

SENATE COMMITTEE SUBSTITUTE

FOR

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FOR

HOUSE BILL NO. 1906

AN ACT

To repeal section 33.571, RSMo, and to enact in lieu thereof three new sections relating to state funds, with an emergency clause for certain sections.

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BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF MISSOURI, AS FOLLOWS:

Section A. Section 33.571, RSMo, is repealed and three new sections enacted in lieu thereof, to be known as sections 33.565, 33.569 and 33.900, to read as follows:

33.565. 1. Notwithstanding any other provision of law to the contrary, in any fiscal year that a state fund has an excess unobligated cash balance, the general assembly by appropriation may transfer all, or a portion, of the unobligated cash balance to the general revenue fund.

2. Beginning with fiscal year 2004, the house budget committee and the senate appropriations committee shall review the cash balance of all state funds. The committees shall ensure that, where appropriate, balances in dedicated funds shall be utilized prior to additional general revenue appropriations.

3. If applicable, any transfer pursuant to subsection 1 of

this section shall be calculated after the transfer required by section 33.080 has been completed and the moneys transferred to the general revenue fund. The following funds are exempt from transfer:

- (1) Constitutional funds;
- (2) Statutory funds approved by the voters of this state;
- (3) Funds that are deemed federal;
- (4) Funds created by law specifically for the purpose of receiving donations and bequests;
- (5) Missouri arts council trust fund;
- (6) Funds that if transferred would violate the terms of an existing trust;
- (7) Funds created by law specifically for professional registration purposes; and
- (8) Funds that receive all or a portion of their funding from a specific tax, fee, or assessment or from donations or bequests.

All other state funds shall be subject to this section.

33.569. The commissioner of administration shall develop a methodology to charge state funds for their share of the cost of central state services, including the costs of the office of administration, and statewide elected officials. Such reimbursement shall be subject to appropriation, transferred from state funds to the general revenue fund. Funds that are exempt pursuant to subsection 3 of section 33.565, RSMo, shall be exempted from the provisions of this section.

33.900. 1. As used in this section, the following words

and phrases shall mean:

(1) "Abortion services", shall include performing, inducing or assisting with abortions as defined in section 188.015, RSMo, or encouraging patients to have abortions, or referring patients for abortions, not necessary to save the life of the mother; or development of drugs, chemicals or devices intended to be used to induce an abortion;

(2) "Child", if in vivo, an unborn child as defined in section 188.015, RSMo, and if in vitro, a human being at any of the stages of biological development of an unborn child from conception or inception onward;

(3) "Conception", as defined in section 188.015, RSMo;

(4) "Facilities and administrative costs", those costs that are incurred for common or joint objectives and therefore cannot be identified readily and specifically with a particular research project or any other institutional activity;

(5) "Health and social services program", any activity, program or the furnishing of services for the purpose of preventing, supporting, alleviating, ameliorating, treating, curing or healing any human physical condition, illness, injury or disability, or to safeguard the health of people and ensure the prevention of any type of physical condition, disease, infection or injury, the promotion of specific lifestyle, hygiene and sanitary conditions, or to assist persons to provide for themselves and others and to assist those experiencing any social or physical condition or disadvantage; and including the furnishing of any sort of physical, health, medical or dental assessment, care, counseling, education or treatment, whether to

individuals or groups of individuals; but shall not include a research project;

(6) "Human cloning", genetic duplication or replication of a human being, whether living or deceased, regardless of the stage of development of such human being, from whom genetic material was donated or taken in order to complete such duplication or replication;

(7) "Independent affiliate", an entity that provides abortion services that is affiliated with an entity that does not provide abortion services; which is separately incorporated from the entity that does not provide abortion services; that does not receive or share a direct or indirect economic or marketing benefit from such affiliation with the entity that does not provide abortion services; and which does not share any of the following with the entity that does not provide abortion services, regardless of whether or not reimbursement is made for any expenditures associated with sharing the following:

(a) The same name or similar names;

(b) Medical or non-medical facilities, including but not limited to business offices; laboratories; treatment, consultation, examination and waiting rooms;

(c) Expenses;

(d) Employee wages or salaries; or

(e) Equipment or supplies, including but not limited to computers, telephone systems, telecommunications equipment, and office and medical supplies;

(8) "Nondirective pregnancy counseling", counseling related to pregnancy that does not include abortion services, but may

include providing patients with information regarding providers of health care and social service programs that provide pregnancy, prenatal, delivery, infant care, foster care, adoption, and alternative to abortion services. Such information may categorize the providers by the service or services they provide;

