

# Journal of the Senate

FIRST REGULAR SESSION

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**FORTY-FOURTH DAY—TUESDAY, MARCH 27, 2007**

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The Senate met pursuant to adjournment.

Senator Crowell in the Chair.

Reverend Carl Gauck offered the following prayer:

“Preach my dear Sir; a crusade against ignorance; establish and improve the law for educating the common people.” (Thomas Jefferson, 1876)

Omission God, we are mindful that we need Your guidance so that we might know what we can do to decrease the behavioral problems in our schools and improve the gray matter of our children so that Your gifts might be fully developed and our society might truly benefit from the education we provide. In Your Holy Name we pray. Amen.

The Pledge of Allegiance to the Flag was recited.

A quorum being established, the Senate proceeded with its business.

The Journal of the previous day was read and approved.

The following Senators were present during the day’s proceedings:

Present—Senators

Barnitz	Bartle	Bray	Callahan
Champion	Clemens	Coleman	Crowell
Days	Engler	Gibbons	Goodman
Graham	Green	Griesheimer	Gross
Justus	Kennedy	Koster	Lager
Loudon	Mayer	McKenna	Nodler

Purgason	Ridgeway	Rupp	Scott
Shields	Shoemyer	Smith	Stouffer
Vogel	Wilson—34		

Absent—Senators—None

Absent with leave—Senators—None

Vacancies—None

## RESOLUTIONS

Senator Engler offered Senate Resolution No. 689, regarding Randall P. Keller, Farmington, which was adopted.

Senator Griesheimer offered Senate Resolution No. 690, regarding Pat Pendleton, Union, which was adopted.

Senator Griesheimer offered Senate Resolution No. 691, regarding Sara Cunningham, President of the St. Louis Association of Diabetes Educators, which was adopted.

Senator Coleman offered Senate Resolution No. 692, regarding Amy L. Koehler, St. Louis, which was adopted.

Senator Days offered Senate Resolution No. 693, regarding Mayor Monica Huddleston, Greendale, which was adopted.

Senator Days offered Senate Resolution

No. 694, regarding Paul Donald Huber, Ferguson, which was adopted.

Senator Coleman offered Senate Resolution No. 695, regarding Emily Koehler, St. Louis, which was adopted.

Senator Coleman offered Senate Resolution No. 696, regarding Ashley Mace, Wildwood, which was adopted.

Senator Coleman offered Senate Resolution No. 697, regarding Sarah Masalskis, Ballwin, which was adopted.

Senator Coleman offered Senate Resolution No. 698, regarding Emilie Meier, St. Louis, which was adopted.

Senator Coleman offered Senate Resolution No. 699, regarding Maggie Meier, St. Louis, which was adopted.

Senator Coleman offered Senate Resolution No. 700, regarding Elizabeth Merriman, Eureka, which was adopted.

Senator Coleman offered Senate Resolution No. 701, regarding Sarah Noyes, St. Louis, which was adopted.

Senator Coleman offered Senate Resolution No. 702, regarding Katherine Poulin, St. Louis, which was adopted.

Senator Coleman offered Senate Resolution No. 703, regarding Susan Reina, Chesterfield, which was adopted.

Senator Coleman offered Senate Resolution No. 704, regarding Dayna Roth, Ste. Genevieve, which was adopted.

Senator Coleman offered Senate Resolution No. 705, regarding Katie Schlereth, St. Louis, which was adopted.

Senator Coleman offered Senate Resolution No. 706, regarding Angie Schneider, St. Charles, which was adopted.

Senator Coleman offered Senate Resolution

No. 707, regarding Krista Merle Shinn, Eureka, which was adopted.

Senator Coleman offered Senate Resolution No. 708, regarding Alicia Wilson, St. Peters, which was adopted.

Senator Coleman offered Senate Resolution No. 709, regarding Jennifer Woodford, St. Charles, which was adopted.

### SENATE BILLS FOR PERFECTION

Senator Gibbons moved that **SB 3**, with **SCS**, be called from the Informal Calendar and taken up for perfection, which motion prevailed.

**SCS** for **SB 3**, entitled:

#### SENATE COMMITTEE SUBSTITUTE FOR SENATE BILL NO. 3

An Act to repeal sections 565.184, 630.005, 630.165, 630.167, 630.725, and 630.755, RSMo, and to enact in lieu thereof eighteen new sections relating to mental health, with penalty provisions.

Was taken up.

Senator Gibbons moved that **SCS** for **SB 3** be adopted.

Senator Gibbons offered **SS** for **SCS** for **SB 3**, entitled:

#### SENATE SUBSTITUTE FOR SENATE COMMITTEE SUBSTITUTE FOR SENATE BILL NO. 3

An Act to repeal sections 198.086, 565.184, 630.005, 630.165, 630.167, 630.725, and 630.755, RSMo, and to enact in lieu thereof twenty new sections relating to mental health, with penalty provisions.

Senator Gibbons moved that **SS** for **SCS** for **SB 3** be adopted.

Senator Lager offered **SA 1**:

#### SENATE AMENDMENT NO. 1

Amend Senate Substitute for Senate Committee Substitute for Senate Bill No. 3, Page 22, Section 630.005, Line 13 of said page, by

inserting after all of said line the following:

**“630.127. 1. The department of mental health shall develop rules, guidelines, and protocols for an initial notification to a parent or guardian of a patient, resident, or client when first entering the care and custody of the department, or when first entering a facility licensed, certified, or funded by the department. Such notification shall notify the parent or guardian, or a consumer who is his or her own guardian, of the possibility of a person being placed in the facility with the patient, resident, or client, who falls in one of the following categories:**

**(1) Individuals who are required to register as a sexual offender, under sections 589.400 to 589.425, RSMo; or**

**(2) Individuals who have been determined to lack capacity to understand the proceedings against him or her or to assist in his or her own defense under section 552.020, RSMo, for offenses the person would have otherwise been required to register as a sexual offender under sections 589.400 to 589.425, RSMo.**

