

Journal of the Senate

FIRST REGULAR SESSION

FIFTY-SIXTH DAY—TUESDAY, APRIL 21, 2009

The Senate met pursuant to adjournment.

President Kinder in the Chair.

Reverend Carl Gauck offered the following prayer:

“And this is love that we walk according to his commandments;..” (2 John 1:6)

Gracious God, You have given us a path of laws that we are to follow and we know something of law. So we seek to follow Your path so our interactions with others are honorable and forthright. May all we do and say here be a witness of our character and values and may each honor the other for who they truly are. 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	Crowell	Cunningham
Days	Dempsey	Engler	Goodman	Green	Griesheimer	Justus	Lager
Lembke	Mayer	McKenna	Nodler	Pearce	Purgason	Ridgeway	Rupp
Schmitt	Scott	Shields	Shoemyer	Smith	Stouffer	Vogel	Wilson

Wright-Jones—33

Absent—Senators—None

Absent with leave—Senator Schaefer—1

Vacancies—None

The Lieutenant Governor was present.

RESOLUTIONS

Senator Engler offered Senate Resolution No. 863, regarding Vicky L. Stephens, which was adopted.

Senator Engler offered Senate Resolution No. 864, regarding Kelly Pope, which was adopted.

Senator Engler offered Senate Resolution No. 865, regarding James R. Keeney, De Soto, which was adopted.

Senator Engler offered Senate Resolution No. 866, regarding Mary Ann Uding, Sainte Genevieve, which was adopted.

Senator Engler offered Senate Resolution No. 867, regarding Paul Williams, Bonne Terre, which was adopted.

Senator Engler offered Senate Resolution No. 868, regarding Jacque Cooper, Desloge, which was adopted.

Senator Engler offered Senate Resolution No. 869, regarding Melody Blankenship, Park Hills, which was adopted.

Senator Engler offered Senate Resolution No. 870, regarding Thomas Pezel, Desloge, which was adopted.

Senator Engler offered Senate Resolution No. 871, regarding Lila Williams, Bonne Terre, which was adopted.

Senator Engler offered Senate Resolution No. 872, regarding Karen Huffman, De Soto, which was adopted.

Senator Engler offered Senate Resolution No. 873, regarding Bob Stolzer, which was adopted.

Senator Engler offered Senate Resolution No. 874, regarding Charles E. Crouther, Sr., which was adopted.

Senator Shields offered Senate Resolution No. 875, regarding Kathryn Demarest, which was adopted.

Senator Shields offered Senate Resolution No. 876, regarding Elizabeth, Cameron, Matthew and Zachary McCleary, Platte County, which was adopted.

Senator Crowell offered Senate Resolution No. 877, regarding Allison Ernst, Perryville, which was adopted.

Senator Crowell offered Senate Resolution No. 878, regarding Megan Sutterer, Perryville, which was adopted.

Senator Crowell offered Senate Resolution No. 879, regarding Katie Stephens, Jackson, which was adopted.

Senator Crowell offered Senate Resolution No. 880, regarding Megan Ragsdell, Sikeston, which was adopted.

Senator Crowell offered Senate Resolution No. 881, regarding Evan Martin, Perryville, which was adopted.

Senator Crowell offered Senate Resolution No. 882, regarding Michele Dobbolare, Perryville, which was adopted.

Senator Crowell offered Senate Resolution No. 883, regarding Elizabeth Brueckner, Perryville, which was adopted.

Senator Crowell offered Senate Resolution No. 884, regarding Brittany Hastings, Jackson, which was adopted.

Senator Crowell offered Senate Resolution No. 885, regarding Amber Julian, Altenburg, which was adopted.

On behalf of Senator Schaefer, Senator Engler offered Senate Resolution No. 886, regarding Robert Wayne Wilcox, Moberly, which was adopted.

Senator Days offered Senate Resolution No. 887, regarding Philip Michael Robin, Hazelwood, which was adopted.

Senators Goodman and Champion offered Senate Resolution No. 888, regarding Sandra Jane Zarins, Ed.D., Springfield, which was adopted.

Senator Schmitt offered Senate Resolution No. 889, regarding the Kirkwood High School racquetball program, which was adopted.

Senator Schmitt offered Senate Resolution No. 890, regarding Brian Anthony Greer, Webster Groves, which was adopted.

Senator Schmitt offered Senate Resolution No. 891, regarding Olivia Rea, Webster Groves, which was adopted.

Senator Schmitt offered Senate Resolution No. 892, regarding Melody Frese, Webster Groves, which was adopted.

Senator Schmitt offered Senate Resolution No. 893, regarding Christine Pfeiffer, Fenton, which was adopted.

Senator Schmitt offered Senate Resolution No. 894, regarding Amy Kaiser, Fenton, which was adopted.

Senator Schmitt offered Senate Resolution No. 895, regarding the Bayless High School Leadership program, Saint Louis County, which was adopted.

Senator Schmitt offered Senate Resolution No. 896, regarding Michelle Schafer, Ballwin, which was adopted.

HOUSE BILLS ON THIRD READING

HCS for HB 382, entitled:

An Act to repeal sections 443.800, 443.803, 443.805, 443.807, 443.809, 443.810, 443.812, 443.816, 443.817, 443.819, 443.821, 443.823, 443.825, 443.827, 443.830, 443.833, 443.835, 443.837, 443.839, 443.841, 443.843, 443.845, 443.847, 443.849, 443.851, 443.853, 443.855, 443.857, 443.859, 443.861, 443.863, 443.865, 443.867, 443.869, 443.879, 443.881, 443.883, 443.885, 443.887, 443.889, 443.891, and 443.893, RSMo, and to enact in lieu thereof fifty-eight new sections relating to the regulation of residential mortgage professionals, with penalty provisions and an emergency clause.

Was taken up by Senator Scott.

Senator Dempsey assumed the Chair.

On motion of Senator Scott, **HCS for HB 382** was read the 3rd time and passed by the following vote:

YEAS—Senators

Barnitz	Bray	Callahan	Champion	Clemens	Crowell	Cunningham	Days
Dempsey	Engler	Goodman	Green	Griesheimer	Justus	Lembke	Mayer
McKenna	Nodler	Pearce	Ridgeway	Rupp	Schmitt	Scott	Shields
Shoemyer	Stouffer	Vogel	Wilson	Wright-Jones—29			

NAYS—Senator Purgason—1

Absent—Senators

Lager Smith—2

Absent with leave—Senators

Bartle Schaefer—2

Vacancies—None

The President declared the bill passed.

The emergency clause was adopted by the following vote:

YEAS—Senators

Barnitz	Bray	Callahan	Champion	Clemens	Crowell	Cunningham	Days
Dempsey	Engler	Goodman	Green	Griesheimer	Justus	Lembke	Mayer
McKenna	Nodler	Pearce	Ridgeway	Rupp	Schmitt	Scott	Shields
Shoemyer	Stouffer	Vogel	Wilson	Wright-Jones—29			

NAYS—Senator Purgason—1

Absent—Senators

Lager Smith—2

Absent with leave—Senators

Bartle Schaefer—2

Vacancies—None

On motion of Senator Scott, title to the bill was agreed to.

Senator Scott moved that the vote by which the bill passed be reconsidered.

Senator Engler moved that motion lay on the table, which motion prevailed.

HB 103, with **SCS**, introduced by Representative Wildberger, et al, entitled:

An Act to repeal section 44.090, RSMo, and to enact in lieu thereof one new section relating to mutual-aid agreements and the Missouri mutual aid system.

Was taken up by Senator Callahan.

SCS for **HB 103**, entitled:

SENATE COMMITTEE SUBSTITUTE FOR
HOUSE BILL NO. 103

An Act to repeal sections 44.090 and 701.355, RSMo, and to enact in lieu thereof two new sections relating to public safety.

Was taken up.

Senator Callahan moved that **SCS** for **HB 103** be adopted.

Senator Callahan offered **SS** for **SCS** for **HB 103**, entitled:

SENATE SUBSTITUTE FOR
SENATE COMMITTEE SUBSTITUTE FOR
HOUSE BILL NO. 103

An Act to repeal sections 44.090, 174.700, and 701.355, RSMo, and to enact in lieu thereof four new sections relating to public safety, with an expiration date for a certain section.

Senator Callahan moved that **SS** for **SCS** for **HB 103** be adopted.

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

SENATE AMENDMENT NO. 1

Amend Senate Substitute for Senate Committee Substitute for House Bill No. 103, Pages 5-6, Section 67.281, by striking all of said section from the bill; and

Further amend the title and enacting clause accordingly.

Senator Green moved that the above amendment be adopted, which motion failed on a standing division vote.

At the request of Senator Callahan, **HB 103**, with **SCS** and **SS** for **SCS** (pending), was placed on the Informal Calendar.

At the request of Senator Griesheimer, **HB 376**, with **SCS**, was placed on the Informal Calendar.

HB 395, with **SCS**, introduced by Representative Nance, et al, entitled:

An Act to repeal section 208.819, RSMo, and to enact in lieu thereof one new section relating to MO HealthNet long-term care transition grants.

Was taken up by Senator Stouffer.

SCS for **HB 395**, entitled:

SENATE COMMITTEE SUBSTITUTE FOR
HOUSE BILL NO. 395

An Act to repeal sections 198.074, 198.075, 198.096, 198.525, and 208.819, RSMo, and to enact in lieu thereof seven new sections relating to long-term care facilities.

Was taken up.

Senator Stouffer moved that **SCS** for **HB 395** be adopted.

Senator Stouffer offered **SS** for **SCS** for **HB 395**, entitled:

SENATE SUBSTITUTE FOR
SENATE COMMITTEE SUBSTITUTE FOR
HOUSE BILL NO. 395

An Act to repeal sections 198.074, 198.075, 198.096, 198.525, 198.527, and 208.819, RSMo, and to enact in lieu thereof ten new sections relating to long-term care facilities.

Senator Stouffer moved that **SS** for **SCS** for **HB 395** be adopted.

Senator Nodler offered **SA 1**:

SENATE AMENDMENT NO. 1

Amend Senate Substitute for Senate Committee Substitute for House Bill No. 395, Page 15, Section 208.016, Line 16, by inserting immediately after said 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 insurance, financial institutions and professional registration. The director of the department of insurance, financial institutions and professional registration 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 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 [June] **September 30**, [2009] **2011**.

208.480. Notwithstanding the provisions of section 208.471 to the contrary, sections 208.453 to 208.480 shall expire on September 30, [2009] **2011**.”; and

Further amend said bill, page 16, section 208.819, line 28, by inserting immediately after said line the following:

“338.535. 1. The pharmacy tax owed or, if an offset has been made, the balance after such offset, if any,

shall be remitted by the pharmacy **or the pharmacy's designee** to the department of social services. The remittance shall be made payable to the director of the department of revenue and shall be deposited in the state treasury to the credit of the “Pharmacy Reimbursement Allowance Fund” which is hereby created to provide payments for services related to the Medicaid pharmacy program. All investment earnings of the fund shall be credited to the fund.

2. An offset authorized by section 338.530 or a payment to the pharmacy reimbursement allowance fund shall be accepted as payment of the obligation set forth in section 338.500.

3. The state treasurer shall maintain records showing the amount of money in the pharmacy reimbursement allowance fund at any time and the amount of investment earnings on such amount.

4. Notwithstanding the provisions of section 33.080, RSMo, to the contrary, any unexpended balance in the pharmacy reimbursement allowance fund at the end of the biennium shall not revert to the credit of the general revenue fund.

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) [June] **September 30, [2009] 2011.**

The director of the department of social services shall notify the revisor of statutes of the expiration date as provided in this subsection. 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 [June] **September 30, [2009] 2011.**

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 mentally retarded”, a private or department of mental health facility which admits persons who are mentally retarded or developmentally disabled for residential habilitation and other services pursuant to chapter 630, RSMo. Such term shall include habilitation centers and private or public intermediate care facilities for the mentally retarded that have been certified to meet the conditions of participation under 42 CFR, Section 483, Subpart 1;

(3) “Net operating revenues from providing services of intermediate care facilities for the mentally retarded” 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 mentally retarded” has the same meaning as the term

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 Amendment of 1991.

2. Beginning July 1, 2008, each provider of services of intermediate care facilities for the mentally retarded 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 mentally retarded 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 mentally retarded, 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.

5. Assessments shall be submitted by or on behalf of each provider of services of intermediate care facilities for the mentally retarded 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 Mentally Retarded 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, RSMo, to the contrary, any unexpended balance in the intermediate care facility mentally retarded 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 mentally retarded 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 mentally retarded 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 mentally retarded shall submit a certified annual report of net operating revenues from the furnishing of services of intermediate care facilities for the mentally retarded. 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 mentally retarded 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 mentally retarded 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, RSMo.

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 mentally retarded 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, 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, 2008, shall be invalid and void.

16. The provisions of this section shall expire on ~~[June]~~ **September 30**, [2009] **2011.**"; and

Further amend said bill, page 18, section 1, line 3, by inserting immediately after said line the following:

"Section B. Because of the need for continued imposition and collection of certain provider taxes, the repeal and reenactment of sections 208.437, 208.480, 338.535, 338.550, and 633.401, RSMo of section A of this act is deemed necessary for the immediate preservation of the public health, welfare, peace and safety, and is hereby declared to be an emergency act within the meaning of the constitution, and the repeal and reenactment of sections 208.437, 208.480, 338.535, 338.550, and 633.401, RSMo, of section A of this act shall be in full force and effect upon its passage and approval."; and

Further amend the title and enacting clause accordingly.

