

HOUSE

AMENDMENT NO. _____

Offered by

of _____

1 AMEND House Committee Substitute for Senate Bill No. 508, Page 2,
2 Section 43.530, Line 23, by inserting after all of said line the
3 following:

4 "105.711. 1. There is hereby created a "State Legal
5 Expense Fund" which shall consist of moneys appropriated to the
6 fund by the general assembly and moneys otherwise credited to
7 such fund pursuant to section 105.716.

8 2. Moneys in the state legal expense fund shall be
9 available for the payment of any claim or any amount required by
10 any final judgment rendered by a court of competent jurisdiction
11 against:

12 (1) The state of Missouri, or any agency of the state,
13 pursuant to section 536.050 or 536.087 or section 537.600;

14 (2) Any officer or employee of the state of Missouri or any
15 agency of the state, including, without limitation, elected
16 officials, appointees, members of state boards or commissions,
17 and members of the Missouri National Guard upon conduct of such
18 officer or employee arising out of and performed in connection
19 with his or her official duties on behalf of the state, or any
20 agency of the state, provided that moneys in this fund shall not
21 be available for payment of claims made under chapter 287;

22 (3) (a) Any physician, psychiatrist, pharmacist,
23 podiatrist, dentist, nurse, or other health care provider
24 licensed to practice in Missouri under the provisions of chapter
25 330, 332, 334, 335, 336, 337 or 338 who is employed by the state
26 of Missouri or any agency of the state under formal contract to
27 conduct disability reviews on behalf of the department of
28 elementary and secondary education or provide services to

Action Taken _____ Date _____

1 patients or inmates of state correctional facilities on a
2 part-time basis, and any physician, psychiatrist, pharmacist,
3 podiatrist, dentist, nurse, or other health care provider
4 licensed to practice in Missouri under the provisions of chapter
5 330, 332, 334, 335, 336, 337, or 338 who is under formal contract
6 to provide services to patients or inmates at a county jail on a
7 part-time basis;

8 (b) Any physician licensed to practice medicine in Missouri
9 under the provisions of chapter 334 and his professional
10 corporation organized pursuant to chapter 356 who is employed by
11 or under contract with a city or county health department
12 organized under chapter 192 or chapter 205, or a city health
13 department operating under a city charter, or a combined
14 city-county health department to provide services to patients for
15 medical care caused by pregnancy, delivery, and child care, if
16 such medical services are provided by the physician pursuant to
17 the contract without compensation or the physician is paid from
18 no other source than a governmental agency except for patient
19 co-payments required by federal or state law or local ordinance;

20 (c) Any physician licensed to practice medicine in Missouri
21 under the provisions of chapter 334 who is employed by or under
22 contract with a federally funded community health center
23 organized under Section 315, 329, 330 or 340 of the Public Health
24 Services Act (42 U.S.C. 216, 254c) to provide services to
25 patients for medical care caused by pregnancy, delivery, and
26 child care, if such medical services are provided by the
27 physician pursuant to the contract or employment agreement
28 without compensation or the physician is paid from no other
29 source than a governmental agency or such a federally funded
30 community health center except for patient co-payments required
31 by federal or state law or local ordinance. In the case of any
32 claim or judgment that arises under this paragraph, the aggregate
33 of payments from the state legal expense fund shall be limited to
34 a maximum of one million dollars for all claims arising out of
35 and judgments based upon the same act or acts alleged in a single
36 cause against any such physician, and shall not exceed one
37 million dollars for any one claimant;