**2. Such rules, guidelines and protocols developed under subsection 1 of this section shall include the process and mechanisms for assessing risk, for planning and providing care and safety, and for the provision of services and supports necessary to mitigate risk for persons residing in a state facility or facility licensed, certified, or funded by the department. Such protocols shall also provide a mechanism for the parent or guardian, or the consumer who is his or her own guardian, to raise any concerns and to seek consultation about the placement.**

**3. The department of mental health shall develop rules, guidelines, and protocols for notifying a parent or guardian of a patient, resident, or client, or a consumer who is his or her own guardian, residing in a state facility or facility licensed, certified, or funded by the**

**department, that a person required to register as a sexual offender under sections 589.400 to 589.425, RSMo, is residing in or has been placed in the same state facility, or facility licensed, certified, or funded by the department as the patient, resident, or client. Such protocols shall provide a mechanism for the parent or guardian, or the consumer who is his or her own guardian, to raise any concerns and to seek consultation prior to placement of the person required to register as a sexual offender.**

**4. The department of mental health shall develop rules, guidelines, and protocols to obtain consent from the parent or guardian of a patient, resident, or client, or a consumer who is his or her own guardian and who falls under the category in subdivision (2) of subsection 1 of this section to disclose his or her name and criminal charges to other parents or guardians of a patient, resident, or client, or to a consumer who is his or her own guardian residing in the same facility. Such request for disclosure shall inform all parties of the steps to be taken in the event consent to disclose is given or denied. Refusal to grant consent under this subsection by a parent or guardian of a patient, resident, or client, or a consumer who is his or her own guardian, of a facility licensed, certified, or funded by the department, shall not prevent placement.**

**5. Any rule or portion of a rule, as that term is defined in section 536.010, RSMo, 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, RSMo, and, if applicable, section 536.028, RSMo.”; and**

Further amend the title and enacting clause accordingly.

Senator Lager moved that the above amendment be adopted, which motion prevailed.

Senator Stouffer offered SA 2:

## SENATE AMENDMENT NO. 2

Amend Senate Substitute for Senate Committee Substitute for Senate Bill No. 3, Page 2, Section 198.074, Lines 14-15, by striking the words “receives an exemption due to NFPA guidelines approved by the department” and inserting in lieu thereof the following:

**“the facility meets the safety requirements of Chapter 33 of NFPA guidelines pertaining to existing residential board and care occupancies”.**

Senator Stouffer moved that the above amendment be adopted, which motion prevailed.

Senator Koster assumed the Chair.

Senator Green offered SA 3, which was read:

## SENATE AMENDMENT NO. 3

Amend Senate Substitute for Senate Committee Substitute for Senate Bill No. 3, Page 4, Section 198.074, Line 22, by inserting immediately after the word “departments.” the following:

**“The provisions of this section shall be enforced by the state fire marshal or by the local fire protection district or fire department, depending on which entity conducted the inspection.”**

Senator Green moved that the above amendment be adopted, which motion prevailed.

Senator Green offered SA 4:

## SENATE AMENDMENT NO. 4

Amend Senate Substitute for Senate Committee Substitute for Senate Bill No. 3, Page 32, Section 630.167, Line 17, by inserting after all of said line the following:

“630.705. 1. The department shall promulgate rules setting forth reasonable standards for residential facilities and day programs for persons who are affected by a mental disorder, mental illness, mental retardation or developmental

disability, **including private mental health facilities and group homes as defined in section 633.005, RSMo. The exemptions from licensure under subdivision (6) of subsection 3 of this section shall not apply to such private mental health facilities and group homes.**

2. The rules shall provide for the facilities and programs to be reasonably classified as to resident or client population, size, type of services or other reasonable classification. The department shall design the rules to promote and regulate safe, humane and adequate facilities and programs for the care, treatment, habilitation and rehabilitation of persons described in subsection 1 of this section.

3. The following residential facilities and day programs shall not be licensed by the department:

(1) Any facility or program which relies solely upon the use of prayer or spiritual healing;

(2) Any educational, special educational or vocational program operated, certified or approved by the state board of education pursuant to chapters 161, 162 and 178, RSMo, and regulations promulgated by the board;

(3) Any hospital, facility, program or entity operated by this state or the United States; except that facilities operated by the department shall meet these standards;

(4) Any hospital, facility or other entity, excluding those with persons who are mentally retarded and developmentally disabled as defined in section 630.005 otherwise licensed by the state and operating under such license and within the limits of such license, unless the majority of the persons served receive activities and services normally provided by a licensed facility pursuant to this chapter;

(5) Any hospital licensed by the department of social services as a psychiatric hospital pursuant to chapter 197, RSMo;

(6) Any facility or program accredited by the Joint Commission on Accreditation of Hospitals,

the American Osteopathic Association, Accreditation Council for Services for Mentally Retarded or other Developmentally Disabled Persons, Council on Accreditation of Services for Children and Families, Inc., or the Commission on Accreditation of Rehabilitation Facilities;

(7) Any facility or program caring for less than four persons whose care is not funded by the department.

**4. In establishing standards for each type of facility, program, or group home listed in subsection 1 of this section, the department shall classify the standards into three categories for each type of facility, program, or group home as follows:**

**(1) Class I standards are standards the violation of which would present either an imminent danger to the health, safety, or welfare of any resident or client or a substantial probability that death or serious physical harm would result;**

**(2) Class II standards are standards which have a direct or immediate relationship to the health, safety, or welfare of any resident or client, but which do not create imminent danger;**

**(3) Class III standards are standards which have an indirect or a potential impact on the health, safety, or welfare of any resident or client.**

630.715. 1. The department shall establish a procedure for the licensing of residential facilities and day programs, **including privately funded**, for persons described in section 630.705, which procedure shall provide for the acceptance of a license, a temporary operating permit or a probationary license issued by the department of social services under sections 198.006 to 198.096, RSMo, as regards the licensing requirements in the following areas:

(1) General medical and health care;

(2) Adequate physical plant facilities including fire safety, housekeeping and maintenance standards;

(3) Food service facilities;

(4) Safety precautions;

(5) Drugs and medications;

(6) Uniform system of recordkeeping;

(7) Resident and client rights and grievance procedures.