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

Senator Rupp offered **SA 2**:

SENATE AMENDMENT NO. 2

Amend Senate Substitute for Senate Committee Substitute for House Bill No. 395, Page 15, Section 208.016, Line 16, by inserting after all of said line the following:

“208.212. 1. For purposes of MO HealthNet eligibility, the stream of income from investment in annuities shall be excluded as an available resource for those annuities that:

(1) Are actuarially sound as measured against the Social Security Administration Life Expectancy Tables, as amended;

(2) Provide equal or nearly equal payments for the duration of the device and which exclude balloon-style final payments;

(3) Provide the state of Missouri secondary or contingent beneficiary status ensuring payment if the individual predeceases the duration of the annuity, in an amount equal to the MO HealthNet expenditure made by the state on the individual's behalf; and

(4) Name and pay the MO HealthNet claimant as the primary beneficiary.

For purposes of this section, the primary beneficiary and the annuitant shall not be the same individual.

2. The department shall establish a sixty month look-back period to review any investment in an annuity by an applicant for MO HealthNet benefits. If an investment in an annuity is determined by the department to have been made in anticipation of obtaining or with an intent to obtain eligibility for MO HealthNet benefits, the department shall have available all remedies and sanctions permitted under federal and state law regarding such investment. The fact that an investment in an annuity which occurred prior to August 28, 2005, does not meet the criteria established in subsection 1 of this section shall not automatically result in a disallowance of such investment.

3. The department of social services shall promulgate rules to administer 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, 2005, shall be invalid and void.”; and

Further amend the title and enacting clause accordingly.

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

Senator Stouffer moved that **SS** for **SCS** for **HB 395**, as amended, be adopted, which motion prevailed.

On motion of Senator Stouffer, **SS** for **SCS** for **HB 395**, as amended, was read the 3rd time and passed by the following vote:

YEAS—Senators

Barnitz	Bray	Callahan	Champion	Clemens	Cunningham	Days	Dempsey
Engler	Goodman	Green	Griesheimer	Justus	Lager	Lembke	Mayer

McKenna	Nodler	Pearce	Ridgeway	Rupp	Schmitt	Shields	Shoemyer
Smith	Stouffer	Vogel	Wilson—28				

NAYS—Senator Crowell—1

Absent—Senators

Purgason	Scott	Wright-Jones—3
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Absent with leave—Senators

Bartle	Schaefer—2
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Vacancies—None

The President declared the bill passed.

The emergency clause was adopted by the following vote:

YEAS—Senators

Barnitz	Bray	Callahan	Clemens	Crowell	Cunningham	Days	Dempsey
Engler	Goodman	Green	Griesheimer	Justus	Lager	Lembke	Mayer
McKenna	Nodler	Pearce	Ridgeway	Rupp	Schmitt	Shields	Shoemyer
Smith	Stouffer	Vogel	Wilson	Wright-Jones—29			

NAYS—Senators—None

Absent—Senators

Champion	Purgason	Scott—3
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Absent with leave—Senators

Bartle	Schaefer—2
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Vacancies—None

On motion of Senator Stouffer, title to the bill was agreed to.

Senator Stouffer moved that the vote by which the bill passed be reconsidered.

Senator Engler moved that motion lay on the table, which motion prevailed.

HOUSE BILLS ON SECOND READING

The following Joint Resolutions and Bills were read the 2nd time and referred to the Committees indicated:

HCS for HJR 32—Appropriations.

HCS for HJR 36—Ways and Means.

HCS for HB 62—Judiciary and Civil and Criminal Jurisprudence.

HB 258—Small Business, Insurance and Industry.

HCS for HB 795—Governmental Accountability and Fiscal Oversight.

HB 354—Transportation.

HB 952—Ways and Means.

HCS for HB 152—Judiciary and Civil and Criminal Jurisprudence.

HB 845—Agriculture, Food Production and Outdoor Resources.

HCS for HB 246—Agriculture, Food Production and Outdoor Resources.

HCS for HB 575—Jobs, Economic Development and Local Government.

HCS for HB 553—Governmental Accountability and Fiscal Oversight.

HB 716—Health, Mental Health, Seniors and Families.

HB 734—Agriculture, Food Production and Outdoor Resources.

MESSAGES FROM THE HOUSE

The following messages were received from the House of Representatives through its Chief Clerk:

Mr. President: I am instructed by the House of Representatives to inform the Senate that the House has taken up and passed **SCS for SB 355**.

Bill ordered enrolled.

Also,

Mr. President: I am instructed by the House of Representatives to inform the Senate that the House refuses to adopt **SS for SCS for HCS for HB 2** and requests the Senate to recede from its position and failing to do so grant the House a conference thereon.

Also,

Mr. President: I am instructed by the House of Representatives to inform the Senate that the House refuses to adopt **SS for SCS for HCS for HB 3** and requests the Senate to recede from its position and failing to do so grant the House a conference thereon.

Also,

Mr. President: I am instructed by the House of Representatives to inform the Senate that the House refuses to adopt **SCS for HCS for HB 4** and requests the Senate to recede from its position and failing to do so grant the House a conference thereon.

Also,

Mr. President: I am instructed by the House of Representatives to inform the Senate that the House refuses to adopt **SCS for HCS for HB 5** and requests the Senate to recede from its position and failing to do so grant the House a conference thereon.

Also,

Mr. President: I am instructed by the House of Representatives to inform the Senate that the House refuses to adopt **SCS for HCS for HB 6** and requests the Senate to recede from its position and failing to do so grant the House a conference thereon.

Also,

Mr. President: I am instructed by the House of Representatives to inform the Senate that the House refuses to adopt **SCS** for **HCS** for **HB 7** and requests the Senate to recede from its position and failing to do so grant the House a conference thereon.

Also,

Mr. President: I am instructed by the House of Representatives to inform the Senate that the House refuses to adopt **SCS** for **HCS** for **HB 8** and requests the Senate to recede from its position and failing to do so grant the House a conference thereon.

Also,

Mr. President: I am instructed by the House of Representatives to inform the Senate that the House refuses to adopt **SCS** for **HCS** for **HB 9** and requests the Senate to recede from its position and failing to do so grant the House a conference thereon.

Also,

Mr. President: I am instructed by the House of Representatives to inform the Senate that the House refuses to adopt **SCS** for **HCS** for **HB 10** and requests the Senate to recede from its position and failing to do so grant the House a conference thereon.

Also,

Mr. President: I am instructed by the House of Representatives to inform the Senate that the House refuses to adopt **SCS** for **HCS** for **HB 11** and requests the Senate to recede from its position and failing to do so grant the House a conference thereon.

Also,

Mr. President: I am instructed by the House of Representatives to inform the Senate that the House refuses to adopt **SCS** for **HCS** for **HB 12** and requests the Senate to recede from its position and failing to do so grant the House a conference thereon.

Also,

Mr. President: I am instructed by the House of Representatives to inform the Senate that the House refuses to adopt **SCS** for **HB 13** and requests the Senate to recede from its position and failing to do so grant the House a conference thereon.

On motion of Senator Engler, the Senate recessed until 2:00 p.m.

RECESS

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

RESOLUTIONS

Senator Crowell offered Senate Resolution No. 897, regarding Emily Tiehes, Jackson, which was adopted.

Senator Crowell offered Senate Resolution No. 898, regarding Bridgett Schumer, Perryville, which was adopted.

Senator Crowell offered Senate Resolution No. 899, regarding Elizabeth Kiefer, Perryville, which was adopted.

Senator Crowell offered Senate Resolution No. 900, regarding Rachael Gruenwald, Altenburg, which was adopted.

Senator Crowell offered Senate Resolution No. 901, regarding Emma Coleman, Fredericktown, which was adopted.

Senator Crowell offered Senate Resolution No. 902, regarding Cassidy Brown, Cape Girardeau, which was adopted.

Senator Rupp offered Senate Resolution No. 903, regarding Sara Gillam, O'Fallon, which was adopted.

Senator Barnitz offered Senate Resolution No. 904, regarding Alyssa Thoenen, Bonnots Mill, which was adopted.

Senator Barnitz offered Senate Resolution No. 905, regarding Rae Annette Boeckmann, Loose Creek, which was adopted.

Senator Barnitz offered Senate Resolution No. 906, regarding Brittanie Bescheinen, Loose Creek, which was adopted.

Senator Engler offered Senate Resolution No. 907, regarding Terry D. Edgar, Farmington, which was adopted.

Senator Engler offered Senate Resolution No. 908, regarding Sandra Kay Thompson, which was adopted.

Senator Engler offered Senate Resolution No. 909, regarding Joyce A. Courtois, which was adopted.

Senator Engler offered Senate Resolution No. 910, regarding Dan Hoffmann, which was adopted.

Senator Engler offered Senate Resolution No. 911, regarding Helen Berck, which was adopted.

Senator Clemens offered Senate Resolution No. 912, regarding the Fiftieth Wedding Anniversary of Mr. and Mrs. Kenneth Wayne Ragsdale, Ozark, which was adopted.

HOUSE BILLS ON THIRD READING

HB 747, introduced by Representative Witte, entitled:

An Act to repeal section 566.145, RSMo, and to enact in lieu thereof one new section relating to sexual contact with a prisoner or offender, with a penalty provision.

Was taken up by Senator Shoemyer.

On motion of Senator Shoemyer, **HB 747** was read the 3rd time and passed by the following vote:

YEAS—Senators

Bartle	Bray	Callahan	Champion	Clemens	Crowell	Cunningham	Days
Dempsey	Engler	Goodman	Green	Griesheimer	Justus	Lager	Lembke
McKenna	Nodler	Pearce	Purgason	Ridgeway	Rupp	Schmitt	Scott
Shields	Shoemyer	Smith	Stouffer	Vogel	Wilson	Wright-Jones—31	

NAYS—Senators—None

Absent—Senators

Barnitz Mayer—2

Absent with leave—Senator Schaefer—1

Vacancies—None

The President declared the bill passed.

On motion of Senator Shoemyer, title to the bill was agreed to.

Senator Shoemyer moved that the vote by which the bill passed be reconsidered.

Senator Engler moved that motion lay on the table, which motion prevailed.

PRIVILEGED MOTIONS

Senator Nodler requested unanimous consent of the Senate to be allowed to make one motion to send **SS for SCS for HCS for HB 2; SS for SCS for HCS for HB 3; SCS for HCS for HB 4; SCS for HCS for HB 5; SCS for HCS for HB 6; SCS for HCS for HB 7; SCS for HCS for HB 8; SCS for HCS for HB 9; SCS for HCS for HB 10; SCS for HCS for HB 11; SCS for HCS for HB 12; and SCS for HB 13** to conference in one motion, which request was granted.

Senator Nodler moved that the Senate refuse to recede from its position on **SS for SCS for HCS for HB 2; SS for SCS for HCS for HB 3; SCS for HCS for HB 4; SCS for HCS for HB 5; SCS for HCS for HB 6; SCS for HCS for HB 7; SCS for HCS for HB 8; SCS for HCS for HB 9; SCS for HCS for HB 10; SCS for HCS for HB 11; SCS for HCS for HB 12; and SCS for HB 13** and grant the House a conference thereon, which motion prevailed.

HOUSE BILLS ON THIRD READING

HCS for HB 661, entitled:

An Act to repeal sections 260.273, 260.275, and 260.276, RSMo, and to enact in lieu thereof three new sections relating to tire disposal.

Was taken up by Senator Stouffer.

Senator Stouffer offered **SS for HCS for HB 661**, entitled:

SENATE SUBSTITUTE FOR HOUSE COMMITTEE SUBSTITUTE FOR HOUSE BILL NO. 661

An Act to repeal sections 260.273, 260.275, 260.276, 640.107, 640.150, 644.036, 644.054, and 644.101, RSMo, and to enact in lieu thereof seventeen new sections relating to programs administered by the department of natural resources, with an emergency clause for certain sections.

Senator Stouffer moved that **SS for HCS for HB 661** be adopted.

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

SENATE AMENDMENT NO. 1

Amend Senate Substitute for House Committee Substitute for House Bill No. 661, Pages 1-4, Section 260.273, by removing said section from the bill; and

Further amend pages 7-11, section 260.1250, by striking said section from the bill; and

Further amend said bill, Pages 11 to 12, Section 260.1253, by striking said section from the bill; and

Further amend said bill, Page 13, Section 260.1256, Lines 1 to 14 of said page, by striking said section from the bill; and

Further amend said bill, Pages 13 to 14, Section 260.1259, by striking said section from the bill; and

Further amend said bill, Pages 14 to 15, Section 260.1262, by striking said section from the bill; and

Further amend said bill, Pages 15 to 16, Section 260.1265, by striking said section from the bill; and

Further amend said bill, Page 16, Section 260.1268, Lines 14 to 24 of said page, by striking said section from the bill; and

Further amend said bill, Pages 16 to 17, Section 260.1271, by striking said section from the bill; and

Further amend the title and enacting clause accordingly.

Senator Crowell moved that the above amendment be adopted.

At the request of Senator Stouffer, **HCS** for **HB 661**, with **SS** and **SA 1** (pending), was placed on the Informal Calendar.

REPORTS OF STANDING COMMITTEES

Senator Engler, 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 **HB 488**, 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 **HB 257**, 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 **HB 659**, 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 **HB 683**, 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 **HCS** for **HB 89**, respectfully requests that it be removed from the Senate Consent Calendar in accordance with the provisions of Senate Rule 45.