1 (d) Any physician licensed pursuant to chapter 334 who is
2 affiliated with and receives no compensation from a nonprofit
3 entity qualified as exempt from federal taxation under Section
4 501(c)(3) of the Internal Revenue Code of 1986, as amended, which
5 offers a free health screening in any setting or any physician,
6 nurse, physician assistant, dental hygienist, dentist, or other
7 health care professional licensed or registered under chapter
8 330, 331, 332, 334, 335, 336, 337, or 338 who provides health
9 care services within the scope of his or her license or
10 registration at a city or county health department organized
11 under chapter 192 or chapter 205, a city health department
12 operating under a city charter, or a combined city-county health
13 department, or a nonprofit community health center qualified as
14 exempt from federal taxation under Section 501(c)(3) of the
15 Internal Revenue Code of 1986, as amended, excluding federally
16 funded community health centers as specified in paragraph (c) of
17 this subdivision and rural health clinics under 42 U.S.C.
18 1396d(1)(1), if such services are restricted to primary care and
19 preventive health services, provided that such services shall not
20 include the performance of an abortion, and if such health
21 services are provided by the health care professional licensed or
22 registered under chapter 330, 331, 332, 334, 335, 336, 337, or
23 338 without compensation. MO HealthNet or Medicare payments for
24 primary care and preventive health services provided by a health
25 care professional licensed or registered under chapter 330, 331,
26 332, 334, 335, 336, 337, or 338 who volunteers at a [free]
27 community health clinic is not compensation for the purpose of
28 this section if the total payment is assigned to the [free]
29 community health clinic. For the purposes of the section,
30 "[free] community health clinic" means a nonprofit community
31 health center qualified as exempt from federal taxation under
32 Section 501(c)(3) of the Internal Revenue Code of 1987, as
33 amended, that provides primary care and preventive health
34 services to people without health insurance coverage [for the
35 services provided without charge]. In the case of any claim or
36 judgment that arises under this paragraph, the aggregate of
37 payments from the state legal expense fund shall be limited to a

1 maximum of five hundred thousand dollars, for all claims arising
2 out of and judgments based upon the same act or acts alleged in a
3 single cause and shall not exceed five hundred thousand dollars
4 for any one claimant, and insurance policies purchased pursuant
5 to the provisions of section 105.721 shall be limited to five
6 hundred thousand dollars. Liability or malpractice insurance
7 obtained and maintained in force by or on behalf of any health
8 care professional licensed or registered under chapter 330, 331,
9 332, 334, 335, 336, 337, or 338 shall not be considered available
10 to pay that portion of a judgment or claim for which the state
11 legal expense fund is liable under this paragraph;

12 (e) Any physician, nurse, physician assistant, dental
13 hygienist, or dentist licensed or registered to practice
14 medicine, nursing, or dentistry or to act as a physician
15 assistant or dental hygienist in Missouri under the provisions of
16 chapter 332, 334, or 335, or lawfully practicing, who provides
17 medical, nursing, or dental treatment within the scope of his
18 license or registration to students of a school whether a public,
19 private, or parochial elementary or secondary school or summer
20 camp, if such physician's treatment is restricted to primary care
21 and preventive health services and if such medical, dental, or
22 nursing services are provided by the physician, dentist,
23 physician assistant, dental hygienist, or nurse without
24 compensation. In the case of any claim or judgment that arises
25 under this paragraph, the aggregate of payments from the state
26 legal expense fund shall be limited to a maximum of five hundred
27 thousand dollars, for all claims arising out of and judgments
28 based upon the same act or acts alleged in a single cause and
29 shall not exceed five hundred thousand dollars for any one
30 claimant, and insurance policies purchased pursuant to the
31 provisions of section 105.721 shall be limited to five hundred
32 thousand dollars; or

33 (f) Any physician licensed under chapter 334, or dentist
34 licensed under chapter 332, providing medical care without
35 compensation to an individual referred to his or her care by a
36 city or county health department organized under chapter 192 or
37 205, a city health department operating under a city charter, or

1 a combined city-county health department, or nonprofit health
2 center qualified as exempt from federal taxation under Section
3 501(c)(3) of the Internal Revenue Code of 1986, as amended, or a
4 federally funded community health center organized under Section
5 315, 329, 330, or 340 of the Public Health Services Act, 42
6 U.S.C. Section 216, 254c; provided that such treatment shall not
7 include the performance of an abortion. In the case of any claim
8 or judgment that arises under this paragraph, the aggregate of
9 payments from the state legal expense fund shall be limited to a
10 maximum of one million dollars for all claims arising out of and
11 judgments based upon the same act or acts alleged in a single
12 cause and shall not exceed one million dollars for any one
13 claimant, and insurance policies purchased under the provisions
14 of section 105.721 shall be limited to one million dollars.
15 Liability or malpractice insurance obtained and maintained in
16 force by or on behalf of any physician licensed under chapter
17 334, or any dentist licensed under chapter 332, shall not be
18 considered available to pay that portion of a judgment or claim
19 for which the state legal expense fund is liable under this
20 paragraph;