However, the department shall require annually that any facilities and programs already licensed by the department of social services under chapter 198, RSMo, which desire to provide services to persons diagnosed as mentally disordered, mentally ill, mentally retarded or developmentally disabled in accordance with sections 630.705 to 630.760 meet the department's requirements in excess of those required for licensure or certification under chapter 198, RSMo, which are appropriate to admission criteria and care, treatment, habilitation and rehabilitation needs of such persons.

2. Applications for licenses shall be made to the department upon forms provided by it and shall contain such information and documents as the department requires, including, but not limited to, affirmative evidence of ability to comply with the rules adopted by the department. Each application for a license, except applications from a governmental unit or a facility caring for less than four persons, which shall not pay any fee, shall be accompanied by a license fee of ten dollars for establishments which accept more than three but less than ten persons and fifty dollars from establishments which accept ten or more. The license fee shall be paid to the director of revenue for deposit to the general revenue fund of the state treasury.

3. An applicant for a license shall submit an affidavit under oath that all documents required by the department to be filed pursuant to this section

are true and correct to the best of his knowledge and belief, that the statements contained in the application are true and correct to the best of his knowledge and belief and that all required documents are either included with the application or are currently on file with the department.”; and

Further amend said bill, page 34, section 630.755, lines 8-28 of said page, by striking all of said lines; and

Further amend said bill and section, Page 35, Lines 1 to 12 of said page, by striking said lines and inserting in lieu thereof the following:

“630.755. 1. An action may be brought by the department, or by the attorney general on his own volition or at the request of the department or any other appropriate state agency, to temporarily or permanently enjoin or restrain any violation of sections 630.705 to 630.760, to enjoin the acceptance of new residents until substantial compliance with sections 630.705 to 630.760 is achieved, or to enjoin any specific action or practice of the residential facility or day program, **including any private mental health facility or group home as defined in section 633.005, RSMo.** Any action brought under the provisions of this section shall be placed at the head of the docket by the court and the court shall hold a hearing on any action brought under the provisions of this section no less than fifteen days after the filing of the action.

2. [Any facility or program which has received a notice of noncompliance as provided by sections 630.745 to 630.750 is liable to the state for civil penalties of up to one hundred dollars for each day that noncompliance continues after the notice of noncompliance is received.] The attorney general shall, upon the request of the department, bring an action in a circuit court of competent jurisdiction to recover [the] a civil penalty **against the operator of the facility, group home, or program. Such action shall be brought in the circuit court for the county in which the facility, group home, or program is located.** The circuit

court shall [have the authority to] determine the amount of civil penalty to be assessed **within the limits set out in this section. Appeals may be taken from the judgment of the circuit court as in other civil cases.**

**3. The operator of any facility, group home, or program which has been cited with a violation of sections 630.705 to 630.760 or the rules established thereunder is liable to the state for civil penalties of up to twenty-five thousand dollars for each day that the violations existed or continue to exist. Violations shall be presumed to continue to exist from the time they are found until the time the department of mental health finds them to have been corrected. When applicable, the amount of the penalty shall be determined as follows:**

**(1) For each violation of a class I standard, not less than one thousand dollars nor more than ten thousand dollars;**

**(2) For each violation of a class II standard, not less than two hundred fifty dollars nor more than one thousand dollars;**

**(3) For each violation of a class III standard, not less than fifty dollars nor more than two hundred fifty dollars;**

**(4) For each specific class I violation by the same operator at a particular facility, program, or group home which has been previously cited within the past twenty-four months and for each specific class II or III violation by the same operator at a particular facility, program, or group home which has been previously cited within the past twelve months, double the amount last imposed;**

**(5) In accordance with the provisions of this section, if the department imposes a civil monetary penalty for a class I violation, the liability for such penalty shall be incurred immediately upon the imposition of the penalty for the violation regardless of any subsequent correction of the violation by the facility,**

**program, or group home. For class II or III violations, if the department imposes a civil monetary penalty, the liability for such penalty shall be incurred if a breach of a specific state law or regulation remains uncorrected and not in accord with the accepted plan of correction at the time of the reinspection conducted under subsection 3 of section 630.745.**

**A judgment rendered against the operator of a facility, program, or group home under this subsection shall bear interest as provided in subsection 1 of section 408.040, RSMo.**

**4. The imposition of any remedy provided for in sections 630.705 to 630.760 shall not bar the imposition of any other remedy.**

**5. Penalties collected for violations of this section shall be transferred to the state school moneys fund as established in section 166.051, RSMo, and distributed to the public schools of this state in the manner provided in section 163.031, RSMo. Such penalties shall not be considered a charitable contribution for tax purposes.**

**6. To recover any civil penalty, the moving party shall prove by a preponderance of the evidence that the violation occurred.**

**7. The operator of a facility, group home, or program against whom an action to recover a civil penalty is brought under this section may confess judgment as provided in section 511.070, RSMo, at any time prior to hearing. If such operator agrees to confess judgment, the amount of the civil penalty recommended by the moving party in its petition shall be reduced by twenty-five percent and the confessed judgment shall be entered by the circuit court at the reduced amount.”;**

Further amend the title and enacting clause accordingly.

Senator Green moved that the above amendment be adopted, which motion failed.

Senator Rupp assumed the Chair.