HOUSE BILLS ON THIRD READING

HB 269, with **SCS**, introduced by Representative Parson, et al, entitled:

An Act to repeal section 301.190, RSMo, and to enact in lieu thereof one new section relating to motor vehicle and trailer certificates of ownership.

Was taken up by Senator Scott.

SCS for **HB 269**, entitled:

SENATE COMMITTEE SUBSTITUTE FOR HOUSE BILL NO. 269

An Act to repeal sections 301.190, 306.410, 430.082, and 700.320, RSMo, and to enact in lieu thereof four new sections relating to certificates of ownership, with penalty provisions.

Was taken up.

Senator Scott moved that **SCS** for **HB 269** be adopted.

Senator Griesheimer offered **SA 1**:

SENATE AMENDMENT NO. 1

Amend Senate Committee Substitute for House Bill No. 269, Page 6, Section 301.190, Line 190, by inserting immediately after said line the following:

“301.218. 1. No person shall, except as an incident to the sale, repair, rebuilding or servicing of vehicles by a licensed franchised motor vehicle dealer carry on or conduct the following business unless licensed to do so by the department of revenue under sections 301.217 to 301.229:

(1) Selling used parts of or used accessories for vehicles as a used parts dealer, as defined in section 301.010;

(2) Salvaging, wrecking or dismantling vehicles for resale of the parts thereof as a salvage dealer or dismantler, as defined in section 301.010;

(3) Rebuilding and repairing four or more wrecked or dismantled vehicles in a calendar year as a rebuilder or body shop, as defined in section 301.010;

(4) Processing scrapped vehicles or vehicle parts as a mobile scrap processor, as defined in section 301.010.

2. Sales at a salvage pool or a salvage disposal sale shall be open only to and made to persons actually engaged in and holding a current license under sections 301.217 to 301.221 and 301.550 to 301.573 or any person from another state or jurisdiction who is legally allowed in his or her state of domicile to purchase for resale, rebuild, dismantle, crush, or scrap either motor vehicles or salvage vehicles, and to persons who reside in a foreign country that are purchasing salvage vehicles for export outside of the United States. Operators of salvage pools or salvage disposal sales shall keep a record, for three years, of sales of salvage

vehicles with the purchasers' name and address, and the year, make, and vehicle identification number for each vehicle. These records shall be open for inspection as provided in section 301.225. Such records shall be submitted to the department on a quarterly basis.

3. The [seller of] **operator of a salvage pool or salvage disposal sale, or subsequent purchaser, who sells** a nonrepairable motor vehicle or a salvage motor vehicle to a person who is not a resident of the United States at a salvage pool or a salvage disposal sale shall:

(1) Stamp on the face of the title so as not to obscure any name, date, or mileage statement on the title the words "FOR EXPORT ONLY" in capital letters that are black; and

(2) Stamp in each unused reassignment space on the back of the title the words "FOR EXPORT ONLY" and print the number of the dealer's salvage vehicle license, name of the salvage pool, or the name of the governmental entity, as applicable.

The words "FOR EXPORT ONLY" required under subdivisions (1) and (2) of this subsection shall be at least two inches wide and clearly legible. Copies of the stamped titles shall be forwarded to the department.

4. The director of revenue shall issue a separate license for each kind of business described in subsection 1 of this section, to be entitled and designated as either "used parts dealer"; "salvage dealer or dismantler"; "rebuilder or body shop"; or "mobile scrap processor" license."; and

Further amend the title and enacting clause accordingly.

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

Senator Shields offered **SA 2**:

SENATE AMENDMENT NO. 2

Amend Senate Committee Substitute for House Bill No. 269, Page 6, Section 301.190, Line 190, by inserting immediately after said line the following:

"301.560. 1. In addition to the application forms prescribed by the department, each applicant shall submit the following to the department:

(1) Every application other than a renewal application for a motor vehicle franchise dealer shall include a certification that the applicant has a bona fide established place of business. Such application shall include an annual certification that the applicant has a bona fide established place of business for the first three years and only for every other year thereafter. The certification shall be performed by a uniformed member of the Missouri state highway patrol or authorized or designated employee stationed in the troop area in which the applicant's place of business is located; except that in counties of the first classification, certification may be performed by an officer of a metropolitan police department when the applicant's established place of business of distributing or selling motor vehicles or trailers is in the metropolitan area where the certifying metropolitan police officer is employed. When the application is being made for licensure as a boat manufacturer or boat dealer, certification shall be performed by a uniformed member of the Missouri state water patrol stationed in the district area in which the applicant's place of business is located or by a uniformed member of the Missouri state highway patrol stationed in the troop area in which the applicant's place of business is located or, if the applicant's place of business is located within the jurisdiction of a metropolitan police department in a first class county, by an officer of such metropolitan police department. A bona fide established place of business for any new motor vehicle franchise dealer, used motor vehicle

dealer, boat dealer, powersport dealer, wholesale motor vehicle dealer, trailer dealer, or wholesale or public auction shall be a permanent enclosed building or structure, either owned in fee or leased and actually occupied as a place of business by the applicant for the selling, bartering, trading, servicing, or exchanging of motor vehicles, boats, personal watercraft, or trailers and wherein the public may contact the owner or operator at any reasonable time, and wherein shall be kept and maintained the books, records, files and other matters required and necessary to conduct the business. The applicant's place of business shall contain a working telephone which shall be maintained during the entire registration year. In order to qualify as a bona fide established place of business for all applicants licensed pursuant to this section there shall be an exterior sign displayed carrying the name of the business set forth in letters at least six inches in height and clearly visible to the public and there shall be an area or lot which shall not be a public street on which multiple vehicles, boats, personal watercraft, or trailers may be displayed. The sign shall contain the name of the dealership by which it is known to the public through advertising or otherwise, which need not be identical to the name appearing on the dealership's license so long as such name is registered as a fictitious name with the secretary of state, has been approved by its line-make manufacturer in writing in the case of a new motor vehicle franchise dealer and a copy of such fictitious name registration has been provided to the department. Dealers who sell only emergency vehicles as defined in section 301.550 are exempt from maintaining a bona fide place of business, including the related law enforcement certification requirements, and from meeting the minimum yearly sales;

(2) The initial application for licensure shall include a photograph, not to exceed eight inches by ten inches but no less than five inches by seven inches, showing the business building, lot, and sign. A new motor vehicle franchise dealer applicant who has purchased a currently licensed new motor vehicle franchised dealership shall be allowed to submit a photograph of the existing dealership building, lot and sign but shall be required to submit a new photograph upon the installation of the new dealership sign as required by sections 301.550 to 301.573. Applicants shall not be required to submit a photograph annually unless the business has moved from its previously licensed location, or unless the name of the business or address has changed, or unless the class of business has changed;

(3) Every applicant as a new motor vehicle franchise dealer, a used motor vehicle dealer, a powersport dealer, a wholesale motor vehicle dealer, trailer dealer, or boat dealer shall furnish with the application a corporate surety bond or an irrevocable letter of credit as defined in section 400.5-103, RSMo, issued by any state or federal financial institution in the penal sum of twenty-five thousand dollars on a form approved by the department. The bond or irrevocable letter of credit shall be conditioned upon the dealer complying with the provisions of the statutes applicable to new motor vehicle franchise dealers, used motor vehicle dealers, powersport dealers, wholesale motor vehicle dealers, trailer dealers, and boat dealers, and the bond shall be an indemnity for any loss sustained by reason of the acts of the person bonded when such acts constitute grounds for the suspension or revocation of the dealer's license. The bond shall be executed in the name of the state of Missouri for the benefit of all aggrieved parties or the irrevocable letter of credit shall name the state of Missouri as the beneficiary; except, that the aggregate liability of the surety or financial institution to the aggrieved parties shall, in no event, exceed the amount of the bond or irrevocable letter of credit. The proceeds of the bond or irrevocable letter of credit shall be paid upon receipt by the department of a final judgment from a Missouri court of competent jurisdiction against the principal and in favor of an aggrieved party. Additionally, every applicant as a new motor vehicle franchise dealer, a used motor vehicle dealer, a powersport dealer, a wholesale motor vehicle dealer, trailer dealer, or boat dealer shall furnish with the application a copy of a current dealer garage policy bearing the policy number and name of the insurer and the insured;

(4) Payment of all necessary license fees as established by the department. In establishing the amount of the annual license fees, the department shall, as near as possible, produce sufficient total income to offset operational expenses of the department relating to the administration of sections 301.550 to 301.573. All fees payable pursuant to the provisions of sections 301.550 to 301.573, other than those fees collected for the issuance of dealer plates or certificates of number collected pursuant to subsection 6 of this section, shall be collected by the department for deposit in the state treasury to the credit of the "Motor Vehicle Commission Fund", which is hereby created. The motor vehicle commission fund shall be administered by the Missouri department of revenue. The provisions of section 33.080, RSMo, to the contrary notwithstanding, money in such fund shall not be transferred and placed to the credit of the general revenue fund until the amount in the motor vehicle commission fund at the end of the biennium exceeds two times the amount of the appropriation from such fund for the preceding fiscal year or, if the department requires permit renewal less frequently than yearly, then three times the appropriation from such fund for the preceding fiscal year. The amount, if any, in the fund which shall lapse is that amount in the fund which exceeds the multiple of the appropriation from such fund for the preceding fiscal year.

2. In the event a new vehicle manufacturer, boat manufacturer, motor vehicle dealer, wholesale motor vehicle dealer, boat dealer, powersport dealer, wholesale motor vehicle auction, trailer dealer, or a public motor vehicle auction submits an application for a license for a new business and the applicant has complied with all the provisions of this section, the department shall make a decision to grant or deny the license to the applicant within eight working hours after receipt of the dealer's application, notwithstanding any rule of the department.

3. Upon the initial issuance of a license by the department, the department shall assign a distinctive dealer license number or certificate of number to the applicant and the department shall issue one number plate or certificate bearing the distinctive dealer license number or certificate of number and two additional number plates or certificates of number within eight working hours after presentment of the application. Upon renewal, the department shall issue the distinctive dealer license number or certificate of number as quickly as possible. The issuance of such distinctive dealer license number or certificate of number shall be in lieu of registering each motor vehicle, trailer, vessel or vessel trailer dealt with by a boat dealer, boat manufacturer, manufacturer, public motor vehicle auction, wholesale motor vehicle dealer, wholesale motor vehicle auction or new or used motor vehicle dealer.

4. Notwithstanding any other provision of the law to the contrary, the department shall assign the following distinctive dealer license numbers to:

New motor vehicle franchise dealers D-0 through D-999

New powersport dealers and motorcycle franchise

dealers D-1000 through D-1999

Used motor vehicle, used powersport, and used motorcycle

dealers D-2000 through D-9999

Wholesale motor vehicle dealers W-0 through W-1999

Wholesale motor vehicle auctions WA-0 through WA-999

New and used trailer dealers T-0 through T-9999

Motor vehicle, trailer, and boat

manufacturers DM-0 through DM-999

Public motor vehicle auctions A-0 through A-1999

Boat dealers M-0 through M-9999

New and used recreational motor vehicle

dealers RV-0 through RV-999

For purposes of this subsection, qualified transactions shall include the purchase of salvage titled vehicles by a licensed salvage dealer. A used motor vehicle dealer who also holds a salvage dealer's license shall be allowed one additional plate or certificate number per fifty-unit qualified transactions annually. In order for salvage dealers to obtain number plates or certificates under this section, dealers shall submit to the department of revenue on August first of each year a statement certifying, under penalty of perjury, the dealer's number of purchases during the reporting period of July first of the immediately preceding year to June thirtieth of the present year.

The provisions of this subsection shall become effective on the date the director of the department of revenue begins to reissue new license plates under section 301.130, or on December 1, 2008, whichever occurs first. If the director of revenue begins reissuing new license plates under the authority granted under section 301.130 prior to December 1, 2008, the director of the department of revenue shall notify the revisor of statutes of such fact.

5. Upon the sale of a currently licensed new motor vehicle franchise dealership the department shall, upon request, authorize the new approved dealer applicant to retain the selling dealer's license number and shall cause the new dealer's records to indicate such transfer.

6. In the case of new motor vehicle manufacturers, motor vehicle dealers, powersport dealers, recreational motor vehicle dealers, and trailer dealers, the department shall issue one number plate bearing the distinctive dealer license number and may issue two additional number plates to the applicant upon payment by the manufacturer or dealer of a fifty dollar fee for the number plate bearing the distinctive dealer license number and ten dollars and fifty cents for each additional number plate. Such license plates shall be made with fully reflective material with a common color scheme and design, shall be clearly visible at night, and shall be aesthetically attractive, as prescribed by section 301.130. Boat dealers and boat manufacturers shall be entitled to one certificate of number bearing such number upon the payment of a fifty dollar fee. Additional number plates and as many additional certificates of number may be obtained upon payment of a fee of ten dollars and fifty cents for each additional plate or certificate. New motor vehicle manufacturers shall not be issued or possess more than three hundred forty-seven additional number plates or certificates of number annually. New and used motor vehicle dealers, powersport dealers, wholesale motor vehicle dealers, boat dealers, and trailer dealers are limited to one additional plate or certificate of number per ten-unit qualified transactions annually, **except that this limitation shall not apply to any wholesale motor vehicle dealer that is operated in conjunction with a wholesale motor vehicle auction by the same owner.** New and used recreational motor vehicle dealers are limited to two additional plates or certificate of number per ten-unit qualified transactions annually for their first fifty transactions and one additional plate or certificate of number per ten-unit qualified transactions thereafter. An applicant seeking the issuance of an initial license shall indicate on his or her initial application the applicant's proposed annual number of sales in order for the director to issue the appropriate number of additional plates or

certificates of number. A motor vehicle dealer, trailer dealer, boat dealer, powersport dealer, recreational motor vehicle dealer, motor vehicle manufacturer, boat manufacturer, or wholesale motor vehicle dealer obtaining a distinctive dealer license plate or certificate of number or additional license plate or additional certificate of number, throughout the calendar year, shall be required to pay a fee for such license plates or certificates of number computed on the basis of one-twelfth of the full fee prescribed for the original and duplicate number plates or certificates of number for such dealers' licenses, multiplied by the number of months remaining in the licensing period for which the dealer or manufacturers shall be required to be licensed. In the event of a renewing dealer, the fee due at the time of renewal shall not be prorated. Wholesale and public auctions shall be issued a certificate of dealer registration in lieu of a dealer number plate. In order for dealers to obtain number plates or certificates under this section, dealers shall submit to the department of revenue on August first of each year a statement certifying, under penalty of perjury, the dealer's number of sales during the reporting period of July first of the immediately preceding year to June thirtieth of the present year.