(9) "Prohibited human research", research in a research project in which there is the taking or utilization of the organs, tissue or cellular material of a:

(a) Deceased child, unless consent is given by the parents in the manner provided in sections 194.210 to 194.290, RSMo, relating to anatomical gifts, and neither parent caused the death of such child or consented to another person causing the death of such child;

(b) Living child, when the intended or likely result of such taking or utilization is to kill or cause harm to the health, safety or welfare of such child, or when the purpose is to target such child for possible destruction in the future;

(10) "Public funds", shall include:

(a) Any funds received or controlled by the state of Missouri or any official, department, division, agency or political subdivision thereof, including, but not limited to, funds derived from federal, state or local taxes, gifts or grants from any source, settlements of any claims or causes of action, public or private, bond proceeds, federal grants or payments, or intergovernmental transfers;

(b) Any funds received or controlled by any official, department, division or agency of state government or political

subdivision thereof, or to any other person or entity, pursuant to appropriation by the general assembly or the governing body of any political subdivision of this state;

(11) "Research project", research specified in an award of public funds conducted under the auspices of the entity or entities that applied for and received such award, regardless of whether the research is funded in whole or part by such award. Such research shall include basic research, including the discovery of new knowledge; translational research, including translating knowledge into a usable form; and developmental research and clinical research, including but not limited to health research in human development and aging, cancer, endocrine, cardiovascular, neurological, pulmonary and infectious disease.

2. Public funds shall not be expended, paid or granted to or on behalf of an existing or proposed health and social services program to directly or indirectly subsidize abortion services. In order to ensure that support is not lent in any manner to abortion services, and to ensure that an entity that provides abortion services does not receive a direct or indirect economic or marketing benefit from public funds expended in connection with any health and social services program:

(1) Public funds shall not be expended, paid or granted in connection with any health and social services program to an entity that provides abortion services;

(2) An entity that does not provide abortion services may receive public funds in connection with any health and social services program if affiliated with an entity that provides

abortion services, only if the affiliated entity that provides abortion services is an independent affiliate;

(3) An entity that provides counseling to pregnant persons in connection with a health and social services program receiving public funds shall only provide nondirective pregnancy counseling;

(4) An entity that receives public funds in connection with any health and social services program shall not display or distribute marketing materials promoting abortion services;

(5) An entity that receives public funds in connection with any health and social services program must maintain financial records that demonstrate strict compliance with this subsection;

(6) An independent audit of any entity that receives public funds in connection with any health and social services program shall be conducted at least once every three years, or sooner if required by any other provision of law or if directed by the governmental entity expending, paying or granting the public funds, to ensure compliance with this subsection. If the recipient of the public funds is an affiliate of an entity that provides abortion services, an independent audit to ensure compliance with this subsection shall be conducted at least annually. The audit shall be conducted by the state auditor if allowed by law, or by either an independent auditing firm retained by the governmental entity expending, paying or granting the public funds or by an independent auditing firm approved by the governmental entity expending, paying or granting the public funds and retained by the entity receiving public funds.

3. Any entity eligible to receive reimbursements pursuant

to Title XIX of the federal Social Security Act (42 U.S.C. section 1396, et seq.) may be reimbursed for services it has performed, for which the payment to such entity is otherwise prohibited pursuant to subsection 2 of this section, provided that reimbursement for such services is required under the federal act and the refusal to reimburse for such required services will result in the withholding of federal Medicaid funds to the state of Missouri.

4. Restrictions of specific applicability contained in the statutes of this state regarding the use of public funds for abortion services shall take precedence over the restrictions of general applicability contained in subsection 2 of this section and sections 188.200 to 188.220, RSMo.

5. Public funds shall not be expended, paid or granted to or on behalf of an existing or proposed research project that involves abortion services, human cloning or prohibited human research. A research project that receives an award of public funds shall not share costs with another research project, person or entity not eligible to receive public funds pursuant to this subsection; provided, however, the research project that receives an award of public funds may pay facilities and administrative costs directly allocable to such research project. A research project that receives an award of public funds shall maintain financial records that demonstrate strict compliance with this subsection. Any audit conducted pursuant to the provisions of any grant or contract awarding public funds shall also certify compliance with this subsection.