Senator Green offered SA 5:

**SENATE AMENDMENT NO. 5**

Amend Senate Substitute for Senate Committee Substitute for Senate Bill No. 3, Page 38, Section 630.975, Line 23 of said page, by inserting after all of said line the following:

“633.005. As used in this chapter, unless the context clearly requires otherwise, the following terms shall mean:

(1) “Comprehensive evaluation”, a study, including a sequence of observations and examinations, of an individual leading to conclusions and recommendations formulated jointly by an interdisciplinary team of persons with special training and experience in the diagnosis and habilitation of the mentally retarded and developmentally disabled;

(2) “Division”, the division of mental retardation and developmental disabilities of the department of mental health;

(3) “Division director”, the director of the division of mental retardation and developmental disabilities of the department of mental health, or his designee;

(4) “Group home”, a residential facility serving residents, similar in appearance to a single-family dwelling and providing basic health supervision, habilitation training in skills of daily and independent living and community integration, and social support. Group homes do not include family living arrangements or individualized supported living;

(5) “Mental retardation facility”, a private or department facility, other than a regional center, which admits persons who are mentally retarded or developmentally disabled for residential habilitation and other services and which is qualified or licensed as such by the department pursuant to chapter 630, RSMo. Such terms shall include, but shall not be limited to, habilitation

centers, **group homes**, and private or public residential facilities for persons who are developmentally disabled;

[(5)] (6) “Regional center”, an entity so designated by the department to provide, directly or indirectly, for comprehensive mental retardation and developmental disability services under this chapter in a particular region;

[(6)] (7) “Respite care”, temporary and short-term residential care, sustenance and supervision of a mentally retarded or developmentally disabled person who otherwise resides in a family home;

[(7)] (8) “State advisory council”, the Missouri advisory council on mental retardation and developmental disabilities as created in section 633.020.

**633.300. 1. All private group homes and mental health facilities shall be licensed by the department of mental health and shall be subject to the same state laws and regulations as the state-operated mental health facilities, including but not limited to sections 630.705 to 630.805, RSMo.**

**2. All employees of private group homes and mental health facilities shall:**

(1) **Be subject to the same training requirements established for state mental health workers with comparable positions in public group homes and mental health facilities. Such required training shall be paid for by the employer; and**

(2) **Be compensated by the employer in an amount at least equal to the average hourly wage paid by the state to mental health workers with comparable positions in public group homes and mental health facilities.**

**3. Private facilities and group homes that are Medicaid-waiver providers shall be subject to the same medical errors reporting**

**requirements of other mental health facilities and group homes.**

**4. The division shall promulgate rules or amend existing rules to implement the provisions of this section. Any rule or portion of a rule, as that term is defined in section 536.010, RSMo, 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, RSMo, and, if applicable, section 536.028, RSMo. This section and chapter 536, RSMo, are nonseverable and if any of the powers vested with the general assembly pursuant to chapter 536, RSMo, 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, 2007, shall be invalid and void.**

**633.303. Any employee, including supervisory personnel, of a private mental health facility who purposely, knowingly, and willfully violates a stated or written policy of the division, any rule promulgated by the division, or any state law directly related to provision of mental health services regulated by the division shall be dismissed; except that, an employee's good faith efforts to follow the stated or written policies of the division, the rules promulgated by the division, or the state laws directly related to the provision of mental health services shall be a mitigating factor in determining whether an employee of a private group home is dismissed under this section.**

**633.306. 1. Beginning January 1, 2008, all private mental health facilities and group homes shall, on a quarterly basis, submit a comprehensive report to the department on any staff and personnel turnover at the facility or group home. Such report shall include the number, job description, salary, and duration of employment regarding such staff and personnel**

turnover. Such reports shall be submitted no later than thirty days after the end of each calendar quarter.

2. Beginning January 1, 2009, the department shall collect the information submitted under subsection 1 of this section and submit an annual report to the general assembly on or before March fifteenth of each year regarding the staff and personnel turnover at private mental health facilities and group homes. Such report shall include information that is specific to each facility and group home, as well as information inclusive of all such facilities and group homes.

633.309. The department of mental health shall not transfer any person to or utilize the services of any private mental health facility or group home after the effective date of this section until such time as the department has fully implemented the requirements of this act.”; and

Further amend the title and enacting clause accordingly.

Senator Green moved that the above amendment be adopted, and requested a roll call vote be taken. He was joined in his request by Senators Bray, Callahan, Days and Kennedy.

SA 5 failed of adoption by the following vote:

YEAS—Senators

Barnitz	Bray	Coleman	Days
Graham	Green	Justus	Kennedy
McKenna	Shoemyer	Smith	Wilson—12

NAYS—Senators

Bartle	Callahan	Champion	Clemens
Crowell	Engler	Gibbons	Goodman
Griesheimer	Gross	Koster	Lager
Loudon	Mayer	Nodler	Purgason
Ridgeway	Rupp	Scott	Shields
Stouffer	Vogel—22		

Absent—Senators—None

Absent with leave—Senators—None

Vacancies—None

Senator Bray offered SA 6, which was read:

SENATE AMENDMENT NO. 6

Amend Senate Substitute for Senate Committee Substitute for Senate Bill No. 3, Page 11, Section 565.214, Line 1, by striking the word “provocative” and inserting in lieu thereof the word “offensive”; and

Further amend same page, same section, line 5, by striking the word “reasonable”; and

Further amend same page, same section, line 13, by striking the word “reasonable”.

Senator Bray moved that the above amendment be adopted, which motion prevailed.

Senator Gibbons moved that SS for SCS for SB 3, as amended, be adopted, which motion prevailed.

On motion of Senator Gibbons, SS for SCS for SB 3, as amended, was declared perfected and ordered printed.

On motion of Senator Shields, the Senate recessed until 3:00 p.m.

RECESS

The time of recess having expired, the Senate was called to order by Senator Gross.

SENATE BILLS FOR PERFECTION

SB 492 was placed on the Informal Calendar.

SB 476 was placed on the Informal Calendar.

SB 303 was placed on the Informal Calendar.

SB 363 was placed on the Informal Calendar.

SB 82, with SCS, was placed on the Informal Calendar.

SB 112 was placed on the Informal Calendar.

SB 131 was placed on the Informal Calendar.

**SB 31** was placed on the Informal Calendar.

**SB 250** was placed on the Informal Calendar.

**SB 570** was placed on the Informal Calendar.

**SB 444** was placed on the Informal Calendar.

**SB 364**, with **SCS**, was placed on the Informal Calendar.

Senator Scott moved that **SB 591**, with **SCS**, be taken up for perfection, which motion prevailed.

**SCS** for **SB 591**, entitled:

SENATE COMMITTEE SUBSTITUTE FOR  
SENATE BILL NO. 591

An Act to repeal sections 370.005, 370.071, 370.080, 370.081, and 370.082, RSMo, and to enact in lieu thereof six new sections relating to credit unions.

