House _____ **Amendment NO.**____

Offered By

_____ _____

AMEND House Committee Substitute for House Bill No. 1427, Page 20, Section 144.813, Line 7, by inserting after all of said section and line the following:

"208.437. 1. A Medicaid managed care organization reimbursement allowance period as provided in sections 208.431 to 208.437 shall be from the first day of July to the thirtieth day of June. The department shall notify each Medicaid managed care organization with a balance due on the thirtieth day of June of each year the amount of such balance due. If any managed care organization fails to pay its managed care organization reimbursement allowance within thirty days of such notice, the reimbursement allowance shall be delinquent. The reimbursement allowance may remain unpaid during an appeal.

2. Except as otherwise provided in this section, if any reimbursement allowance imposed under the provisions of sections 208.431 to 208.437 is unpaid and delinquent, the department of social services may compel the payment of such reimbursement allowance in the circuit court having jurisdiction in the county where the main offices of the Medicaid managed care organization are located. In addition, the director of the department of social services or the director's designee may cancel or refuse to issue, extend or reinstate a Medicaid contract agreement to any Medicaid managed care organization which fails to pay such delinquent reimbursement allowance required by sections 208.431 to 208.437 unless under appeal.

3. Except as otherwise provided in this section, failure to pay a delinquent reimbursement allowance imposed under sections 208.431 to 208.437 shall be grounds for denial, suspension or revocation of a license granted by the department of commerce and insurance. The director of the department of commerce and insurance may deny, suspend or revoke the license of a Medicaid managed care organization with a contract under 42 U.S.C. Section 1396b(m) which fails to pay a managed care organization's delinquent reimbursement allowance unless under appeal.

4. Nothing in sections 208.431 to 208.437 shall be deemed to **[**~~effect~~**]** affect or in any way limit the tax-exempt or nonprofit status of any Medicaid managed care organization with a contract under 42 U.S.C. Section 1396b(m) granted by state law.

[~~5.Sections 208.431 to 208.437 shall expire on September 30, 2024. -~~**]**

208.457. Each hospital shall keep such records as may be necessary to determine the amount of its federal reimbursement allowance. On or before September 1, 1992 and the first day of

Action Taken_____ Date _____

January of each year thereafter every hospital as defined by section 197.020 shall submit to the department of social services a statement that accurately reflects if the hospital is publicly or privately owned, if the hospital is operated primarily for the care and treatment of mental disorders, if the hospital is operated by the department of health and senior services, or if the hospital accepts payment for services rendered. Every hospital required to pay the federal reimbursement allowance shall also submit a statement that accurately reflects total Missouri Medicaid hospital days, total unreimbursed care as determined from the hospital's third prior year desk-reviewed cost report and all other information as may be necessary to implement sections **[**~~208.450~~**]** 208.453 to **[**~~208.480~~**]** 208.479. If the hospital does not have a third prior year desk-reviewed cost report, unreimbursed care shall be based on estimates determined by the department of social services as established by rule and regulation.

208.463. The director of the department of social services shall prescribe by rule the form and content of any document required to be filed pursuant to the provisions of sections **[**~~208.450~~**]** 208.453 to **[**~~208.480~~**]** 208.479.

208.467. 1. A federal reimbursement allowance period shall be from the first day of October until the thirtieth day of September of the following year. The department shall notify each hospital with a balance due on September thirtieth of each year the amount of such balance due. If any hospital fails to pay its federal reimbursement allowance within thirty days of such notice, the assessment shall be delinquent.

2. If any assessment imposed under the provisions of sections 208.453 to **[**~~208.480~~**]** 208.479 for a previous assessment period is unpaid and delinquent, the department of social services may proceed to enforce the state's lien against the property of the hospital and to compel the payment of such assessment in the circuit court having jurisdiction in the county where the hospital is located. In addition, the director of the department of social services or the director's designee may cancel or refuse to issue, extend or reinstate a Medicaid provider agreement to any hospital which fails to pay the allowance required by section 208.453.

3. Failure to pay an assessment imposed under sections **[**~~208.450~~**]** 208.453 to **[**~~208.480~~**]** 208.479 shall be grounds for denial, suspension or revocation of a license granted under chapter 197. The director of the department of social services may request that the director of the department of health and senior services deny, suspend or revoke the license of any hospital which fails to pay its assessment.

