



MISSOURI HOUSE OF REPRESENTATIVES  
**WITNESS APPEARANCE FORM**

BILL NUMBER: <b>HB 2365</b>		DATE: <b>2/5/2026</b>	
COMMITTEE: <b>Health and Mental Health</b>			
<b>TESTIFYING:</b> <input checked="" type="checkbox"/> IN SUPPORT OF <input type="checkbox"/> IN OPPOSITION TO <input type="checkbox"/> FOR INFORMATIONAL PURPOSES			
<b>WITNESS NAME</b>			
<b>INDIVIDUAL:</b>			
WITNESS NAME: <b>AMANDA KEARNS</b>		PHONE NUMBER:	
BUSINESS/ORGANIZATION NAME:		TITLE:	
ADDRESS:			
CITY:		STATE:	ZIP:
EMAIL:	ATTENDANCE:		SUBMIT DATE: <b>2/5/2026 12:00 AM</b>
<b>THE INFORMATION ON THIS FORM IS PUBLIC RECORD UNDER CHAPTER 610, RSMo.</b>			



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<b>WITNESS NAME</b>			
<b>INDIVIDUAL:</b>			
WITNESS NAME: <b>ARNIE "HONEST-ABE" DIENOFF-STATE PUBLIC ADVOCATE</b>		PHONE NUMBER:	
BUSINESS/ORGANIZATION NAME:		TITLE:	
ADDRESS:			
CITY:		STATE:	ZIP:
EMAIL:	ATTENDANCE: <b>In-Person</b>		SUBMIT DATE: <b>2/5/2026 11:41 PM</b>
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**I am in Support of this Bill, that is Bipartisan and makes common-sense by protecting children in Child-Care Facilities by allowing Epinephrine Pens in the Facility.**



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<b>WITNESS NAME</b>		
<b>INDIVIDUAL:</b>		
WITNESS NAME: <b>SARAH BERRY</b>		PHONE NUMBER:
BUSINESS/ORGANIZATION NAME:		TITLE:
ADDRESS:		
CITY:	STATE:	ZIP:
EMAIL:	ATTENDANCE: <b>Written</b>	SUBMIT DATE: <b>2/4/2026 8:40 AM</b>

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**HB 2365 introduces contradictory emergency-care requirements, overbroad civil immunity, improper statutory control of medical judgment, and defective drafting in a life-safety context.**

**As written, the bill creates legal risk, delays emergency response, and undermines existing Missouri medical and child-care law.**

**CORE LEGAL DEFECTS**

**1. Emergency Consent Conflict**

**HB 2365 conditions epinephrine administration to minors on verbal parental consent, except under a vague “imminent danger” exception.**

**This directly conflicts with Missouri’s long-recognized implied consent doctrine, which authorizes emergency medical treatment when delay threatens life or serious bodily harm.**

**Conditioning emergency care on parental presence invites hesitation, delay, and liability exposure.**

**2. Improper Legislative Control of Medical Judgment**

**The bill authorizes laypersons to administer epinephrine, prescribes medical criteria, mandates training, and regulates emergency response—then declares such conduct “not the practice of medicine.”**

**Legislative disclaimers cannot override the reality of medical decision-making.**

**This constitutes improper statutory intrusion into professional medical regulation.**

**3. Overbroad and Asymmetrical Civil Immunity**

**HB 2365 grants sweeping immunity to authorized entities, employees, physicians, trainers, and administrators while sharply limiting remedies for injured children and families.**

**Liability is barred absent “willful or wanton misconduct,” an exceptionally high standard under Missouri law.**

**The statute creates risk while shielding nearly all actors from accountability.**

#### **4. Regulatory Conflict and Fragmentation**

**The bill creates parallel allergy-policy mandates across DHSS, DESE, and child-care licensing structures while claiming not to supersede existing law (§167.630 RSMo).**

**This produces overlapping authority, inconsistent compliance obligations, and enforcement confusion rather than clarity.**

#### **5. Drafting Defects in a Life-Safety Statute**

**HB 2365 contains syntactic errors, garbled provisions, and internally inconsistent clauses. Statutes governing emergency medical intervention must be precise. This bill is not.**