Was taken up.

Senator Scott moved that **SCS** for **SB 591** be adopted.

Senator Scott offered **SS** for **SCS** for **SB 591**, entitled:

SENATE SUBSTITUTE FOR  
SENATE COMMITTEE SUBSTITUTE FOR  
SENATE BILL NO. 591

An Act to repeal sections 370.005, 370.071, 370.080, 370.081, and 370.082, RSMo, and to enact in lieu thereof six new sections relating to credit unions.

Senator Scott moved that **SS** for **SCS** for **SB 591** be adopted, which motion prevailed.

Senator Rupp assumed the Chair.

On motion of Senator Scott, **SS** for **SCS** for **SB 591** was declared perfected and ordered printed.

### REPORTS OF STANDING COMMITTEES

Senator Shields, Chairman of the Committee on Rules, Joint Rules, Resolutions and Ethics, submitted the following reports:

Mr. President: Your Committee on Rules, Joint Rules, Resolutions and Ethics, after

examination of **SB 523**, with **SCS**, respectfully requests that it be removed from the Senate Consent Calendar in accordance with the provisions of Senate Rule 45.

Also,

Mr. President: Your Committee on Rules, Joint Rules, Resolutions and Ethics, after examination of **SB 627**, respectfully requests that it be removed from the Senate Consent Calendar in accordance with the provisions of Senate Rule 45.

Also,

Mr. President: Your Committee on Rules, Joint Rules, Resolutions and Ethics, after examination of **SB 664**, with **SCS**, respectfully requests that it be removed from the Senate Consent Calendar in accordance with the provisions of Senate Rule 45.

Also,

Mr. President: Your Committee on Rules, Joint Rules, Resolutions and Ethics, to which was referred **SS** for **SCS** for **SB 3**, begs leave to report that it has examined the same and finds that the bill has been truly perfected and that the printed copies furnished the Senators are correct.

Senator Nodler assumed the Chair.

### SENATE BILLS FOR PERFECTION

Senator Rupp moved that **SB 112** be called from the Informal Calendar and taken up for perfection, which motion prevailed.

Senator Rupp offered **SS** for **SB 112**, entitled:

SENATE SUBSTITUTE FOR  
SENATE BILL NO. 112

An Act to repeal sections 160.900, 160.905, 160.910, 160.915, 160.920, 160.925, 160.930, 162.700, and 376.1218, RSMo, and to enact in lieu thereof eleven new sections relating to special education.

Senator Rupp moved that **SS** for **SB 112** be adopted, which motion prevailed.

On motion of Senator Rupp, **SS** for **SB 112** was declared perfected and ordered printed.

Senator Shields moved that **SB 430**, with **SCS, SS** for **SCS, SA 3** and **SA 1** to **SA 3** (pending), be called from the Informal Calendar and again taken up for perfection, which motion prevailed.

At the request of Senator Shields, **SS** for **SCS** for **SB 430** was withdrawn, rendering the pending amendments moot.

Senator Rupp assumed the Chair.

Senator Shields offered **SS No. 2** for **SCS** for **SB 430**, entitled:

SENATE SUBSTITUTE NO. 2 FOR  
SENATE COMMITTEE SUBSTITUTE FOR  
SENATE BILL NO. 430

An Act to repeal sections 160.534, 313.805, and 313.812, RSMo, and to enact in lieu thereof nine new sections relating to the use of gaming proceeds to provide students with opportunities for higher education, with penalty provisions.

Senator Shields moved that **SS No. 2** for **SCS** for **SB 430** be adopted.

Senator Purgason offered **SA 1**, which was read:

SENATE AMENDMENT NO. 1

Amend Senate Substitute No. 2 for Senate Committee Substitute for Senate Bill No. 430, Page 1, In the Title, Line 6 of said page, by inserting after “provisions” the following: “**and a referendum clause**”; and

Further amend said bill, Page 23, Section 313.964, Line 5 of said page, by inserting after all of said line the following:

“Section B. This act is hereby submitted to the qualified voters of this state for approval or rejection at an election which is hereby ordered and which shall be held and conducted on Tuesday next following the first Monday in November, 2008, pursuant to the laws and constitutional

provisions of this state for the submission of referendum measures by the general assembly, and this act shall become effective when approved by a majority of the votes cast thereon at such election and not otherwise.”

Senator Purgason moved that the above amendment be adopted.

At the request of Senator Shields, **SB 430**, with **SCS, SS No. 2** for **SCS** and **SA 1** (pending), was placed on the Informal Calendar.

### REPORTS OF STANDING COMMITTEES

Senator Shields, Chairman of the Committee on Rules, Joint Rules, Resolutions and Ethics, submitted the following reports:

Mr. President: Your Committee on Rules, Joint Rules, Resolutions and Ethics, to which were referred **SS** for **SB 112** and **SS** for **SCS** for **SB 591**, begs leave to report that it has examined the same and finds that the bills have been truly perfected and that the printed copies furnished the Senators are correct.

On motion of Senator Shields, the Senate recessed until 8:00 p.m.

### RECESS

The time of recess having expired, the Senate was called to order by Senator Koster.

### SENATE BILLS FOR PERFECTION

Senator Shields moved that **SB 430**, with **SCS, SS No. 2** for **SCS** and **SA 1** (pending), be called from the Informal Calendar and again taken up for perfection, which motion prevailed.

Senator Rupp assumed the Chair.

**SA 1** was again taken up.

Senator Koster assumed the Chair.

Senator Shields requested a roll call vote be taken on the adoption of **SA 1**. He was joined in his request by Senators Bartle, Callahan, Crowell and Green.

Senator Rupp assumed the Chair.