208.469. Nothing in sections **[**~~208.450~~**]** 208.453 to **[**~~208.480~~**]** 208.479 shall be deemed to affect or in any way limit the tax exempt or nonprofit status of any hospital granted by state law.

208.473. The requirements of sections **[**~~208.450~~**]** 208.453 to **[**~~208.480~~**]** 208.479 shall apply only as long as the revenues generated under section 208.453 are eligible for federal financial participation and payments are made pursuant to the provisions of section 208.471. For the purposes of this section, "federal financial participation" is the federal government's share of Missouri's expenditures under the Medicaid program.

208.475. The allowance imposed by sections 208.453 to **[**~~208.480~~**]** 208.479 shall be effective upon promulgation of rules and regulations issued by the department of social services, but not later than October 1, 1992.

208.478. 1. For each state fiscal year beginning on or after July 1, 2003, the amount of appropriations made to fund Medicaid graduate medical education and enhanced graduate medical education payments pursuant to subsections (19) and (21) of 13 CSR 70- 15.010 shall not be less than the amount paid for such purposes for state fiscal year 2002.

2. Sections 208.453 to **[**~~208.480~~**]** 208.479 shall expire one hundred eighty days after the end of any state fiscal year in which the requirements of subsection 1 of this section were not met, unless during such one hundred eighty day period, payments are adjusted prospectively by the director of the department of social services to comply with the requirements of subsection 1 of this section."; and

Further amend said bill, Page 23, Section 313.057, Line 89, by inserting after all of said section and line the following:

"338.550. **[**~~1.~~**]** The pharmacy tax required by sections 338.500 to 338.550 shall expire ninety days after any one or more of the following conditions are met:

(1) The aggregate dispensing fee as appropriated by the general assembly paid to pharmacists per prescription is less than the fiscal year 2003 dispensing fees reimbursement amount; or

(2) The formula used to calculate the reimbursement as appropriated by the general assembly for products dispensed by pharmacies is changed resulting in lower reimbursement to the pharmacist in the aggregate than provided in fiscal year 2003**[**~~; or~~

~~(3) September 30, 2024~~**]**.

The director of the department of social services shall notify the revisor of statutes of the expiration date as provided in this **[**~~subsection~~**]** section. The provisions of sections 338.500 to 338.550 shall not apply to pharmacies domiciled or headquartered outside this state which are engaged in prescription drug sales that are delivered directly to patients within this state via common carrier, mail or a carrier service.

[~~2.Sections 338.500 to 338.550 shall expire on September 30, 2024.~~ **]**

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

(1) "Engaging in the business of providing health benefit services", accepting payment for health benefit services;

(2) "Intermediate care facility for the intellectually disabled", a private or department of mental health facility which admits persons who are intellectually disabled or developmentally disabled for residential habilitation and other services pursuant to chapter 630. Such term shall include habilitation centers and private or public intermediate care facilities for the intellectually

disabled that have been certified to meet the conditions of participation under 42 CFR, Section 483, Subpart I;

(3) "Net operating revenues from providing services of intermediate care facilities for the intellectually disabled" shall include, without limitation, all moneys received on account of such services pursuant to rates of reimbursement established and paid by the department of social services, but shall not include charitable contributions, grants, donations, bequests and income from nonservice related fund-raising activities and government deficit financing, contractual allowance, discounts or bad debt;

(4) "Services of intermediate care facilities for the intellectually disabled" has the same meaning as the term services of intermediate care facilities for the mentally retarded, as used in Title 42 United States Code, Section 1396b(w)(7)(A)(iv), as amended, and as such qualifies as a class of health care services recognized in federal Public Law 102-234, the Medicaid Voluntary Contribution and Provider-Specific Tax Amendments of 1991.

2. Beginning July 1, 2008, each provider of services of intermediate care facilities for the intellectually disabled shall, in addition to all other fees and taxes now required or paid, pay assessments on their net operating revenues for the privilege of engaging in the business of providing services of the intermediate care facilities for the intellectually disabled or developmentally disabled in this state.

3. Each facility's assessment shall be based on a formula set forth in rules and regulations promulgated by the department of mental health.

4. For purposes of determining rates of payment under the medical assistance program for providers of services of intermediate care facilities for the intellectually disabled, the assessment imposed pursuant to this section on net operating revenues shall be a reimbursable cost to be reflected as timely as practicable in rates of payment applicable within the assessment period, contingent, for payments by governmental agencies, on all federal approvals necessary by federal law and regulation for federal financial participation in payments made for beneficiaries eligible for medical assistance under Title XIX of the federal Social Security Act, 42 U.S.C. Section 1396, et seq., as amended.