21 (4) Staff employed by the juvenile division of any judicial
22 circuit;

23 (5) Any attorney licensed to practice law in the state of
24 Missouri who practices law at or through a nonprofit community
25 social services center qualified as exempt from federal taxation
26 under Section 501(c)(3) of the Internal Revenue Code of 1986, as
27 amended, or through any agency of any federal, state, or local
28 government, if such legal practice is provided by the attorney
29 without compensation. In the case of any claim or judgment that
30 arises under this subdivision, the aggregate of payments from the
31 state legal expense fund shall be limited to a maximum of five
32 hundred thousand dollars for all claims arising out of and
33 judgments based upon the same act or acts alleged in a single
34 cause and shall not exceed five hundred thousand dollars for any
35 one claimant, and insurance policies purchased pursuant to the
36 provisions of section 105.721 shall be limited to five hundred
37 thousand dollars;

1 (6) Any social welfare board created under section 205.770
2 and the members and officers thereof upon conduct of such officer
3 or employee while acting in his or her capacity as a board member
4 or officer, and any physician, nurse, physician assistant, dental
5 hygienist, dentist, or other health care professional licensed or
6 registered under chapter 330, 331, 332, 334, 335, 336, 337, or
7 338 who is referred to provide medical care without compensation
8 by the board and who provides health care services within the
9 scope of his or her license or registration as prescribed by the
10 board; or

11 (7) Any person who is selected or appointed by the state
12 director of revenue under subsection 2 of section 136.055 to act
13 as an agent of the department of revenue, to the extent that such
14 agent's actions or inactions upon which such claim or judgment is
15 based were performed in the course of the person's official
16 duties as an agent of the department of revenue and in the manner
17 required by state law or department of revenue rules.

18 3. The department of health and senior services shall
19 promulgate rules regarding contract procedures and the
20 documentation of care provided under paragraphs (b), (c), (d),
21 (e), and (f) of subdivision (3) of subsection 2 of this section.
22 The limitation on payments from the state legal expense fund or
23 any policy of insurance procured pursuant to the provisions of
24 section 105.721, provided in subsection 7 of this section, shall
25 not apply to any claim or judgment arising under paragraph (a),
26 (b), (c), (d), (e), or (f) of subdivision (3) of subsection 2 of
27 this section. Any claim or judgment arising under paragraph (a),
28 (b), (c), (d), (e), or (f) of subdivision (3) of subsection 2 of
29 this section shall be paid by the state legal expense fund or any
30 policy of insurance procured pursuant to section 105.721, to the
31 extent damages are allowed under sections 538.205 to 538.235.
32 Liability or malpractice insurance obtained and maintained in
33 force by any health care professional licensed or registered
34 under chapter 330, 331, 332, 334, 335, 336, 337, or 338 for
35 coverage concerning his or her private practice and assets shall
36 not be considered available under subsection 7 of this section to
37 pay that portion of a judgment or claim for which the state legal

1 expense fund is liable under paragraph (a), (b), (c), (d), (e),
2 or (f) of subdivision (3) of subsection 2 of this section.
3 However, a health care professional licensed or registered under
4 chapter 330, 331, 332, 334, 335, 336, 337, or 338 may purchase
5 liability or malpractice insurance for coverage of liability
6 claims or judgments based upon care rendered under paragraphs
7 (c), (d), (e), and (f) of subdivision (3) of subsection 2 of this
8 section which exceed the amount of liability coverage provided by
9 the state legal expense fund under those paragraphs. Even if
10 paragraph (a), (b), (c), (d), (e), or (f) of subdivision (3) of
11 subsection 2 of this section is repealed or modified, the state
12 legal expense fund shall be available for damages which occur
13 while the pertinent paragraph (a), (b), (c), (d), (e), or (f) of
14 subdivision (3) of subsection 2 of this section is in effect.