7. The plates issued pursuant to subsection 3 or 6 of this section may be displayed on any motor vehicle owned by a new motor vehicle manufacturer. The plates issued pursuant to subsection 3 or 6 of this section may be displayed on any motor vehicle or trailer owned and held for resale by a motor vehicle dealer for use by a customer who is test driving the motor vehicle, for use and display purposes during, but not limited to, parades, private events, charitable events, or for use by an employee or officer, but shall not be displayed on any motor vehicle or trailer hired or loaned to others or upon any regularly used service or wrecker vehicle. Motor vehicle dealers may display their dealer plates on a tractor, truck or trailer to demonstrate a vehicle under a loaded condition. Trailer dealers may display their dealer license plates in like manner, except such plates may only be displayed on trailers owned and held for resale by the trailer dealer.

8. The certificates of number issued pursuant to subsection 3 or 6 of this section may be displayed on any vessel or vessel trailer owned and held for resale by a boat manufacturer or a boat dealer, and used by a customer who is test driving the vessel or vessel trailer, or is used by an employee or officer on a vessel or vessel trailer only, but shall not be displayed on any motor vehicle owned by a boat manufacturer, boat dealer, or trailer dealer, or vessel or vessel trailer hired or loaned to others or upon any regularly used service vessel or vessel trailer. Boat dealers and boat manufacturers may display their certificate of number on a vessel or vessel trailer when transporting a vessel or vessels to an exhibit or show.

9. (1) Every application for the issuance of a used motor vehicle dealer's license shall be accompanied by proof that the applicant, within the last twelve months, has completed an educational seminar course approved by the department as prescribed by subdivision (2) of this subsection. Wholesale and public auto auctions and applicants currently holding a new or used license for a separate dealership shall be exempt from the requirements of this subsection. The provisions of this subsection shall not apply to current new motor vehicle franchise dealers or motor vehicle leasing agencies or applicants for a new motor vehicle franchise or a motor vehicle leasing agency. The provisions of this subsection shall not apply to used motor vehicle dealers who were licensed prior to August 28, 2006.

(2) The educational seminar shall include, but is not limited to, the dealer requirements of sections 301.550 to 301.573, the rules promulgated to implement, enforce, and administer sections 301.550 to 301.570, and any other rules and regulations promulgated by the department.”; and

Further amend the title and enacting clause accordingly.

Senator Shields moved that the above amendment be adopted.

Senator Green raised the point of order that **SA 2** is out of order.

The point of order was referred to the President Pro Tem who ruled it not well taken.

SA 2 was again taken up.

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

Senator Scott moved that **SCS** for **HB 269**, as amended, be adopted, which motion prevailed.

On motion of Senator Scott, **SCS** for **HB 269** was read the 3rd time and passed by the following vote:

YEAS—Senators

Barnitz	Bartle	Bray	Callahan	Champion	Cunningham	Days	Dempsey
Goodman	Green	Justus	Lager	Lembke	McKenna	Nodler	Pearce
Ridgeway	Rupp	Schmitt	Scott	Shields	Shoemyer	Smith	Stouffer
Vogel	Wilson	Wright-Jones—27					

NAYS—Senators

Crowell	Griesheimer	Mayer	Purgason—4
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Absent—Senators

Clemens	Engler—2
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Absent with leave—Senator Schaefer—1

Vacancies—None

The President declared the bill passed.

On motion of Senator Scott, title to the bill was agreed to.

Senator Scott moved that the vote by which the bill passed be reconsidered.

Senator Engler moved that motion lay on the table, which motion prevailed.

HB 91, with **SCS**, introduced by Representative Pollock, et al, entitled:

An Act to amend chapter 227, RSMo, by adding thereto one new section relating to the designation of a memorial bridge.

Was taken up by Senator Purgason.

SCS for **HB 91**, entitled:

SENATE COMMITTEE SUBSTITUTE FOR
HOUSE BILL NO. 91

An Act to amend chapter 227, RSMo, by adding thereto seven new sections relating to the designation of state highways and bridges.

Was taken up.

Senator Purgason moved that **SCS** for **HB 91** be adopted, which motion prevailed.

On motion of Senator Purgason, **SCS** for **HB 91** was read the 3rd time and passed by the following vote:

YEAS—Senators

Barnitz	Bartle	Bray	Callahan	Champion	Crowell	Cunningham	Days
Dempsey	Engler	Goodman	Green	Griesheimer	Justus	Lager	Lembke
Mayer	McKenna	Nodler	Pearce	Purgason	Ridgeway	Rupp	Schmitt
Scott	Shields	Shoemyer	Smith	Stouffer	Vogel	Wilson	Wright-Jones—32

NAYS—Senators—None

Absent—Senator Clemens—1

Absent with leave—Senator Schaefer—1

Vacancies—None

The President declared the bill passed.

On motion of Senator Purgason, title to the bill was agreed to.

Senator Purgason moved that the vote by which the bill passed be reconsidered.

Senator Engler moved that motion lay on the table, which motion prevailed.

CONFERENCE COMMITTEE APPOINTMENTS

President Pro Tem Shields appointed the following conference committee to act with a like committee from the House on **SS** for **SCS** for **HCS** for **HB 2**: Senators Nodler, Mayer, Rupp, Bray and Green.

President Pro Tem Shields appointed the following conference committee to act with a like committee from the House on **SS** for **SCS** for **HCS** for **HB 3**: Senators Nodler, Mayer, Rupp, Bray and Green.

President Pro Tem Shields appointed the following conference committee to act with a like committee from the House on **SCS** for **HCS** for **HB 4**: Senators Nodler, Mayer, Rupp, Green and Bray.

President Pro Tem Shields appointed the following conference committee to act with a like committee from the House on **SCS** for **HCS** for **HB 5**: Senators Nodler, Mayer, Rupp, Green and Bray.

President Pro Tem Shields appointed the following conference committee to act with a like committee from the House on **SCS** for **HCS** for **HB 6**: Senators Nodler, Mayer, Bray, Green and Rupp.

President Pro Tem Shields appointed the following conference committee to act with a like committee from the House on **SCS** for **HCS** for **HB 7**: Senators Nodler, Mayer, Green, Bray and Rupp.

President Pro Tem Shields appointed the following conference committee to act with a like committee from the House on **SCS** for **HCS** for **HB 8**: Senators Nodler, Mayer, Green, Rupp and Bray.

President Pro Tem Shields appointed the following conference committee to act with a like committee from the House on **SCS** for **HCS** for **HB 9**: Senators Nodler, Mayer, Bray, Rupp and Green.

President Pro Tem Shields appointed the following conference committee to act with a like committee from the House on **SCS** for **HCS** for **HB 10**: Senators Nodler, Mayer, Rupp, Bray and Green.

President Pro Tem Shields appointed the following conference committee to act with a like committee from the House on **SCS** for **HCS** for **HB 11**: Senators Nodler, Mayer, Green, Rupp and Bray.

President Pro Tem Shields appointed the following conference committee to act with a like committee

from the House on **SCS** for **HCS** for **HB 12**: Senators Nodler, Mayer, Green, Bray and Rupp.

President Pro Tem Shields appointed the following conference committee to act with a like committee from the House on **SCS** for **HB 13**: Senators Nodler, Mayer, Rupp, Bray and Green.

HOUSE BILLS ON THIRD READING

Senator Stouffer moved that **HCS** for **HB 661**, with **SS** and **SA 1** (pending), be called from the Informal Calendar and again taken up for 3rd reading and final passage, which motion prevailed.

SA 1 was again taken up.

At the request of Senator Crowell, the above amendment was withdrawn.

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

SENATE AMENDMENT NO. 2

Amend Senate Substitute for House Committee Substitute for House Bill No. 661, Pages 7-11, Section 260.1250, by striking said section from the bill; and

Further amend said bill, Pages 11 to 12, Section 260.1253, by striking said section from the bill; and

Further amend said bill, Page 13, Section 260.1256, Lines 1 to 14 of said page, by striking said section from the bill; and

Further amend said bill, Pages 13 to 14, Section 260.1259, by striking said section from the bill; and

Further amend said bill, Pages 14 to 15, Section 260.1262, by striking said section from the bill; and

Further amend said bill, Pages 15 to 16, Section 260.1265, by striking said section from the bill; and

Further amend said bill, Page 16, Section 260.1268, Lines 14 to 24 of said page, by striking said section from the bill; and

Further amend said bill, Pages 16 to 17, Section 260.1271, by striking said section from the bill; and

Further amend the title and enacting clause accordingly.

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

Senator Green offered **SA 3**, which was read:

SENATE AMENDMENT NO. 3

Amend Senate Substitute for House Committee Substitute for House Bill No. 661, Page 1, Section A, Line 7, by inserting immediately after said line the following:

“204.659. No person who owns real property that is used for residential purposes within the boundaries of any district created under section 30 of article VI of the Missouri Constitution shall be assessed any fee, charge, or tax for storm water management services if the district does not directly provide sanitary sewer services to such property and if the storm water runoff from such person's property does not flow, or is not otherwise conveyed, to a sewer maintained by such district.”; and

Further amend the title and enacting clause accordingly.

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

Senator Stouffer moved that **SS** for **HCS** for **HB 661**, as amended, be adopted, which motion prevailed.

On motion of Senator Stouffer, **SS** for **HCS** for **HB 661**, as amended, was read the 3rd time and passed by the following vote:

YEAS—Senators

Barnitz	Bray	Callahan	Champion	Cunningham	Days	Dempsey	Engler
Goodman	Green	Griesheimer	Justus	Lager	Lembke	Mayer	McKenna
Nodler	Pearce	Purgason	Ridgeway	Rupp	Schmitt	Scott	Shields
Shoemyer	Smith	Stouffer	Vogel	Wilson	Wright-Jones—30		

NAYS—Senators

Bartle Crowell—2

Absent—Senator Clemens—1

Absent with leave—Senator Schaefer—1

Vacancies—None

The President declared the bill passed.

The emergency clause was adopted by the following vote:

YEAS—Senators

Barnitz	Bray	Callahan	Champion	Crowell	Cunningham	Days	Dempsey
Engler	Goodman	Green	Griesheimer	Justus	Lager	Lembke	Mayer
McKenna	Nodler	Pearce	Purgason	Rupp	Schmitt	Scott	Shields
Shoemyer	Smith	Stouffer	Vogel	Wilson	Wright-Jones—30		

NAYS—Senators

Bartle Ridgeway—2

Absent—Senator Clemens—1

Absent with leave—Senator Schaefer—1

Vacancies—None

On motion of Senator Stouffer, title to the bill was agreed to.

Senator Stouffer moved that the vote by which the bill passed be reconsidered.

Senator Engler moved that motion lay on the table, which motion prevailed.

SENATE BILLS FOR PERFECTION

Senator Griesheimer moved that **SB 299**, with **SCS**, be taken up for perfection, which motion prevailed.

Senator Dempsey assumed the Chair.

SCS for **SB 299**, entitled:

SENATE COMMITTEE SUBSTITUTE FOR
SENATE BILL NO. 299

An Act to repeal sections 393.130, 393.275, 660.110, 660.115, and 660.122, RSMo, and to enact in lieu thereof five new sections relating to utilities.

Was taken up.

Senator Griesheimer moved that **SCS** for **SB 299** be adopted.

Senator Griesheimer offered **SS** for **SCS** for **SB 299**, entitled:

SENATE SUBSTITUTE FOR
SENATE COMMITTEE SUBSTITUTE FOR
SENATE BILL NO. 299

An Act to repeal sections 393.130, 393.275, and 660.122, RSMo, and to enact in lieu thereof three new sections relating to utilities.

Senator Griesheimer moved that **SS** for **SCS** for **SB 299** be adopted.

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

SENATE AMENDMENT NO. 1

Amend Senate Substitute for Senate Committee Substitute for Senate Bill No. 299, Pages 1-4, Section 393.130, by striking all of said section from the bill; and

Further amend the title and enacting clause accordingly.

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

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

SENATE AMENDMENT NO. 2

Amend Senate Substitute for Senate Committee Substitute for Senate Bill No. 299, Page 6, Section 393.275, Line 11, by striking the word “and”; and further amend line 15 by inserting after the word “customers” the following:

“; and

(4) Require the portion of customer rate attributable to this subsection to be listed as a separate line item on customer bills”.