5. Assessments shall be submitted by or on behalf of each provider of services of intermediate care facilities for the intellectually disabled on a monthly basis to the director of the department of mental health or his or her designee and shall be made payable to the director of the department of revenue.

6. In the alternative, a provider may direct that the director of the department of social services offset, from the amount of any payment to be made by the state to the provider, the amount of the assessment payment owed for any month.

7. Assessment payments shall be deposited in the state treasury to the credit of the "Intermediate Care Facility Intellectually Disabled Reimbursement Allowance Fund", which is hereby created in the state treasury. All investment earnings of this fund shall be credited to the fund. Notwithstanding the provisions of section 33.080 to the contrary, any unexpended balance in

the intermediate care facility intellectually disabled reimbursement allowance fund at the end of the biennium shall not revert to the general revenue fund but shall accumulate from year to year. The state treasurer shall maintain records that show the amount of money in the fund at any time and the amount of any investment earnings on that amount.

8. Each provider of services of intermediate care facilities for the intellectually disabled shall keep such records as may be necessary to determine the amount of the assessment for which it is liable under this section. On or before the forty-fifth day after the end of each month commencing July 1, 2008, each provider of services of intermediate care facilities for the intellectually disabled shall submit to the department of social services a report on a cash basis that reflects such information as is necessary to determine the amount of the assessment payable for that month.

9. Every provider of services of intermediate care facilities for the intellectually disabled shall submit a certified annual report of net operating revenues from the furnishing of services of intermediate care facilities for the intellectually disabled. The reports shall be in such form as may be prescribed by rule by the director of the department of mental health. Final payments of the assessment for each year shall be due for all providers of services of intermediate care facilities for the intellectually disabled upon the due date for submission of the certified annual report.

10. The director of the department of mental health shall prescribe by rule the form and content of any document required to be filed pursuant to the provisions of this section.

11. Upon receipt of notification from the director of the department of mental health of a provider's delinquency in paying assessments required under this section, the director of the department of social services shall withhold, and shall remit to the director of the department of revenue, an assessment amount estimated by the director of the department of mental health from any payment to be made by the state to the provider.

12. In the event a provider objects to the estimate described in subsection 11 of this section, or any other decision of the department of mental health related to this section, the provider of services may request a hearing. If a hearing is requested, the director of the department of mental health shall provide the provider of services an opportunity to be heard and to present evidence bearing on the amount due for an assessment or other issue related to this section within thirty days after collection of an amount due or receipt of a request for a hearing, whichever is later. The director shall issue a final decision within forty-five days of the completion of the hearing. After reconsideration of the assessment determination and a final decision by the director of the department of mental health, an intermediate care facility for the intellectually disabled provider's appeal of the director's final decision shall be to the administrative hearing commission in accordance with sections 208.156 and 621.055.

13. Notwithstanding any other provision of law to the contrary, appeals regarding this assessment shall be to the circuit court of Cole County or the circuit court in the county in which the facility is located. The circuit court shall hear the matter as the court of original jurisdiction.

14. Nothing in this section shall be deemed to affect or in any way limit the tax-exempt or nonprofit status of any intermediate care facility for the intellectually disabled granted by state law.

15. The director of the department of mental health shall promulgate rules and regulations to implement this section. Any rule or portion of a rule, as that term is defined in section 536.010, that is created under the authority delegated in this section shall become effective only if it complies with and is subject to all of the provisions of chapter 536 and, if applicable, section 536.028. This section and chapter 536 are nonseverable and if any of the powers vested with the general assembly pursuant to chapter 536 to review, to delay the effective date, or to disapprove and annul a rule are subsequently held unconstitutional, then the grant of rulemaking authority and any rule proposed or adopted after August 28, 2008, shall be invalid and void.

[~~16.The provisions of this section shall expire on September 30, 2024.~~ **]**"; and

[~~190.839. Sections 190.800 to 190.839 shall expire on September 30, 2024.~~**]**

[~~198.439. Sections 198.401 to 198.436 shall expire on September 30, 2024.~~**]**

[~~208.480. Notwithstanding the provisions of section 208.471 to the contrary, sections 208.453 to 208.480 shall expire on September 30, 2024.~~**]**"; and

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