15 4. The attorney general shall promulgate rules regarding
16 contract procedures and the documentation of legal practice
17 provided under subdivision (5) of subsection 2 of this section.
18 The limitation on payments from the state legal expense fund or
19 any policy of insurance procured pursuant to section 105.721 as
20 provided in subsection 7 of this section shall not apply to any
21 claim or judgment arising under subdivision (5) of subsection 2
22 of this section. Any claim or judgment arising under subdivision
23 (5) of subsection 2 of this section shall be paid by the state
24 legal expense fund or any policy of insurance procured pursuant
25 to section 105.721 to the extent damages are allowed under
26 sections 538.205 to 538.235. Liability or malpractice insurance
27 otherwise obtained and maintained in force shall not be
28 considered available under subsection 7 of this section to pay
29 that portion of a judgment or claim for which the state legal
30 expense fund is liable under subdivision (5) of subsection 2 of
31 this section. However, an attorney may obtain liability or
32 malpractice insurance for coverage of liability claims or
33 judgments based upon legal practice rendered under subdivision
34 (5) of subsection 2 of this section that exceed the amount of
35 liability coverage provided by the state legal expense fund under
36 subdivision (5) of subsection 2 of this section. Even if
37 subdivision (5) of subsection 2 of this section is repealed or

1 amended, the state legal expense fund shall be available for
2 damages that occur while the pertinent subdivision (5) of
3 subsection 2 of this section is in effect.

4 5. All payments shall be made from the state legal expense
5 fund by the commissioner of administration with the approval of
6 the attorney general. Payment from the state legal expense fund
7 of a claim or final judgment award against a health care
8 professional licensed or registered under chapter 330, 331, 332,
9 334, 335, 336, 337, or 338, described in paragraph (a), (b), (c),
10 (d), (e), or (f) of subdivision (3) of subsection 2 of this
11 section, or against an attorney in subdivision (5) of subsection
12 2 of this section, shall only be made for services rendered in
13 accordance with the conditions of such paragraphs. In the case
14 of any claim or judgment against an officer or employee of the
15 state or any agency of the state based upon conduct of such
16 officer or employee arising out of and performed in connection
17 with his or her official duties on behalf of the state or any
18 agency of the state that would give rise to a cause of action
19 under section 537.600, the state legal expense fund shall be
20 liable, excluding punitive damages, for:

21 (1) Economic damages to any one claimant; and

22 (2) Up to three hundred fifty thousand dollars for
23 noneconomic damages.

24 The state legal expense fund shall be the exclusive remedy and
25 shall preclude any other civil actions or proceedings for money
26 damages arising out of or relating to the same subject matter
27 against the state officer or employee, or the officer's or
28 employee's estate. No officer or employee of the state or any
29 agency of the state shall be individually liable in his or her
30 personal capacity for conduct of such officer or employee arising
31 out of and performed in connection with his or her official
32 duties on behalf of the state or any agency of the state. The
33 provisions of this subsection shall not apply to any defendant
34 who is not an officer or employee of the state or any agency of
35 the state in any proceeding against an officer or employee of the
36 state or any agency of the state. Nothing in this subsection
37 shall limit the rights and remedies otherwise available to a

1 claimant under state law or common law in proceedings where one
2 or more defendants is not an officer or employee of the state or
3 any agency of the state.

4 6. The limitation on awards for noneconomic damages
5 provided for in this subsection shall be increased or decreased
6 on an annual basis effective January first of each year in
7 accordance with the Implicit Price Deflator for Personal
8 Consumption Expenditures as published by the Bureau of Economic
9 Analysis of the United States Department of Commerce. The
10 current value of the limitation shall be calculated by the
11 director of the department of insurance, financial institutions
12 and professional registration, who shall furnish that value to
13 the secretary of state, who shall publish such value in the
14 Missouri Register as soon after each January first as
15 practicable, but it shall otherwise be exempt from the provisions
16 of section 536.021.