**SA 1** failed of adoption by the following vote:

YEAS—Senators

Barnitz	Bartle	Gibbons	Green
Gross	Loudon	Mayer	Nodler
Purgason	Stouffer—10		

NAYS—Senators

Bray	Callahan	Champion	Clemens
Coleman	Crowell	Days	Engler
Goodman	Graham	Griesheimer	Justus
Kennedy	Koster	Lager	McKenna
Ridgeway	Rupp	Shields	Shoemyer
Smith	Vogel	Wilson—23	

Absent—Senator Scott—1

Absent with leave—Senators—None

Vacancies—None

Senator Koster offered **SA 2**, which was read:

SENATE AMENDMENT NO. 2

Amend Senate Substitute No. 2 for Senate Committee Substitute for Senate Bill No. 430, Page 22, Section 313.823, Line 14, by deleting the word “one” and inserting in lieu thereof “five”.

Senator Koster moved that the above amendment be adopted.

Senator Engler offered **SSA 1** for **SA 2**, which was read:

SENATE SUBSTITUTE AMENDMENT NO. 1  
FOR SENATE AMENDMENT NO. 2

Amend Senate Substitute No. 2 for Senate Committee Substitute for Senate Bill No. 430, Page 22, Section 313.823, Line 14, by deleting the word “one” and inserting in lieu thereof “four”.

Senator Engler moved that the above substitute amendment be adopted.

Senator Shields offered **SA 1** to **SSA 1** for **SA 2**, which was read:

SENATE AMENDMENT NO. 1 TO  
SENATE SUBSTITUTE AMENDMENT NO. 1  
FOR SENATE AMENDMENT NO. 2

Amend Senate Substitute Amendment No. 1 for Senate Amendment No. 2 to Senate Substitute No. 2 for Senate Committee Substitute for Senate Bill No. 430, by deleting the word “four” and inserting in lieu thereof “two”.

Senator Shields moved that the above amendment be adopted.

Senator Crowell assumed the Chair.

Senator Callahan requested a roll call vote be taken on the adoption of **SA 1** to **SSA 1** for **SA 2**. He was joined in his request by Senators Bray, Koster, Purgason and Shoemyer.

**SA 1** to **SSA 1** for **SA 2** failed of adoption by the following vote:

YEAS—Senators

Champion	Clemens	Engler	Goodman
Griesheimer	Nodler	Rupp	Scott
Shields	Smith	Vogel	Wilson—12

NAYS—Senators

Barnitz	Bartle	Bray	Callahan
Coleman	Crowell	Days	Gibbons
Graham	Green	Gross	Justus
Kennedy	Koster	Lager	Loudon
McKenna	Purgason	Ridgeway	Shoemyer
Stouffer—21			

Absent—Senator Mayer—1

Absent with leave—Senators—None

Vacancies—None

**SSA 1** for **SA 2** was again taken up.

Senator Bray offered **SA 2** to **SSA 1** for **SA 2**, which was read:

SENATE AMENDMENT NO. 2 TO  
SENATE SUBSTITUTE AMENDMENT NO. 1  
FOR SENATE AMENDMENT NO. 2

Amend Senate Substitute Amendment No. 1 for Senate Amendment No. 2 to Senate Substitute No. 2 for Senate Committee Substitute for Senate Bill No. 430, Page 1, Section 313.823, Line 2, by striking the word “four” and inserting in lieu thereof the following: “**four and three-quarters**”.

Senator Bray moved that the above amendment be adopted.

At the request of Senator Koster, SA 2 was withdrawn, rendering the pending amendments moot.

Senator Green offered SA 3, which was read:

SENATE AMENDMENT NO. 3

Amend Senate Substitute No. 2 for Senate Committee Substitute for Senate Bill No. 430, Page 23, Section 313.964, Line 5, by inserting immediately after all of said line the following:

**“Section 1. Any advertising, whether by the Missouri gaming commission, a licensed excursion gambling boat, or any affiliate or association representing licensed excursion gambling boats, shall clearly and conspicuously state the following: Under the Missouri Constitution, all proceeds derived from the gross receipts tax on excursion gambling boats is used to fund education, however this amount only constitutes ten and seven tenths percent of the total expenditures for education under the school funding formula.”; and**

Further amend the title and enacting clause accordingly.

Senator Green moved that the above amendment be adopted.

Senator Green offered SA 1 to SA 3, which was read:

SENATE AMENDMENT NO. 1 TO  
SENATE AMENDMENT NO. 3

Amend Senate Amendment No. 3 to Senate Substitute No. 2 for Senate Committee Substitute for Senate Bill No. 430, Page 1, Section 1, Line 11, by inserting immediately after the word “formula.” the following: “**Such statement shall be made in a font no smaller than the largest font used in the advertisement.**”

Senator Green moved that the above amendment be adopted, which motion prevailed.

SA 3, as amended, was again taken up.

Senator Shields offered SA 2 to SA 3, which was read:

SENATE AMENDMENT NO. 2 TO  
SENATE AMENDMENT NO. 3

Amend Senate Amendment No. 3 to Senate Substitute No. 2 for Senate Committee Substitute for Senate Bill No. 430, Page 1, Line 3, by inserting after the word “advertising” the following: “featuring the contribution of gaming to education”.

Senator Shields moved that the above amendment be adopted.

Senator Green requested a roll call vote be taken on the adoption of SA 2 to SA 3. He was joined in his request by Senators Bartle, Bray, Callahan and Coleman.

SA 2 to SA 3 was adopted by the following vote:

YEAS—Senators

Champion	Clemens	Crowell	Engler
Gibbons	Goodman	Griesheimer	Gross
Koster	Lager	Mayer	Nodler
Ridgeway	Rupp	Scott	Shields
Smith	Stouffer	Vogel—19	

NAYS—Senators

Barnitz	Bartle	Bray	Callahan
Coleman	Days	Graham	Green

Justus Kennedy Loudon McKenna  
Purgason Shoemyer Wilson—15

Absent—Senators—None

Absent with leave—Senators—None

Vacancies—None

Senator Bartle offered **SA 3** to **SA 3**, which was read:

SENATE AMENDMENT NO. 3 TO  
SENATE AMENDMENT NO. 3

Amend Senate Amendment No. 3 to Senate Substitute No. 2 for Senate Committee Substitute for Senate Bill No. 430, Page 1, Section 1, Lines 9-10, by striking the words “ten and seven tenths percent” and inserting in lieu thereof the following: “(insert actual percentage for the year preceding the fiscal year in which the advertisement appears)”.

