can be provided to the President Pro Tem of the Senate;

Requires lobbyists to report expenditures when all members of a body are invited in writing. The bodies for which reporting is required may or may not include staff but will include statewide officials;

Specifies that a lobbyist found to knowingly omit, conceal, or falsify information required on the monthly lobbyist report will be guilty of a class A misdemeanor;

Allows the commission to investigate complaints of lobbying, financial interest statement, campaign finance, violations of the laws regarding public officials, and departmental code violations of its own volition if all six members of the commission vote to conduct an investigation. The executive director may issue subpoenas if granted authority by the commission. Procedures for conducting investigations, confidentiality requirements, and using special investigators are specified in the bill. Notice of an investigation must be provided within five days to the person being investigated. If no reasonable grounds to pursue a complaint are found, an investigation will be terminated and the person under investigation notified of that disposition. A de novo appeal of a commission decision unrelated to the referral of criminal charges will be allowed in the circuit court of Cole County. Procedures for these appeals are specified in the bill;

Increases the late filing fee for campaign disclosure reports from \$10 to \$50 per day not to exceed a total of \$3,000. The commission may collect judgments using garnishments and other legal methods. An appeals process for individuals and lobbyists charged with late fees regarding expenditure reports and various disclosure statements is specified in the bill;

Prohibits a party nominating committee from selecting a candidate for an office if the candidate had previously been disqualified for an office on the primary election ballot;

Revises the definition of a "political party committee" to include only one Congressional district committee per political party for each Congressional district in the state and one state party committee per political party. Legislative and senatorial district committees are no longer defined by statute;

Revises the definition of "continuing committee" as a political action committee and allows a committee to receive contributions from individuals, corporations and other partnerships, unions, and federal political action committee but may not receive funds from other state political action committees, political party committees, candidate committees, campaign committees, exploratory committees, or debt service committees. Donations from political action committees made to other committees may be returned. Prohibited transfers between political action committees will not apply to transfers to the designated state house committee per political party or the designated state senate committee per political party. The floor leader of the majority and minority party, or the chair of the state party for third parties, will designate these exempted committees;

Creates the crime of transfer of committee funds with the intent to conceal the source of the original funds from the commission. A first violation requires the restitution of the misappropriated funds within 10 days of notification by the commission. A second violation will be a class C misdemeanor, and a third or subsequent violation will be a class D felony;

Requires campaign financial disclosure reports to be filed electronically with the commission starting January 1, 2011;

Removes the requirement that a deputy treasurer be a resident of the county or district where his or her committee sits. A person may not form a committee or serve as a deputy treasurer on a committee unless he or she has filed all required disclosure reports and statements of limited activity and paid all outstanding fees owed to the commission. No person may file to run for office or assume office if he or she is a treasurer or deputy treasurer of a committee and has not paid all fees assessed by the commission;

Requires the Governor, legislators, and statewide elected officials and candidates for these offices to report contributions exceeding \$500 within 48 hours during the legislative session and periods in which legislation awaits gubernatorial action; and

Creates the crime of obstruction of an ethics investigation, a class A misdemeanor. A person who knowingly confers or accepts anything of benefit to any person in direct exchange for that person's concealing or withholding any information concerning a violation of the provisions regarding conflicts of interest and lobbying or the provisions regarding campaign finance disclosures or makes or submits a false statement or submits inaccurate documentation to any commission member or employee or to any investigating official will be guilty of the crime. Retraction of the false statement, writing, or documentation is a defense in certain specified circumstances.

SB 981 -- SALES TAX FOR PUBLIC SAFETY

This bill authorizes the City of Kansas City to impose, upon voter approval, a sales tax of one-eighth, one-fourth, three-eighths, or one-half of 1% for public safety activities, including operations and capital improvements, and for the retirement of bonded indebtedness.

SS SB 984 -- EXCURSION GAMBLING BOATS

Currently, tokens, chips, and other forms of credit can only be used for wagering or for an exchange of money on excursion gambling boats. This bill allows these items to be used to purchase food or beverages on the excursion gambling boat.

CCS HCS SS SB 1007 -- STATE PROGRAMS

This bill changes the laws regarding certain programs operated by the departments of Social Services and Health and Senior Services. The following are selected sections of the bill:

HOME AND COMMUNITY-BASED SERVICES (Section 198.016, RSMo)

Prior to admission of a MO HealthNet individual into a long-term care facility, a prospective resident or his or her next-of-kin, legally authorized representative, or designee must be informed of the home and community-based services available to him or her. A decline of these services by the prospective resident must be on record.

HEALTH CARE PROVIDER TAX (Sections 208.453, 660.425, 660.430, 660.435, 660.445, 660.455, 660.460, and 660.465)

The bill removes public hospitals which are operated primarily for the care and treatment of mental disorders from exemption of a federal reimbursement allowance.

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(2) An assessment of needed care and a plan of care by the contractor within 15 days of receipt of a referral for service.

Currently, all in-home services clients must be advised of their rights by the Department of Health and Senior Services, including the right to call the department to report dissatisfaction with the provider or services. The bill specifies that the department's designee can give the notification and that the department may contract for services relating to receiving complaints.

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In order to be a department-contracted vendor, the vendor must be able to provide fiscal conduit services through a telephone tracking system by July 1, 2015.

By July 1, 2015, all in-home service provider agencies must have, maintain, and use a telephone tracking system to report and verify the delivery of home and community-based services as authorized by the department.

Fiscal Year 2011 Operating Budget for Judiciary

	2010	2011
General Revenue	\$162,749,121	\$169,074,144
Federal Funds	\$10,408,187	\$10,408,187
Federal Stabilization	\$6,647,949	\$ 0
Other Funds	<u>\$10,292,941</u>	<u>\$10,292,942</u>
Total	\$190,098,198	\$189,775,273
FTE Total	3,406.05	3,406.05

-End of Report-