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

At the request of Senator Griesheimer, **SB 299**, with **SCS** and **SS** for **SCS**, as amended (pending), was placed on the Informal Calendar.

Senator Goodman moved that **SB 197**, with **SCS**, be taken up for perfection, which motion prevailed.

SCS for **SB 197**, entitled:

SENATE COMMITTEE SUBSTITUTE FOR
SENATE BILL NO. 197

An Act to amend chapter 191, RSMo, by adding thereto one new section relating to anatomic pathology

services.

Was taken up.

Senator Goodman moved that **SCS** for **SB 197** be adopted, which motion prevailed.

On motion of Senator Goodman, **SCS** for **SB 197** was declared perfected and ordered printed.

Senator Lager moved that **SB 458** be taken up for perfection, which motion prevailed.

On motion of Senator Lager, **SB 458** was declared perfected and ordered printed.

HOUSE BILLS ON THIRD READING

HCS for **HB 154**, entitled:

An Act to repeal section 210.565, RSMo, and to enact in lieu thereof two new sections relating to grandparents as preferential placement for children.

Was taken up by Senator Shields.

Senator Shields offered **SS** for **HCS** for **HB 154**, entitled:

SENATE SUBSTITUTE FOR HOUSE COMMITTEE SUBSTITUTE FOR HOUSE BILL NO. 154

An Act to repeal section 210.565, RSMo, and to enact in lieu thereof two new sections relating to grandparents as preferential placement for children.

Senator Shields moved that **SS** for **HCS** for **HB 154** be adopted.

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

SENATE AMENDMENT NO. 1

Amend Senate Substitute for House Committee Substitute for House Bill No. 154, Page 3, Section 210.565, Line 16, by striking all of said line and inserting in lieu thereof the following:

“grandparent or grandparents should be considered for placement or joint placement.”.

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

Senator Justus offered **SA 2**:

SENATE AMENDMENT NO. 2

Amend Senate Substitute for House Committee Substitute for House Bill No. 154, Page 1, Section A, Line 3, by inserting in lieu thereof the following:

“167.018. 1. Sections 167.018 and 167.019 shall be known and may be cited as the “Foster Care Education Bill of Rights”.

2. Each school district shall designate a staff person as the educational liaison for foster care children. The liaison shall do all of the following in an advisory capacity:

(1) Ensure and facilitate the proper educational placement, enrollment in school, and checkout from school of foster children;

(2) Assist foster care pupils when transferring from one school to another or from one school

district to another, by ensuring proper transfer of credits, records, and grades;

(3) Request school records, as provided in section 167.022, within two business days of placement of a foster care pupil in a school; and

(4) Submit school records of foster care pupils within three business days of receiving a request for school records, under subdivision (3) of this subsection.

167.019. 1. A child placing agency, as defined under section 210.481, RSMo, shall promote educational stability for foster care children by considering the child's school attendance area when making placement decisions. The foster care pupil shall have the right to remain enrolled in and attend his or her school of origin pending resolution of school placement disputes.

2. Each school district shall accept for credit full or partial course work satisfactorily completed by a pupil while attending a public school, nonpublic school, or nonsectarian school in accordance with district policies or regulations.

3. If a pupil completes the graduation requirements of his or her school district of residence while under the jurisdiction of the juvenile court as described in chapter 211, RSMo, the school district of residence shall issue a diploma to the pupil.

4. School districts shall ensure that if a pupil in foster care is absent from school due to a decision to change the placement of a pupil made by a court or child placing agency, or due to a verified court appearance or related court-ordered activity, the grades and credits of the pupil shall be calculated as of the date the pupil left school, and no lowering of his or her grades shall occur as a result of the absence of the pupil under these circumstances.

5. School districts, subject to federal law, shall be authorized to permit access of pupil school records to any child placing agency for the purpose of fulfilling educational case management responsibilities required by the juvenile officer or by law and to assist with the school transfer or placement of a pupil.

6. 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, 2009, shall be invalid and void.”; and

Further amend said bill, page 4, section 210.565, line 16, by inserting immediately after said line the following:

“210.1050. 1. For purposes of this section, for pupils in foster care or children placed for treatment in a licensed residential care facility by the department of social services, “full school day” shall mean six hours in which the child is under the guidance and direction of teachers in the educational process.

2. Each pupil in foster care or child placed for treatment in a licensed residential care facility by the department of social services shall be entitled to a full school day of education unless the school district determines that fewer hours are warranted.

3. The commissioner of education, or his or her designee, shall be an ombudsman to assist the family support team and the school district as they work together to meet the needs of children placed

for treatment in a licensed residential care facility by the department of social services. The ombudsman shall have the final decision over discrepancies regarding school day length. A full school day of education shall be provided pending the ombudsman's final decision.

4. Nothing in this section shall be construed to infringe upon the rights or due process provisions of the federal Individuals with Disabilities Education Act. The provisions of the Individuals with Disabilities Education Act shall apply and control in decisions regarding school day. Nothing in this section shall be construed to deny any child domiciled in Missouri appropriate and necessary free public education services.”; and

Further amend the title and enacting clause accordingly.

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

Senator Justus offered **SA 3**:

SENATE AMENDMENT NO. 3

Amend Senate Substitute for House Committee Substitute for House Bill No. 154, Page 1, In the Title, Line 3, by striking “grandparents as”; and further amend line 4, by striking all of said line and inserting in lieu thereof the following: “child programs administered by the department of social services.”; and

Further amend said bill and page, section A, line 3 of said page, by inserting after all of said line the following:

“208.046. 1. The children's division shall promulgate rules to become effective no later than July 1, 2010, to modify the income eligibility criteria for any person receiving state-funded child care assistance under this chapter, either through vouchers or direct reimbursement to child care providers, as follows:

(1) Child care recipients eligible under this chapter and the criteria set forth in 13 CSR 35-32.010, may pay a fee based on gross income and family size unit based on a child care sliding fee scale established by the children's division, which shall be subject to appropriations. However, a person receiving state-funded child care assistance under this chapter and whose income surpasses the annual appropriation level may continue to receive reduced subsidy benefits on a scale established by the children's division until such person's income reaches forty-five percent above such annual appropriation level, at which time such person will have assumed the full cost of the maximum base child care subsidy rate established by the children's division and shall be no longer eligible for child care subsidy benefits;

(2) The sliding scale fee may be waived for children with special needs as established by the division; and

(3) The maximum payment by the division shall be the applicable rate minus the applicable fee.

2. For purposes of this section, “annual appropriation level” shall mean the percentage of the federal poverty level for the applicable family size necessary to be eligible for the subsidy under this section as determined by annual appropriation.

3. 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, 2009, shall be invalid and void.”; and

Further amend the title and enacting clause accordingly.

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

Senator Days offered **SA 4**:

SENATE AMENDMENT NO. 4

Amend Senate Substitute for House Committee Substitute for House Bill No. 154, Page 4, Section 210.565, Line 16, by inserting after all of said line the following:

“475.010. When used in this chapter, unless otherwise apparent from the context, the following terms mean:

(1) “Adult”, a person who has reached the age of eighteen years;

(2) “Claims”, liabilities of the protectee arising in contract, in tort or otherwise, before or after the appointment of a conservator, and liabilities of the estate which arise at or after the adjudication of disability or after the appointment of a conservator of the estate, including expenses of the adjudication and of administration. The term does not include demands or disputes regarding title of the protectee to specific assets alleged to be included in the estate;

(3) “Conservator”, one appointed by a court to have the care and custody of the estate of a minor or a disabled person. A “limited conservator” is one whose duties or powers are limited. The term “conservator”, as used in this chapter, includes “limited conservator” unless otherwise specified or apparent from the context;

(4) “Custodial parent”, the parent of a minor who has been awarded sole or joint physical custody of such minor, or the parent of an incapacitated person who has been appointed as guardian of such person, by an order or judgment of a court of this state or of another state or territory of the United States, or if there is no such order or judgment, the parent with whom the minor or incapacitated person primarily resides;

(5) “Disabled” or “disabled person”, one who is:

(a) Unable by reason of any physical or mental condition to receive and evaluate information or to communicate decisions to such an extent that the person lacks ability to manage his financial resources[.]; or

(b) The term “disabled” or “disabled person”, as used in this chapter includes the terms “partially disabled” or “partially disabled person” unless otherwise specified or apparent from the context;

[[5]] (6) “Eligible person” or “qualified person”, a natural person, social service agency, corporation or national or state banking organization qualified to act as guardian of the person or conservator of the estate pursuant to the provisions of section 475.055;

[[6]] (7) “Guardian”, one appointed by a court to have the care and custody of the person of a minor or of an incapacitated person. A “limited guardian” is one whose duties or powers are limited. **A “standby guardian” is one approved by the court to temporarily assume the duties of guardian of a minor or of an incapacitated person under section 475.046.** The term “guardian”, as used in this chapter, includes

“limited guardian” and **“standby guardian”** unless otherwise specified or apparent from the context;

[(7)] **(8)** “Guardian ad litem”, one appointed by a court, in which particular litigation is pending, to represent a minor, an incapacitated person, a disabled person, or an unborn person in that particular proceeding or as otherwise specified in this code;

[(8)] **(9)** “Habilitation”, instruction, training, guidance or treatment designed to enable and encourage a mentally retarded or developmentally disabled person as defined in chapter 630, RSMo, to acquire and maintain those life skills needed to cope more effectively with the demands of his **or her** own person and of his **or her** environment;

[(9)] **(10)** “Incapacitated person”, one who is unable by reason of any physical or mental condition to receive and evaluate information or to communicate decisions to such an extent that he **or she** lacks capacity to meet essential requirements for food, clothing, shelter, safety or other care such that serious physical injury, illness, or disease is likely to occur. The term “incapacitated person” as used in this chapter includes the term “partially incapacitated person” unless otherwise specified or apparent from the context;

[(10)] **(11)** “Least restrictive environment”, that there shall be imposed on the personal liberty of the ward only such restraint as is necessary to prevent [him] **the ward** from injuring himself **or herself** and others and to provide [him] **the ward** with such care, habilitation and treatment as are appropriate for [him] **the ward** considering his **or her** physical and mental condition and financial means;

[(11)] **(12)** “Manage financial resources”, either those actions necessary to obtain, administer, and dispose of real and personal property, intangible property, business property, benefits, income or any assets, or those actions necessary to prevent waste, loss or dissipation of property, or those actions necessary to provide for the care and support of such person or anyone legally dependent upon [him] **such person** by a person of ordinary skills and intelligence commensurate with his **or her** training and education;

[(12)] **(13)** “Minor”, any person who is under the age of eighteen years;

(14) “Parent”, the biological or adoptive mother or father of a child whose parental rights have not been terminated under chapter 211, RSMo, including:

(a) A person registered as the father of the child by reason of an unrevoked notice of intent to claim paternity under section 192.016, RSMo;

(b) A person who has acknowledged paternity of the child and has not rescinded that acknowledgment under section 193.215, RSMo; and

(c) A person presumed to be the natural father of the child under section 210.822, RSMo;

[(13)] **(15)** “Partially disabled person”, one who is unable by reason of any physical or mental condition to receive and evaluate information or to communicate decisions to such an extent that [he] **such person** lacks capacity to manage, in part, his **or her** financial resources;

[(14)] **(16)** “Partially incapacitated person”, one who is unable by reason of any physical or mental condition to receive and evaluate information or to communicate decisions to the extent that [he] **such person** lacks capacity to meet, in part, essential requirements for food, clothing, shelter, safety, or other care without court-ordered assistance;

[(15)] **(17)** “Protectee”, a person for whose estate a conservator or limited conservator has been appointed or with respect to whose estate a transaction has been authorized by the court under section 475.092 without appointment of a conservator or limited conservator;

(18) “Seriously ill”, a significant likelihood that a person will become incapacitated or die within twelve months;

[(16)] **(19) “Social service agency”, a charitable organization organized and incorporated as a not-for-profit corporation under the laws of this state and which qualifies as an exempt organization within the meaning of section 501(c)(3), or any successor provision thereto of the federal Internal Revenue Code;**

(20) “Standby guardian”, one who is authorized to have the temporary care and custody of the person of a minor or of an incapacitated person under the provisions of section 475.046;

[(17)] **(21) “Treatment”, the prevention, amelioration or cure of a person's physical and mental illnesses or incapacities;**

[(18)] **(22) “Ward” [is], a minor or an incapacitated person for whom a guardian [or], limited guardian, or standby guardian has been appointed.**

475.045. 1. Except in cases where they fail or refuse to give required security or are adjudged unfit for the duties of guardianship or conservatorship, or waive their rights to be appointed, the following persons, if otherwise qualified, shall be appointed as guardians or conservators of minors:

(1) The parent or parents of the minor, except as provided in section 475.030;

(2) If any minor over the age of fourteen years has no qualified parent living, a person nominated by the minor, unless the court finds appointment contrary to the best interests of the minor;

(3) Where both parents of a minor are dead, any person appointed **under this section or section 475.046** by the will of the last surviving parent, who has not been adjudged unfit or incompetent for the duties of guardian or conservator.

2. Unfitness of any of the persons mentioned in subsection 1 for the duties of guardianship or conservatorship may be adjudged by the court after due notice and hearing.