Senator Bartle moved that the above amendment be adopted, which motion prevailed.

Senator Green moved that **SA 3**, as amended, be adopted, which motion prevailed.

Senator Callahan offered **SA 4**, which was read:

SENATE AMENDMENT NO. 4

Amend Senate Substitute No. 2 for Senate Committee Substitute for Senate Bill No. 430, Page 21, Section 313.812, Line 21 of said page, by striking the word “thirteen” and inserting in lieu thereof the following: “**sixteen**”; and further amend lines 22 to 28 of said page, by striking all of said lines; and

Further amend said bill and section, Page 22, Lines 1 to 9 of said page, by striking said lines and inserting in lieu thereof the following: “**state.**”.

Senator Callahan moved that the above amendment be adopted.

Senator Green offered **SSA 1** for **SA 4**, which was read:

SENATE SUBSTITUTE AMENDMENT NO. 1  
FOR SENATE AMENDMENT NO. 4

Amend Senate Substitute No. 2 for Senate Committee Substitute for Senate Bill No. 430, Page 21, Section 313.812, Line 21, by striking the word “thirteen” and inserting in lieu thereof the following: “**eighteen**”; and further amend said bill and section, page 22, line 1 by striking the word “thirteen” and inserting in lieu thereof the following: “**eighteen**”.

Senator Green moved that the above substitute amendment be adopted.

At the request of Senator Green, **SSA 1** for **SA 4** was withdrawn.

Senator Green offered **SSA 2** for **SA 4**, which was read:

SENATE SUBSTITUTE AMENDMENT NO. 2  
FOR SENATE AMENDMENT NO. 4

Amend Senate Substitute No. 2 for Senate Committee Substitute for Senate Bill No. 430, Page 21, Section 313.812, Line 21 of said page, by striking the word “thirteen” and inserting in lieu thereof the following: “**eighteen**”; and further amend lines 22 to 28 of said page, by striking all of said lines; and

Further amend said bill and section, Page 22, Lines 1 to 9 of said page, by striking said lines and inserting in lieu thereof the following: “**state.**”.

Senator Green moved that the above substitute amendment be adopted and requested a roll call vote be taken. He was joined in his request by Senators Barnitz, Bartle, Callahan and Coleman.

Senator Rupp assumed the Chair.

**SSA 2** for **SA 4** failed of adoption by the following vote:

YEAS—Senators  
Barnitz Bray Callahan Coleman

Days Green Justus Kennedy  
 McKenna Shoemyer Wilson—11

March 27, 2007

NAYS—Senators

Bartle Clemens Crowell Gibbons  
 Goodman Graham Griesheimer Gross  
 Koster Lager Loudon Purgason  
 Ridgeway Rupp Shields Smith  
 Stouffer—17

Absent—Senators

Champion Engler Mayer Nodler  
 Scott Vogel—6

Absent with leave—Senators—None

Vacancies—None

**SA 4** was again taken up.

Senator Callahan moved that the above amendment be adopted and requested a roll call vote be taken. He was joined in his request by Senators Bray, Days, Kennedy and McKenna.

Senator Green offered **SSA 3** for **SA 4**, which was read:

**SENATE SUBSTITUTE AMENDMENT NO. 3  
 FOR SENATE AMENDMENT NO. 4**

Amend Senate Substitute No. 2 for Senate Committee Substitute for Senate Bill No. 430, Pages 14-22, Section 313.812, by striking all of said section from the bill; and

Further amend the title and enacting clause accordingly.

Senator Green moved that the above substitute amendment be adopted.

At the request of Senator Shields, **SB 430**, with **SCS, SS No. 2** for **SCS, SA 4** and **SSA 3** for **SA 4** (pending), was placed on the Informal Calendar.

**COMMUNICATIONS**

Senator Green submitted the following:

Ms. Terry Spieler  
 Secretary of Senate  
 State Capitol Building  
 Room 325  
 Jefferson City, Missouri 65101

Dear Madame Secretary:

I respectfully request that Senate Committee Substitute for Senate Bill 542 be removed from the Senate Consent Calendar in accordance with the provisions of Senate Rule 45 and that it be returned to the Senate Financial & Governmental Organizations and Elections Committee from which it was reported for action in accordance with the rules of the Senate.

This bill, which modifies laws relating to the licensing of optometrists, renders substantive alterations to current law and seems too ambitious to be considered a consent bill.

Sincerely,  
 /s/ Timothy P. Green  
 Timothy P. Green  
 State Senator  
 District 13

Also,

March 27, 2007

Ms. Terry Spieler  
 Secretary of Senate  
 State Capitol Building  
 Room 325  
 Jefferson City, Missouri 65101

Dear Madame Secretary:

I respectfully request that Senate Committee Substitute for Senate Bill 592 be removed from the Senate Consent Calendar in accordance with the provisions of Senate Rule 45 and that it be returned to the Senate Financial & Governmental Organizations and Elections Committee from which it was reported for action in accordance with the rules of the Senate.

This bill, which modifies ethics filings, renders substantive alterations to current law and seems too ambitious to be considered a consent bill. I support certain provisions of this legislation and the bill deserves to be fully debated on the floor of the Senate.

Sincerely,  
 /s/ Timothy P. Green  
 Timothy P. Green  
 State Senator  
 District 13

**INTRODUCTIONS OF GUESTS**

Senator Shoemyer introduced to the Senate, students from Truman State University.

Senator Engler introduced to the Senate, Tom Dury and Rachelle Pinkston, Bloomsdale.

Senator Green introduced to the Senate, Sharon Wells, Loretta Davis, Arthur Visor and Gerry Cruce, St. Louis.

Senator Kennedy introduced to the Senate, Kathy Haarman, Kitty Quinn and Debi Mann, St. Louis.

Senator Kennedy introduced to the Senate, Brian Eyestone, St. Louis County.

Senator Barnitz introduced to the Senate, his daughter, Cami, Lake Spring.