6. The provisions of this section shall inure to the



benefit of all residents of this state. Any taxpayer of this state or its political subdivisions shall have standing to bring suit against the state of Missouri or any official, department, division, agency or political subdivision of the state, and any recipient of public funds, who or which is in violation of this section, in any circuit court with jurisdiction to enforce the provisions of this section.

7. This section shall not be construed to permit or make lawful any conduct that is otherwise unlawful pursuant to the laws of this state.

8. Any provision of this section is not severable from any appropriation subject to this section or any appropriation declared by any court to be subject to this section. If any provision of this section is found to be invalid, unenforceable or unconstitutional, then any appropriation subject to this section or any appropriation declared by any court to be subject to this section shall be void, invalid and unenforceable.

[33.571. The attorney general's court costs fund established by section 27.080, RSMo; the microfilming service revolving fund established by section 28.085, RSMo; the central check mailing service revolving fund established by section 30.245, RSMo; the revenue sharing trust fund established by section 30.900, RSMo; the Missouri veterans home fund and the Missouri state rehabilitation center fund established by section 31.010, RSMo; the state institutions gift trust fund established by section 33.563; the Missouri state surplus property clearing fund established by section 37.090, RSMo; the tort defense fund established by section 105.710, RSMo; the grade crossing fund established by section 152.032, RSMo; the handicapped children's trust fund established by section 162.790, RSMo; the state guaranty student loan fund established by section 173.120, RSMo; the special fund for the vocational rehabilitation of persons established by section 178.630, RSMo; the library service fund established by section 181.025, RSMo; the medical

services fund established by section 192.255, RSMo; the crippled children's service fund established by section 201.090, RSMo; the Missouri clean water fund established by section 644.051, RSMo; the housing development fund established by section 215.050, RSMo; the national historic preservation fund established by section 253.022, RSMo; the state park board building fund established by section 253.230, RSMo; the Missouri federal water projects recreation fund established by section 640.510, RSMo; the marketing development fund established by section 261.035, RSMo; the state fair fees fund established by section 262.260, RSMo; the state fair trust fund established by section 262.262, RSMo; the abandoned fund account established by section 362.395, RSMo; the public service commission fund established by section 386.370, RSMo; the escheats fund established by section 470.020, RSMo; the professional liability review board fund established by section 538.055, RSMo; and the highway patrol academy fund established by section 590.145, RSMo, are abolished. All balances in any of those funds on September 28, 1983, may be, as deemed necessary by the state treasurer and commissioner of administration, transferred to the general revenue fund. Prior to such date, any of the funds listed in this section which may be determined to be required for the continued custody or receipt of money or property under the terms of any testamentary instrument or indenture of trust, or from which repayment of any bonded indebtedness is to be made, shall be certified by the commissioner of administration to the state treasurer and upon such certification, shall be exempted from the provisions of this section. He shall notify the revisor of statutes if such changes are made so that appropriate notations may be made in the revised statutes.

2. The state treasurer and the commissioner of administration shall establish appropriate accounts within the state treasury and in accordance with the state's accounting methods, and those accounts shall be the successors to the enumerated funds. Any receipt required to be deposited in the treasury to the credit of a particular fund which is abolished shall be deposited in the general revenue fund instead and shall be credited to the successor account. Any disbursement required to be made from a particular fund which is abolished shall be made from the general revenue fund and shall be charged to the successor account, but no disbursement from the general revenue fund shall be approved whenever such disbursement exceeds the balance available in the designated successor account. When enacting appropriations, the general assembly may

establish such accounts within the general revenue fund as it deems necessary and appropriate to control expenditures, and any appropriation authorizing an expenditure from the general revenue fund shall specify the appropriate account within the general revenue fund.

3. The state treasurer, the director of revenue, the commissioner of administration and others are specifically empowered to make necessary changes and adjustments so as to properly reflect state receipts and disbursements which may be received or expended for particular purposes, but it is the intent of the general assembly by this enactment to transfer moneys affected thereby to the general revenue fund for handling and investment. The revisor of statutes shall prepare necessary bills to change the revised statutes so as to reflect this intent.]

Section B. Because immediate action is necessary to ensure a balanced state budget and to affect appropriations enacted for governmental fiscal years beginning on July 1, 2002, Section A of this act is deemed necessary for the immediate preservation of the public health, welfare, peace, and safety, and is hereby declared to be an emergency act within the meaning of the constitution, and Section A of this act shall be in full force and effect upon its passage and approval.