3. If no appointment is made under subsection 1 **of this section**, the court shall appoint as guardian or conservator of a minor the most suitable person who is willing to serve **and whose appointment serves the best interests of the child to a stable and permanent placement.**

475.046. 1. A custodial parent may designate a person to act as standby guardian of a minor or incapacitated person by a will that complies with the requirements of section 474.320, RSMo, or by a separate written instrument which is dated and is either duly executed and acknowledged by the custodial parent or is signed by the custodial parent in the presence of at least two disinterested witnesses and subscribed by the witnesses. If the custodial parent executes more than one document designating a standby guardian and there is a conflict between the documents as to the person designated, the document bearing the latest date shall control.

2. If a custodial parent who has designated a standby guardian is or becomes seriously ill, the custodial parent or the person designated as standby guardian may file a petition in the probate division of the circuit court of the county which would be of proper venue for the appointment of a guardian of the minor or incapacitated person seeking appointment of the designated person as standby guardian. A copy of the will or separate written instrument designating the standby guardian and a consent to act as standby guardian signed by the person designated shall be filed with the petition, which petition shall state:

(1) The name, age, domicile, actual place of residence, and mailing address of the minor or

incapacitated person;

(2) The name and address of the custodial parent and of the designated standby guardian;

(3) The name and address of each parent of the minor or incapacitated person and whether that parent is living or dead;

(4) The name and address of the spouse, if applicable, and the names, ages, and addresses of all living children of the minor or incapacitated person;

(5) If the person for whom appointment of a standby guardian is sought has been adjudicated incapacitated, the date of adjudication and the name and address of the court which entered the judgment; and

(6) The reasons why the appointment of a standby guardian is sought.

Proceedings on the petition shall be conducted in the same manner as would be applicable in a case for appointment of a successor guardian under section 475.115.

3. The court shall determine appointment of a standby guardian in accordance with the best interests of the minor or incapacitated person after considering all relevant factors, including:

(1) Whether there is a parent other than the custodial parent and, if so, whether the other parent is willing, able, and fit to assume the duties of a parent;

(2) The suitability of a person nominated by the minor or incapacitated person if he or she is, at the time of hearing, able to communicate a reasonable choice; and

(3) The desirability of providing arrangements for the care, custody, and control of the minor or incapacitated person which shall minimize stress and disruption and avoid his or her placement in foster or similar care pending appointment of a guardian if the custodial parent is adjudicated incapacitated or dies.

4. If it appears to the court that a standby guardian should be appointed for a minor or incapacitated person, the court may appoint a standby guardian.

5. The authority of a person to act as standby guardian for a minor or incapacitated person shall only take effect as follows:

(1) If the person has previously been appointed by the court as standby guardian, upon the granting of letters of standby guardianship to the person previously appointed as provided in the order appointing the standby guardian; or

(2) If the person has not previously been appointed by the court as standby guardian, either because a petition for appointment has not been filed or because a petition has been filed but the proceedings are still pending, upon the first to occur of the following:

(a) The consent of the custodial parent in a writing duly executed and acknowledged by the custodial parent;

(b) Entry of an order adjudicating the custodial parent to be incapacitated; or

(c) The death of the custodial parent.

The person shall, within ten days after he or she begins to act as standby guardian, notify the court in writing of that fact and of the reasons therefor. The court may grant letters of standby

guardianship to the person or, if the court deems it advisable, conduct a hearing to determine the propriety of the person having begun, and continuing, to act as standby guardian and the propriety of issuing letters of standby guardianship to the person.

6. A person acting as standby guardian of a minor or incapacitated person shall, within sixty days after he or she begins to act, petition the court for appointment of the standby guardian or some other qualified person as guardian of the minor or incapacitated person. Proceedings on the petition shall be conducted in the same manner as would be applicable in a case for appointment of a successor guardian under section 475.115.

7. Nothing in this section shall be construed to:

(1) Deprive a parent of his or her legal rights with respect to a minor or incapacitated person who is a child of that parent, including court ordered visitation with the child, nor to authorize a grant of authority to a standby guardian which would supersede any such rights; or

(2) Relieve a parent of his or her legal obligations or duties to a minor or incapacitated person who is a child of that parent, including a duty to support the child in accordance with a court or administrative order.

8. Except to the extent determined by the court to be inconsistent with the provisions of this section or as expressly provided in this section, the laws applicable to guardianship proceedings shall apply to all proceedings under this section.

475.105. 1. When a duly appointed guardian or conservator has given bond, as required by law, and the bond has been approved, letters under the seal of the court shall be issued to [him] **the person appointed**. Such letters shall specify whether they are of guardianship [or], limited guardianship, **or standby guardianship** of the person, or conservatorship or limited conservatorship of the estate, or both, and the original or duly certified copies thereof shall be prima facie evidence of the facts therein stated.

2. Letters of guardianship and conservatorship for minors may be in the following form:

IN THE PROBATE DIVISION OF THE CIRCUIT COURT
OF COUNTY, MISSOURI
LETTERS OF (STANDBY) GUARDIANSHIP (AND
CONSERVATORSHIP) OF MINOR

Estate No.

On, was appointed and has qualified as (standby) guardian of the person (and conservator of the estate) for the following minor(s):

- Born, 20.
- Born, 20.
- Born, 20.
- Born, 20.

By reason thereof, the above-named (standby) guardian (and conservator) is authorized and empowered to perform the duties of such (standby) guardian (and conservator) as provided by law under the supervision of the court having care and custody of the person (and of the estate) of the above-named minor(s).

IN TESTIMONY WHEREOF, the undersigned Clerk has signed these letters and affixed the seal of this court on

.....

Clerk

Recorded on, in Book at Page

.....

Clerk

3. Letters of guardianship and conservatorship for incapacitated and disabled persons may be in the following form:

IN THE PROBATE DIVISION OF THE CIRCUIT COURT
OF COUNTY, MISSOURI
LETTERS OF (**STANDBY**) GUARDIANSHIP OF INCAPACITATED
PERSON (AND CONSERVATORSHIP OF DISABLED PERSON)

Estate No.

On, was appointed and has qualified as (**standby**) guardian of the person (and conservator of the estate) for, an incapacitated (and disabled) person.

By reason thereof, the above-named (**standby**) guardian (and conservator) is authorized and empowered to perform the duties of such (**standby**) guardian (and conservator) as provided by law under the supervision of the court having care and custody of the person (and estate) of the above-named incapacitated (and disabled) person.

IN TESTIMONY WHEREOF, the undersigned Clerk has signed these letters and affixed the seal of this court on, 20 . . .

.....

Clerk”; and

Further amend the title and enacting clause accordingly.

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

Senator Bray offered **SA 5**, which was read:

SENATE AMENDMENT NO. 5

Amend Senate Substitute for House Committee Substitute for House Bill No. 154, Page 2, Section 210.305, Line 17 of said page, by striking the word “three” and inserting in lieu thereof the following: “**twenty-four**”; and

Further amend line 19 of said page by striking the word “three-hour” and inserting in lieu thereof the following: “**twenty-four hour**”; and

Further amend said section, line 21 of said page, by striking the word “three-hour” and inserting in lieu thereof the following: “**twenty-four hour**”.

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

Senator Barnitz offered **SA 6**:

SENATE AMENDMENT NO. 6

Amend Senate Substitute for House Committee Substitute for House Bill No. 154, Page 4, Section 210.565, Line 16, by inserting after all of said line the following:

“7. The guardian ad litem shall ascertain the child's wishes and feelings about his or her placement by conducting an interview or interviews with the child, if appropriate based on the child's age and maturity level, which shall be considered as a factor in placement decisions and recommendations, but shall not supersede the preference for relative placement created by this section or be contrary to the child's best interests.

453.030. 1. In all cases the approval of the court of the adoption shall be required and such approval shall be given or withheld as the welfare of the person sought to be adopted may, in the opinion of the court, demand.

2. The written consent of the person to be adopted shall be required in all cases where the person sought to be adopted is fourteen years of age or older, except where the court finds that such child has not sufficient mental capacity to give the same. **In a case involving a child under fourteen years of age, the guardian ad litem shall ascertain the child's wishes and feelings about his or her adoption by conducting an interview or interviews with the child, if appropriate based on the child's age and maturity level, which shall be considered by the court as a factor in determining if the adoption is in the child's best interests.**

3. With the exceptions specifically enumerated in section 453.040, when the person sought to be adopted is under the age of eighteen years, the written consent of the following persons shall be required and filed in and made a part of the files and record of the proceeding:

(1) The mother of the child; and

(2) Only the man who:

(a) Is presumed to be the father pursuant to the subdivision (1), (2), or (3) of subsection 1 of section 210.822, RSMo; or

(b) Has filed an action to establish his paternity in a court of competent jurisdiction no later than fifteen days after the birth of the child and has served a copy of the petition on the mother in accordance with section 506.100, RSMo; or

(c) Filed with the putative father registry pursuant to section 192.016, RSMo, a notice of intent to claim paternity or an acknowledgment of paternity either prior to or within fifteen days after the child's birth, and has filed an action to establish his paternity in a court of competent jurisdiction no later than fifteen days after the birth of the child; or

(3) The child's current adoptive parents or other legally recognized mother and father.

Upon request by the petitioner and within one business day of such request, the clerk of the local court shall verify whether such written consents have been filed with the court.

4. The written consent required in subdivisions (2) and (3) of subsection 3 of this section may be executed before or after the commencement of the adoption proceedings, and shall be acknowledged before

a notary public. In lieu of such acknowledgment, the signature of the person giving such written consent shall be witnessed by the signatures of at least two adult persons whose signatures and addresses shall be plainly written thereon. The two adult witnesses shall not be the prospective adoptive parents or any attorney representing a party to the adoption proceeding. The notary public or witnesses shall verify the identity of the party signing the consent.

5. The written consent required in subdivision (1) of subsection 3 of this section by the birth parent shall not be executed anytime before the child is forty-eight hours old. Such written consent shall be executed in front of a judge or a notary public. In lieu of such acknowledgment, the signature of the person giving such written consent shall be witnessed by the signatures of at least two adult persons who are present at the execution whose signatures and addresses shall be plainly written thereon and who determine and certify that the consent is knowingly and freely given. The two adult witnesses shall not be the prospective adoptive parents or any attorney representing a party to the adoption proceeding. The notary public or witnesses shall verify the identity of the party signing the consent.

6. The written consents shall be reviewed and, if found to be in compliance with this section, approved by the court within three business days of such consents being presented to the court. Upon review, in lieu of approving the consent within three business days, the court may set a date for a prompt evidentiary hearing upon notice to the parties. Failure to review and approve the written consent within three business days shall not void the consent, but a party may seek a writ of mandamus from the appropriate court, unless an evidentiary hearing has been set by the court pursuant to this subsection.

7. The written consent required in subsection 3 of this section may be withdrawn anytime until it has been reviewed and accepted by a judge.

8. A consent form shall be developed through rules and regulations promulgated by the department of social services. No rule or portion of a rule promulgated under the authority of this section shall become effective unless it has been promulgated pursuant to the provisions of chapter 536, RSMo. If a written consent is obtained after August 28, 1997, but prior to the development of a consent form by the department and the written consent complies with the provisions of subsection 9 of this section, such written consent shall be deemed valid.

9. However, the consent form must specify that:

(1) The birth parent understands the importance of identifying all possible fathers of the child and may provide the names of all such persons; and

(2) The birth parent understands that if he denies paternity, but consents to the adoption, he waives any future interest in the child.

10. The written consent to adoption required by subsection 3 and executed through procedures set forth in subsection 5 of this section shall be valid and effective even though the parent consenting was under eighteen years of age, if such parent was represented by a guardian ad litem, at the time of the execution thereof.

11. Where the person sought to be adopted is eighteen years of age or older, his written consent alone to his adoption shall be sufficient.

12. A birth parent, including a birth parent less than eighteen years of age, shall have the right to legal representation and payment of any reasonable legal fees incurred throughout the adoption process. In addition, the court may appoint an attorney to represent a birth parent if:

(1) A birth parent requests representation;

(2) The court finds that hiring an attorney to represent such birth parent would cause a financial hardship for the birth parent; and

(3) The birth parent is not already represented by counsel.

13. Except in cases where the court determines that the adoptive parents are unable to pay reasonable attorney fees and appoints pro bono counsel for the birth parents, the court shall order the costs of the attorney fees incurred pursuant to subsection 12 of this section to be paid by the prospective adoptive parents or the child-placing agency.”; and

Further amend the title and enacting clause accordingly.

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

Senator Shields moved that **SS** for **HCS** for **HB 154**, as amended, be adopted, which motion prevailed.

Senator Shields moved that **SS** for **HCS** for **HB 154**, as amended, be read the 3rd time and passed and was recognized to close.

President Pro Tem Shields referred **SS** for **HCS** for **HB 154**, as amended, to the Committee on Governmental Accountability and Fiscal Oversight.

RESOLUTIONS

Senator Engler offered Senate Resolution No. 913, regarding Michelle Lynn Cobb, which was adopted.

Senator Bartle offered Senate Resolution No. 914, regarding Dr. Larry E. Ewing, which was adopted.

Senator Bartle offered Senate Resolution No. 915, regarding Jeffrey White, which was adopted.

Senator Champion offered Senate Resolution No. 916, regarding Matthew Stephen “Matt” Reese, Springfield, which was adopted.

Senator Champion offered Senate Resolution No. 917, regarding Dr. Jason Anderson, Springfield, which was adopted.

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

RECESS

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

SENATE BILLS FOR PERFECTION

Senator Rupp moved that **SB 335** and **SB 16**, with **SCS**, be called from the Informal Calendar and taken up for perfection, which motion prevailed.