17 7. Except as provided in subsection 3 of this section, in
18 the case of any claim or judgment that arises under sections
19 537.600 and 537.610 against the state of Missouri, or an agency
20 of the state, the aggregate of payments from the state legal
21 expense fund and from any policy of insurance procured pursuant
22 to the provisions of section 105.721 shall not exceed the limits
23 of liability as provided in sections 537.600 to 537.610. No
24 payment shall be made from the state legal expense fund or any
25 policy of insurance procured with state funds pursuant to section
26 105.721 unless and until the benefits provided to pay the claim
27 by any other policy of liability insurance have been exhausted.

28 8. The provisions of section 33.080 notwithstanding, any
29 moneys remaining to the credit of the state legal expense fund at
30 the end of an appropriation period shall not be transferred to
31 general revenue.

32 9. Any rule or portion of a rule, as that term is defined
33 in section 536.010, that is promulgated under the authority
34 delegated in sections 105.711 to 105.726 shall become effective
35 only if it has been promulgated pursuant to the provisions of
36 chapter 536. Nothing in this section shall be interpreted to
37 repeal or affect the validity of any rule filed or adopted prior

1 to August 28, 1999, if it fully complied with the provisions of
2 chapter 536. This section and chapter 536 are nonseverable and
3 if any of the powers vested with the general assembly pursuant to
4 chapter 536 to review, to delay the effective date, or to
5 disapprove and annul a rule are subsequently held
6 unconstitutional, then the grant of rulemaking authority and any
7 rule proposed or adopted after August 28, 1999, shall be invalid
8 and void.

9 192.769. 1. On completion of a mammogram, a mammography
10 facility certified by the United States Food and Drug
11 Administration (FDA) or by a certification agency approved by the
12 FDA shall provide to the patient the following notice:

13 "If your mammogram demonstrates that you have dense breast
14 tissue, which could hide abnormalities, and you have other risk
15 factors for breast cancer that have been identified, you might
16 benefit from supplemental screening tests that may be suggested
17 by your ordering physician. Dense breast tissue, in and of
18 itself, is a relatively common condition. Therefore, this
19 information is not provided to cause undue concern, but rather to
20 raise your awareness and to promote discussion with your
21 physician regarding the presence of other risk factors, in
22 addition to dense breast tissue. A report of your mammography
23 results will be sent to you and your physician. You should
24 contact your physician if you have any questions or concerns
25 regarding this report."

26 2. Nothing in this section shall be construed to create a
27 duty of care beyond the duty to provide notice as set forth in
28 this section.

29 3. The information required by this section or evidence
30 that a person violated this section is not admissible in a civil,
31 judicial, or administrative proceeding.

32 4. A mammography facility is not required to comply with
33 the requirements of this section until January 1, 2015.

34 208.141. 1. The department of social services shall
35 reimburse a hospital for prescribed medically necessary donor
36 human breast milk provided to a MO HealthNet participant if:

37 (1) The participant is an infant under the age of three

1 months;

2 (2) The participant is critically ill;

3 (3) The participant is in the neonatal intensive care unit
4 of the hospital;

5 (4) A physician orders the milk for the participant;

6 (5) The department determines that the milk is medically
7 necessary for the participant;

8 (6) The parent or guardian signs and dates an informed
9 consent form indicating the risks and benefits of using banked
10 donor human milk; and

11 (7) The milk is obtained from a donor human milk bank that
12 meets the quality guidelines established by the department.

13 2. An electronic web-based prior authorization system using
14 the best medical evidence and care and treatment guidelines
15 consistent with national standards shall be used to verify
16 medical need.

17 3. The department shall promulgate rules for the
18 implementation of this section, including setting forth rules for
19 the required documentation by the physician and the informed
20 consent to be provided to and signed by the parent or guardian of
21 the participant. Any rule or portion of a rule, as that term is
22 defined in section 536.010, that is created under the authority
23 delegated in this section shall become effective only if it
24 complies with and is subject to all of the provisions of chapter
25 536, and, if applicable, section 536.028. This section and
26 chapter 536, are nonseverable, and if any of the powers vested
27 with the general assembly under chapter 536, to review, to delay
28 the effective date, or to disapprove and annul a rule are
29 subsequently held unconstitutional, then the grant of rulemaking
30 authority and any rule proposed or adopted after August 28, 2014,
31 shall be invalid and void."; and

32
33 Further amend said title, enacting clause and intersectional
34 references accordingly.