**HB 2365 raises substantial concerns under:**

**Article I, §14 (Open Courts / Right to Remedy) — excessive immunity without adequate substitute remedies;**

**Article III, §40 (Special Laws) — selective liability protection without uniform application;**

**Substantive Due Process — vague standards governing emergency conduct that fail to provide clear notice.**

**HB 2365 attempts to address allergy safety but does so through conflicting consent rules, unstable immunity provisions, improper medical regulation, and defective drafting.**

**Missouri already recognizes emergency medical authority under existing law.**

**This bill increases risk instead of reducing it.**

**HB 2365 should not advance in its current form.**

#### **FOOTNOTES:**

**Mo. Const. art. I, §14; art. III, §40; see also Missouri implied consent and emergency-aid doctrine recognizing authority to provide life-saving care without prior consent where delay poses serious risk.**



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WITNESS NAME: <b>SARAH BERRY</b>		PHONE NUMBER:	
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ADDRESS:			
CITY:		STATE:	ZIP:
EMAIL:	ATTENDANCE: <b>Written</b>	SUBMIT DATE: <b>2/4/2026 8:29 AM</b>	

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**I. HB 2356 Improperly Expands the Role of the Missouri State Auditor Beyond Constitutional and Statutory Authority**

The Missouri State Auditor is a fiscal oversight authority, not a ballot-language gatekeeper.

Under Article IV, Section 13 of the Missouri Constitution, the Auditor’s core duties are to:  
 audit public entities,  
 examine financial records,  
 ensure lawful expenditure of public funds,  
 and report financial findings to the public and the General Assembly.

Statutorily, the Auditor’s role is retrospective and financial, not prospective and political.

The office audits after actions occur; it does not pre-approve political speech, election language, or voter-facing advocacy.

HB 2356 fundamentally alters this role by requiring:  
 pre-certification review of ballot language,  
 subjective determinations of “misleading” content,  
 and de facto veto power over whether a local ballot question may proceed.

This is not auditing.

It is prior restraint imposed through an office that was never designed — constitutionally or statutorily — to exercise such authority.

**II. “Advisory Review” Is Illusory When Noncompliance Results in Ballot Removal**

Although HB 2356 labels the Auditor’s review “advisory,” the enforcement mechanism makes it functionally mandatory.

If ballot language is deemed noncompliant:  
 the political subdivision must revise the language, or  
 face injunction by the Missouri Attorney General, and  
 risk total removal of the question from the ballot — with prohibition on resubmission until the next

general election cycle.

This transforms an “advisory” opinion into binding pre-clearance and creates a structural veto over local democratic processes.

Courts evaluate substance, not labels.

Calling this “advisory” does not cure its coercive effect.

### III. HB 2356 Conflicts with Missouri Ballot-Access and Election Law Precedent

Missouri courts have repeatedly emphasized that election laws must favor voter access and participation, not administrative exclusion.

The Missouri Supreme Court has held, in multiple ballot-access contexts, that:

election statutes are to be liberally construed in favor of the electorate, voters — not executive officials — are the ultimate arbiters of policy questions, and pre-election removal of ballot questions is an extraordinary remedy, reserved for clear constitutional or statutory violations, not subjective language disputes.

HB 2356 inverts this framework by:  
authorizing pre-election litigation,  
empowering executive officials to suppress ballot access,  
and imposing mandatory delays even after judicial findings of noncompliance.

This invites strategic litigation, chills lawful ballot proposals, and replaces voter judgment with bureaucratic discretion.

Missouri precedent favors post-election remedies for misleading language, not pre-election suppression.

### IV. The Bill Undermines Local Self-Government Protected Under Missouri Law

Local political subdivisions have long been entrusted with proposing their own tax and bond questions, subject to existing statutory safeguards.

HB 2356:  
strips local governments of discretion,  
imposes state-level pre-approval requirements,  
and conditions voter access on executive agreement.

This represents a centralization of power inconsistent with Missouri’s tradition of local fiscal autonomy and democratic accountability.

If the concern is misleading language, existing remedies already exist:  
election challenges,  
judicial review,  
and voter rejection at the ballot box.

HB 2356 goes further — and too far.

HB 2356 is not a transparency bill.

It is a ballot-access restriction bill.

By misusing the Auditor’s office, encouraging pre-election litigation, and authorizing the removal of local questions from the ballot, it conflicts with:  
the constitutional role of the State Auditor,  
Missouri election-law precedent,  
and the principle that voters — not executive officials — decide public policy.

**For these reasons, HB 2356 should be rejected.**