SCS for **SBs 335** and **16**, entitled:

SENATE COMMITTEE SUBSTITUTE FOR SENATE BILLS NOS. 335 and 16

An Act to repeal section 303.024, RSMo, and to enact in lieu thereof two new sections relating to the motor vehicle financial responsibility law, with penalty provisions.

Was taken up.

Senator Rupp moved that **SCS** for **SBs 335** and **16** be adopted.

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

SENATE AMENDMENT NO. 1

Amend Senate Committee Substitute for Senate Bills Nos. 335 and 16, Pages 2-3, Section 303.390, by striking said section from the bill; and

Further amend the title and enacting clause accordingly.

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

Senator Rupp moved that **SCS** for **SBs 335** and **16**, as amended, be adopted, which motion prevailed.

On motion of Senator Rupp, **SCS** for **SBs 335** and **16**, as amended, was declared perfected and ordered printed.

HOUSE BILLS ON THIRD READING

HB 259, introduced by Representative Tilley, entitled:

An Act to repeal section 376.383, RSMo, and to enact in lieu thereof one new section relating to health care claims for reimbursement.

Was taken up by Senator Engler.

Senator Lembke offered **SS** for **HB 259**, entitled:

**SENATE SUBSTITUTE FOR
HOUSE BILL NO. 259**

An Act to repeal section 376.383, RSMo, and to enact in lieu thereof one new section relating to the payment of health insurance claims.

Senator Lembke moved that **SS** for **HB 259** be adopted.

Senator Shoemyer offered **SA 1**:

SENATE AMENDMENT NO. 1

Amend Senate Substitute for House Bill No. 259, Page 6, Section 376.383, Line 18, by inserting after all of said line the following:

“376.444. 1. As used in this section, the following terms shall mean:

(1) “Health carrier”, the same meaning as such term is defined in section 376.1350;

(2) “Provider”, the same meaning as such term is defined in section 376.1350 and licensed pharmacies and home health agencies.

2. An agreement between a health carrier and a participating provider under this chapter or chapter 354, RSMo, shall not contain a provision that requires the participating provider to disclose the participating provider's reimbursement rates under contracts with other health carriers.

3. Any contract provision that violates this section is void and unenforceable.”; and

Further amend the title and enacting clause accordingly.

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

Senator Pearce assumed the Chair.

Senator Dempsey offered SA 2:

SENATE AMENDMENT NO. 2

Amend Senate Substitute for House Bill No. 259, Page 1, Section A, Line 3, by inserting immediately after said line the following:

“191.1005. 1. For purposes of this section, “insurer” includes the state of Missouri for purposes of the rendering of health care services by providers under a medical assistance program of the state.

2. Programs of insurers that publicly assess and compare the quality and cost efficiency of health care providers shall conform to the following criteria:

(1) The insurers shall retain, at their own expense, the services of a nationally-recognized independent health care quality standard-setting organization to review the plan's programs for consumers that measure, report, and tier providers based on their performance. Such review shall include a comparison to national standards and a report detailing the measures and methodologies used by the health plan. The scope of the review shall encompass all elements described in this section and section 191.1008;

(2) The program measures shall provide performance information that reflects consumers' health needs. Programs shall clearly describe the extent to which they encompass particular areas of care, including primary care and other areas of specialty care;

(3) Performance reporting for consumers shall include both quality and cost efficiency information. While quality information may be reported in the absence of cost-efficiency, cost-efficiency information shall not be reported without accompanying quality information;

(4) When any individual measures or groups of measures are combined, the individual scores, proportionate weighting, and any other formula used to develop composite scores shall be disclosed. Such disclosure shall be done both when quality measures are combined and when quality and cost efficiency are combined;

(5) Consumers or consumer organizations shall be solicited to provide input on the program, including methods used to determine performance strata;

(6) A clearly defined process for receiving and resolving consumer complaints shall be a component of any program;

(7) Performance information presented to consumers shall include context, discussion of data limitations, and guidance on how to consider other factors in choosing a provider;

(8) Relevant providers and provider organizations shall be solicited to provide input on the program, including the methods used to determine performance strata;

(9) Providers shall be given reasonable prior notice before their individual performance information is publicly released;

(10) A clearly defined process for providers to request review of their own performance results and the opportunity to present information that supports what they believe to be inaccurate results, within a reasonable time frame, shall be a component of any program. Results determined to be inaccurate after the reconsideration process shall be corrected;

(11) Information about the comparative performance of providers shall be accessible and understandable to consumers and providers;

(12) Information about factors that might limit the usefulness of results shall be publicly disclosed;

(13) Measures used to assess provider performance and the methodology used to calculate scores or determine rankings shall be published and made readily available to the public. Some elements shall be assessed against national standards. Examples of measurement elements that shall be assessed against national standards include: risk and severity adjustment, minimum observations, and statistical standards utilized. Examples of other measurement elements that shall be fully disclosed include: data used, how providers' patients are identified, measure specifications and methodologies, known limitations of the data, and how episodes are defined;

(14) The rationale and methodologies supporting the unit of analysis reported shall be clearly articulated, including a group practice model versus the individual provider;

(15) Sponsors of provider measurement and reporting shall work collaboratively to aggregate data whenever feasible to enhance its consistency, accuracy, and use. Sponsors of provider measurement and reporting shall also work collaboratively to align and harmonize measures used to promote consistency and reduce the burden of collection. The nature and scope of such efforts shall be publicly reported;

(16) The program shall be regularly evaluated to assess its effectiveness and any unintended consequences;

(17) Measures shall be based on national standards. The primary source shall be measures endorsed by the National Quality Forum (NQF). When non-NQF measures are used because NQF measures do not exist or are unduly burdensome, it shall be with the understanding that they will be replaced by comparable NQF-endorsed measures when available;

(18) Where NQF-endorsed measures do not exist, the next level of measures to be considered, to the extent practical, shall be those endorsed by the Ambulatory Care Quality Alliance, national accrediting organizations such as the National Committee for Quality Assurance, or the Joint Commission on the Accreditation of Healthcare Organizations and federal agencies;

(19) Supplemental measures are permitted if they address areas of measurement for which national standards do not yet exist or for which existing national standard measure requirements are unreasonably burdensome on providers or program sponsors. Supplemental measures may be used if they are part of a pilot program to assess the extent to which the measures could fill national gaps in measurement. When supplemental measures are used they shall reasonably adhere to the NQF measure criteria, including importance, scientific acceptability, feasibility and usability, and may include sources such as provider specialty society guidelines. The director of the department of insurance, financial institutions and professional registration shall be authorized to adopt by administrative rule any updates or modifications to the most recent version of the Patient Charter for Physician Performance, Measurement, Reporting and Tiering Programs.

3. The use by insurers of programs to publicly assess and compare the quality and cost efficiency of health care providers under subsection 2 of this section shall not be a basis for a provider to decline to enter into a provider contract with an insurer. A provider shall not withhold or otherwise obstruct an insurer from using data collected from medical claims or other sources generated by the provider and in possession of the insurer for the purpose of providing plan enrollees, providers, or the public

information on the quality and cost efficiency differences in treatments and providers as long as the data is not used in a manner that violates any provisions of the federal Health Insurance Portability and Accountability Act or antitrust law.

191.1008. 1. Any person who sells or otherwise distributes to the public health care quality and cost efficiency data for disclosure in comparative format to the public shall identify the measure source or evidence-based science behind the measure and the national consensus, multi-stakeholder, or other peer review process, if any, used to confirm the validity of the data and its analysis as an objective indicator of health care quality.

2. Articles or research studies on the topic of health care quality or cost efficiency that are published in peer-reviewed academic journals that do not receive funding from or is affiliated with a health care insurer or by state or local government shall be exempt from the requirements of subsection 1 of this section.

3. (1) Upon receipt of a complaint of an alleged violation of this section by a person or entity other than a health carrier, the department of health and senior services shall investigate the complaint and, upon finding that a violation has occurred, shall be authorized to impose a penalty in an amount not to exceed one thousand dollars. The department shall promulgate rules governing its processes for conducting such investigations and levying fines authorized by law.

(2) 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, 2009, shall be invalid and void.

191.1010. All alleged violations of sections 191.1005 to 191.1008 by a health insurer shall be investigated and enforced by the department of insurance, financial institutions and professional registration under the department's powers and responsibilities to enforce the insurance laws of this state in accordance with chapter 374, RSMo.

191.1200. 1. The general assembly shall appropriate four hundred thousand dollars from the health care technology fund created in section 208.975, RSMo, to the department of social services for the purpose of awarding a grant to implement an Internet web-based primary care access pilot project designed as a collaboration between private and public sectors to connect, where appropriate, a patient with a primary care medical home, and schedule patients into available community-based appointments as an alternative to nonemergency use of the hospital emergency room. The grantee shall establish a program that diverts patients presenting at an emergency room for nonemergency care to more appropriate outpatient settings as is consistent with federal law and regulations. The program shall refer the patient to an appropriate health care professional based on the patient's health care needs and situation. The program shall provide the patient with a scheduled appointment that is timely, with an appropriate provider who is conveniently located. If the patient is uninsured and potentially eligible for MO HealthNet, the program shall connect the patient to a primary care provider, community clinic, or agency that can assist the patient with the application process. The program shall also ensure that discharged patients are connected with a community-based primary care provider and assist in scheduling any necessary follow-up visits before the patient is discharged.

2. The program shall not require a provider to pay a fee for accepting charity care patients in a Missouri public health care program.

3. The grantee shall report to the director on a quarterly basis the following information:

- (1) The total number of appointments available for scheduling by specialty;**
- (2) The average length of time between scheduling and actual appointment;**
- (3) The total number of patients referred and whether the patient was insured or uninsured; and**
- (4) The total number of appointments resulting in visits completed and number of patients continuing services with the referring clinic.**

4. The director, in consultation with the Missouri Hospital Association, or a successor organization, shall conduct an evaluation of the emergency room diversion pilot project and submit the results to the general assembly by January 15, 2009. The evaluation shall compare the number of nonemergency visits and repeat visits to hospital emergency rooms for the period before the commencement of the project and one year after the commencement, and an estimate of the costs saved from any documented reductions.

191.1250. As used in sections 191.1250 to 191.1277, the following terms shall mean:

(1) “Chronic condition”, any regularly recurring, potentially life-threatening medical condition that requires regular supervision by a primary care physician and/or medical specialist;

(2) “Department”, the department of health and senior services;

(3) “EMR” or “electronic medical record”, refers to a patient's medical history that is stored in real-time using information technology and which can be amended, updated, or supplemented by the patient or the physician using the electronic medical record;

(4) “HIPAA”, the federal Health Insurance Portability and Accountability Act of 1996;

(5) “Originating site”, a place where a patient may receive health care via telehealth. An originating site may include:

(a) A licensed inpatient center;

(b) An ambulatory surgical center;

(c) Any practice location, office, or clinic of a licensed health care professional;

(d) A skilled nursing facility;

(e) A residential treatment facility;

(f) A home health agency;

(g) A diagnostic laboratory or imaging center;

(h) An assisted living facility;

(i) A school-based health program;

(j) A mobile clinic;

(k) A mental health clinic;

(l) A rehabilitation or other therapeutic health setting;

(m) The patient's residence;

(n) The patient's place of employment; or

(o) The patient's then-current location if the patient is away from the patient's residence or place of employment;

(6) “Telehealth”, the use of telephonic and other electronic means of communications to provide and support health care delivery, diagnosis, consultation, and treatment when distance separates the patient and the health care provider;

(7) “Telehealth practitioner”, a person who is a licensed health care professional and who utilizes telehealth to diagnose, consult with, or treat patients without having conducted an in-person consultation with a particular patient.

191.1256. Sections 191.1250 to 191.1277 do not:

(1) Alter the scope of practice of any health care practitioner; or

(2) Limit a patient's right to choose in-person contact with a health care professional for the delivery of health care services for which telehealth is available.

191.1259. The delivery of health care via telehealth is recognized and encouraged as a safe, practical and necessary practice in this state. No health care provider or operator of an originating site shall be disciplined for or discouraged from participating in sections 191.1250 to 191.1277. In using telehealth procedures, health care providers and operators of originating sites shall comply with all applicable federal and state guidelines and shall follow established federal and state rules regarding security, confidentiality and privacy protections for health care information.

191.1265. Only telehealth practitioners qualified under sections 191.1250 to 191.1277 may practice telehealth care in this state. Telehealth practitioners may reside outside this state but shall be licensed by an appropriate board within the division of professional registration. Beginning July 1, 2010, all health carriers, as defined under section 376.1350, RSMo, shall reimburse services provided through telehealth in the same manner they would reimburse a standard office visit or consultation by the provider or specialist. The department of social services shall promulgate rules for the MO HealthNet program consistent with the provisions of this section.

191.1271. By January 1, 2010, the department shall promulgate quality control rules and regulations to be used in removing and improving the services of telehealth practitioners. 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, 2009, shall be invalid and void.”; and

Further amend the title and enacting clause accordingly.

Senator Dempsey moved that the above amendment be adopted.

Senator Cunningham raised the point of order that **SA 2** is out of order as it goes beyond the scope of the subject matter of the bill.

The point of order was referred to the President Pro Tem who ruled it well taken.

Senator Stouffer offered **SA 3**, which was read:

SENATE AMENDMENT NO. 3

Amend Senate Substitute for House Bill No. 259, Page 4, Section 376.383, Line 10, by striking the word “day” and inserting in lieu thereof the following: **“month”**.