Senator Shoemyer introduced to the Senate, Anna Henley, Hannibal; and Anna was made an honorary page.

Senator Rupp introduced to the Senate, nineteen members of Girl Scout Troop 3078, Wentzville.

Senator Loudon introduced to the Senate, Dr. Roxanne Knibb and her children, Alyssa, Ryan,

Andrea, Nathan, Tyler, Alexis and Ashley, Manchester; and Alyssa, Ryan, Andrea, Nathan, Tyler, Alexis and Ashley were made honorary pages.

Senator Griesheimer introduced to the Senate, Kent and Sara Cunningham, Labadie.

Senator Rupp introduced to the Senate, Allan and Laura Schwarb and their children, David, Anna Catherine, Thomas and Abigail, Troy.

Senator Loudon introduced to the Senate, Laurel Smith, Franklin County; Bonnie Hall, Boone County; Brian and Amanda Hicks, Butler County; Allan and Laura Schwarb, Lincoln County; Kristen Gordon, Clay County; Joy Pruiett, Webster County; Anna Christiansen, Greene County; Ericka Alten, Callaway County; Jessica Kerr, St. Louis County; and Jessica Mattingly, Jackson County.

Senator Koster introduced to the Senate, teachers, parents and sixth and eighth grade students from Harmony School, Rich Hill.

On motion of Senator Shields, the Senate adjourned under the rules.

**SENATE CALENDAR**


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FORTY-FIFTH DAY—WEDNESDAY, MARCH 28, 2007

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**FORMAL CALENDAR****THIRD READING OF SENATE BILLS**

SS for SCS for SBs 239, 24 &  
445-Stouffer (In Fiscal Oversight)  
SS for SCS for SB 320-Clemens

SS for SCS for SB 3-Gibbons  
SS for SB 112-Rupp  
SS for SCS for SB 591-Scott

SENATE BILLS FOR PERFECTION

1. SB 400-Crowell, et al
2. SB 213-McKenna
3. SB 20-Griesheimer, with SCS
4. SB 85-Champion and Koster, with SCS
5. SB 429-Gibbons, with SCS
6. SB 5-Loudon, with SCS
7. SB 368-Barnitz, et al, with SCS
8. SB 417-Goodman
9. SB 534-Nodler
10. SB 254-Nodler, et al, with SCS
11. SJR 8-Ridgeway
12. SBs 45 & 39-Mayer, with SCS
13. SB 17-Shields, with SCS
14. SB 385-Gibbons, with SCS
15. SB 66-Rupp, with SCS
16. SB 313-Scott, with SCS
17. SB 453-Scott, with SCS
18. SB 391-Days, with SCS
19. SB 53-Koster and Engler, with SCS
20. SB 531-Gibbons, with SCS
21. SB 511-Scott, with SCS
22. SB 86-Champion, with SCS
23. SB 153-Engler, et al, with SCS
24. SB 168-Mayer and Crowell, with SCS
25. SB 428-Purgason, with SCS
26. SB 480-Ridgeway, et al, with SCS
27. SB 577-Shields and Gibbons, with SCS
28. SB 433-Callahan and Rupp
29. SB 698-Ridgeway, et al, with SCS
30. SB 458-Gibbons
31. SB 341-Goodman, with SCS
32. SB 252-Ridgeway and McKenna
33. SRB 613-Goodman, with SCA 1

HOUSE BILLS ON THIRD READING

HCS for HB 453 (Mayer)  
(In Fiscal Oversight)

INFORMAL CALENDAR

SENATE BILLS FOR PERFECTION

- |                                   |   |
|-----------------------------------|---|
| SB 2-Gibbons, with SCS            | SB 169-Rupp, with SCS, SS for SCS & SA 3 (pending)  |
| SB 21-Griesheimer, with SCS       | SB 204-Stouffer, with SCS & SS for SCS (pending)    |
| SB 27-Bartle and Koster           | SB 242-Nodler, with SCS                             |
| SB 31-Nodler                      | SB 250-Ridgeway and Vogel                           |
| SB 40-Ridgeway, with SS (pending) | SBs 260 & 71-Koster, et al, with SCS                |
| SB 75-Coleman, et al, with SCS    | SB 274-Shields                                      |
| SB 82-Griesheimer, with SCS       | SB 282-Griesheimer, with SCS & SS for SCS (pending) |
| SB 101-Mayer                      | SB 287-Crowell and Vogel                            |
| SB 131-Rupp                       |   |
| SB 155-Engler, with SCS           |   |
| SB 160-Rupp, with SCS             |   |

SB 292-Mayer	SB 389-Nodler, et al, with SCS & SS#4 for SCS (pending)
SB 297-Loudon, with SCS	SB 430-Shields, et al, with SCS, SS#2 for SCS, SA 4 & SSA 3 for SA 4 (pending)
SB 300-Bartle	SB 444-Goodman
SB 303-Loudon, et al	SB 476-Crowell
SB 363-Bartle	SB 492-Crowell
SB 364-Koster, with SCS	SB 570-Clemens
SBs 370, 375 & 432-Scott and Koster, with SCS	

### CONSENT CALENDAR

#### Senate Bills

Reported 2/8

SB 211-Goodman

Reported 2/15

SB 8-Kennedy

Reported 3/8

SB 593-Scott  
SB 140-Rupp  
SB 137-Bray, with SCS

SB 185-Green  
SB 419-Kennedy

Reported 3/15

SB 477-Days, with SCS  
SB 648-Vogel  
SB 666-Scott  
SB 582-Shoemyer  
SB 520-Engler, with SCS  
SB 530-Gibbons, with SCS  
SB 338-Mayer  
SB 302-Loudon, with SCS

SB 481-Ridgeway  
SB 398-Crowell  
SB 393-McKenna, with SCS  
SB 605-Coleman and Gibbons  
SB 638-Bray, with SCS  
SB 513-Clemens  
SB 328-Engler, with SCS  
SB 306-Crowell

RESOLUTIONS

To be Referred

HCR 20-Guest, et al

**T**

Unofficial

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