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

Senator Goodman offered **SA 4**:

SENATE AMENDMENT NO. 4

Amend Senate Substitute for House Bill No. 259, Page 1, In the Title, Lines 3-4, by striking all of said lines, and inserting in lieu thereof the following: “thereof one new section relating to health insurance.”; and further amend said bill, page 6, section 376.383, line 18 by inserting after said line the following:

“Section 1. 1. The provisions of chapter 376, RSMo, relating to health insurance, health maintenance organizations, health benefit plans, group health services, and health carriers shall not apply to a plan that provides health care services to low income individuals on a prepaid basis and that meets the following conditions:

(1) Eligibility in the plan is limited to persons who earn less than two hundred percent of the federal poverty level and are not covered under any other group insurance arrangement;

(2) The plan is operated on a nonprofit basis under the sponsorship of a nonprofit organization that is qualified as exempt from federal taxation under Section 501(c)(3) of the Internal Revenue Code of 1986, as amended;

(3) Covered primary care services are provided to enrollees either by providers on staff of the sponsoring organization or by volunteers recruited from a local medical society who have, in both instances, agreed to provide their services for free or for nominal reimbursement for out-of-pocket expenses or expendable supplies directly related to, and incurred as a result of, the service provided to the enrollee;

(4) Payments to outside contractors for marketing, claims administration and similar services total no more than ten percent of the total charges;

(5) The plan has received the approval and endorsement of the local medical society in consultation with the Missouri State Medical Association; and

(6) The sponsoring nonprofit organization files an annual report with the secretary of state within ninety days of the close of the organization's fiscal year that includes, at a minimum, the following information:

(a) The number of plan enrollees;

(b) Total services rendered under the plan;

(c) Plan financial statements;

(d) Administrative costs and salaries paid by the plan; and

(e) Other information that may be reasonably requested by the secretary of state.

2. A plan that meets the requirements of this section shall not be considered to be engaging in the business of insurance for purposes of chapter 376, RSMo, or any provision of Title XXIV, RSMo, and

shall not be subject to the jurisdiction of the director of the department of insurance, financial institutions and professional registration.

Section 2. 1. Any volunteer physician, dentist, optometrist, pharmacist, registered professional nurse, licensed practical nurse, psychiatrist, psychologist, professional counselors, or clinical social workers licensed to practice in this state under the provisions of chapter 332, 334, 335, 336, 337, or 338, RSMo, or any volunteer retired physician, dentist, optometrist, pharmacist, registered professional nurse, licensed practical nurse, psychiatrist, psychologist, professional counselor, or clinical social worker who provides medical or mental health treatment to a patient at a nonprofit faith-based community health center that provides health care services for a nominal fee and is qualified as exempt from federal taxation under Section 501(c)(3) of the Internal Revenue Code of 1986, as amended, shall not be liable for any civil damages for acts or omissions unless the damages were occasioned by gross negligence or by willful or wanton acts or omissions by such health care provider under this section in rendering such treatment.

2. For purposes of this section, a “volunteer” is an individual rendering medical or mental health treatment who is not compensated for his or her services on a salary or prorated equivalent basis.

3. In order for a retired physician, dentist, optometrist, pharmacist, registered professional nurse, licensed practical nurse, psychiatrist, psychologist, professional counselor, or clinical social worker to receive the immunity from liability under this section, such health care provider shall have been in good standing with their respective governing professional board at the time of his or her retirement.”; and

Further amend the title and enacting clause accordingly.

Senator Goodman moved that the above amendment be adopted.

Senator Cunningham raised the point of order that **SA 4** is out of order as it goes beyond the scope of the subject matter of the bill.

The point of order was referred to the President Pro Tem who ruled it well taken.

Senator Wilson offered **SA 5**:

SENATE AMENDMENT NO. 5

Amend Senate Substitute for House Bill No. 259, Page 3, Section 376.383, Line 16, by inserting after the word “pay” the following: “**or deny**”.

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

Senator Lembke moved that **SS** for **HB 259**, as amended, be adopted, which motion prevailed.

On motion of Senator Engler, **SS** for **HB 259**, as amended, was read the 3rd time and passed by the following vote:

YEAS—Senators

Barnitz	Bartle	Callahan	Champion	Crowell	Cunningham	Days	Dempsey
Engler	Goodman	Green	Griesheimer	Justus	Lager	Lembke	Mayer
McKenna	Pearce	Purgason	Ridgeway	Rupp	Schmitt	Scott	Shields
Shoemyer	Smith	Stouffer	Wilson	Wright-Jones—29			

NAYS—Senators—None

Absent—Senators

Bray
Clemens—2

Absent with leave—Senators

Nodler Schaefer Vogel—3

Vacancies—None

The President declared the bill passed.

On motion of Senator Engler, title to the bill was agreed to.

Senator Engler moved that the vote by which the bill passed be reconsidered.

Senator Shields moved that motion lay on the table, which motion prevailed.

REPORTS OF STANDING COMMITTEES

Senator Engler, 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 **SCS for SBs 335 and 16; SCS for SB 197;** and **SB 458**, 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.

COMMUNICATIONS

Senator Bartle submitted the following:

April 21, 2009

Terry Spieler
Room 325, State Capitol
Jefferson City, MO 65101

Dear Ms. Spieler,

In accordance with Senate Rule 45 I hereby object to HB 914 remaining on the Senate Consent Calendar.

Sincerely,
/s/ Matt Bartle
Matt Bartle

Also,

Senator Bray submitted the following:

April 21, 2009

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

I respectfully request that House Bill 709 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.

Sincerely,
/s/ Joan Bray
Joan Bray

Also,

April 20, 2009
Terry Spieler
Office of Secretary of Senate
State Capitol, Room 325
Jefferson City, MO 65101

Dear Terry:

In accordance with Rule 45, I am writing to object to the placement of HB 253, regarding motorcycle headlamps, on the Consent Calendar. Thank you for your attention to this matter.

Very Best Regards,
/s/ Jolie Justus
Jolie L. Justus

INTRODUCTIONS OF GUESTS

Senator Shoemyer introduced to the Senate, elected officials and constituents from the 18th Senatorial District.

Senator Days introduced to the Senate, Eli Brooks Williams, Jefferson City; and Eli was made an honorary page.

Senator Scott introduced to the Senate, members of the Missouri Treasurers Association.

Senator Bray introduced to the Senate, Dr. Dayna Early, Olivette.

Senator Shields introduced to the Senate, Samantha Warren, Platte City; and students from the University of Missouri campuses in Columbia, Kansas City, St. Louis and Rolla.

Senator Shields introduced to the Senate, Cathy Shanks, Pat Casey, Sarah Randall, Arlene Sollars, Mandy Rowlett, Christina McCabe and seventh grade students from Truman Middle School, St. Joseph; and Guadalupe Reyes and Alex Lutz were made honorary pages.

Senator Champion introduced to the Senate, fourth grade students from Delaware Elementary School, Springfield.

Senator Crowell introduced to the Senate, Girl Scouts from Sikeston.

Senator Champion introduced to the Senate, fourth grade students from Horace Mann, Springfield.

Senator Schmitt introduced to the Senate, former State Representative Tony Dill and scouts, Keith McCormack, Andrew Duesenberg, Joseph Slama, Joel Wilper, Wil Sharpe and Ryan Adams, members of Boy Scout Troop 165, Seven Holy Founders Parish, Affton.

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

SENATE CALENDAR

 FIFTY-SEVENTH DAY—WEDNESDAY, APRIL 22, 2009

FORMAL CALENDAR

HOUSE BILLS ON SECOND READING

HCS for HB 668
HCS for HB 361

HCS for HB 217
HB 170-Cox, et al

THIRD READING OF SENATE BILLS

SS for SCS for SB 167-Rupp
(In Fiscal Oversight)
SS for SCS for SB 558-Mayer
(In Fiscal Oversight)
SCS for SB 549-Schmitt
(In Fiscal Oversight)

SS#2 for SCS for SB 363-Griesheimer
(In Fiscal Oversight)
SCS for SBs 335 & 16-Rupp
SCS for SB 197-Goodman
SB 458-Lager

HOUSE BILLS ON THIRD READING

HB 644-Wilson (130) (Griesheimer)

INFORMAL CALENDAR

SENATE BILLS FOR PERFECTION

SB 7-Griesheimer, with SS (pending)
SB 18-Bray, et al, with SCS & SS for SCS
(pending)
SB 29-Stouffer
SBs 45, 212, 136, 278, 279, 285 &
288-Pearce and Smith, with SCS &
SS#3 for SCS (pending)
SB 57-Stouffer, with SCS & SA 1 (pending)
SB 72-Stouffer, with SCS
SB 94-Justus, et al, with SCS & SS for SCS
(pending)
SB 174-Griesheimer and Goodman, with
SCS, SS#2 for SCS & SA 2 (pending)

SCS for SB 189-Shields
SBs 223 & 226-Goodman and Nodler, with
SCS & SA 1 (pending)
SB 228-Scott, with SCS, SS for SCS, SA 12,
SSA 1 for SA 12 & SA 1 to SSA 1 for SA 12
(pending)
SB 236-Lembke
SB 254-Barnitz, with SS (pending)
SBs 261, 159, 180 & 181-Bartle and Goodman,
with SCS & SS#3 for SCS (pending)
SB 264-Mayer
SB 267-Mayer and Green, with SA 1 (pending)
SB 284-Lembke, et al, with SA 1 (pending)

SB 299-Griesheimer, with SCS & SS for SCS
(pending)
SB 321-Days, et al, with SCS (pending)
SB 364-Clemens and Schaefer
SB 409-Stouffer, with SCS (pending)
SB 477-Wright-Jones, with SS (pending)

SB 527-Nodler and Bray
SB 555-Lager, with SCS, SS for SCS & SA 2
(pending)
SB 572-Dempsey and Justus
SJR 12-Scott, with SCS (pending)

HOUSE BILLS ON THIRD READING

HB 103-Wildberger, et al, with SCS &
SS for SCS (pending) (Callahan)
SS for HCS for HB 154 (Shields)
(In Fiscal Oversight)
HCS for HB 191, with SCS & SS for SCS
(pending) (Griesheimer)

HB 287-Day, et al, with SS (pending)
(Mayer)
HB 376-Hobbs, et al, with SCS (Griesheimer)

CONSENT CALENDAR

House Bills

Reported 4/9

HCS for HB 251 (Clemens)
HB 210-Deeken (Crowell)
HCS for HB 397 & HCS for HB 947,
with SCS (Ridgeway)

HB 400-Nasheed, et al (Smith)
HB 593-Viebrock (Crowell)
HB 678-Wasson (Goodman)
HB 537-Dixon, et al (Wright-Jones)

Reported 4/14

HB 83-Wood, with SCS (Goodman)
HCS for HB 124 (McKenna)
HB 171-Cox, et al, with SCS (Stouffer)
HB 282-Stevenson, et al (Nodler)
HB 652-Pratt (Bartle)

HB 698-Zimmerman, et al (Schmitt)
HCS for HB 895 (Stouffer)
HB 918-Kelly (Schaefer)
HB 919-Ruestman, et al (Goodman)

Reported 4/15

HCS for HB 272, with SCS (Days)
HCS for HB 525 (Schmitt)
HCS for HB 231 (Rupp)

HCS for HB 237, HB 238 & HB 482,
with SCS (Bartle)
HB 826-Brown (149), et al (Lembke)

HB 866-Wells, et al, with SCS (Lembke)	HCS for HBs 234 & 493 (Shoemyer)
HCS for HB 685 (Goodman)	HCS for HB 148, with SCS#2 (Griesheimer)
HB 867-Guest, with SCS (Lager)	HB 326-Sutherland, with SCS (Griesheimer)
HCS for HBs 836 & 753, with SCS (Justus)	HCS for HB 236, with SCS (Crowell)
HB 811-Wasson (Scott)	HB 289-Wallace (Mayer)
HCS for HB 273 (Scott)	HB 373-Wallace, with SCS (Mayer)
HCS for HB 485 (Mayer)	HB 490-Schad, et al (Pearce)
HB 859-Dieckhaus, et al (Griesheimer)	HB 506-Funderburk, et al, with SCS (Rupp)
HCS for HB 667, with SCS (Goodman)	HB 682-Swinger, et al (Mayer)
HB 283-Wood, with SCS (Goodman)	HB 922-Smith (14), et al, with SCS (Rupp)

BILLS IN CONFERENCE AND BILLS
CARRYING REQUEST MESSAGES

In Conference

HCS for HB 2, with SS for SCS (Nodler)	HCS for HB 8, with SCS (Nodler)
HCS for HB 3, with SS for SCS (Nodler)	HCS for HB 9, with SCS (Nodler)
HCS for HB 4, with SCS (Nodler)	HCS for HB 10, with SCS (Nodler)
HCS for HB 5, with SCS (Nodler)	HCS for HB 11, with SCS (Nodler)
HCS for HB 6, with SCS (Nodler)	HCS for HB 12, with SCS (Nodler)
HCS for HB 7, with SCS (Nodler)	HB 13-Icet, with SCS (Nodler)

RESOLUTIONS

Reported from Committee

SR 141-Engler, with point of order (pending)	SCR 14-Schmitt
SCR 7-Pearce	SCR 21-Clemens
SR 207-Lembke and Smith, with SCS & SS for SCS (pending)	SCR 10-Rupp
SCR 11-Bartle, et al	SCR 18-Bartle and Rupp
	SCR 23-Schmitt

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