

Journal of the Senate

SECOND REGULAR SESSION

FORTY-FIFTH DAY—TUESDAY, MARCH 28, 2000

The Senate met pursuant to adjournment.

President Pro Tem Quick in the Chair.

The Reverend Carl Gauck offered the following prayer:

“Rejoice evermore!” (1 Thessalonians 5:16)

Lord God, grant us a faith that can rejoice in Your Love and Your goodness despite the dark moments we sometimes find around us. And Lord provide us the divine assurance of Your enduring comfort through the most stressful times as we live each day as Your called servants whom You have given the privilege to serve in this place. 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.

Photographers from the Associated Press were given permission to take pictures in the Senate Chamber today.

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

Present—Senators

| | | | |
|----------|-----------|-----------|-----------|
| Bentley | Bland | Carter | Caskey |
| Childers | DePasco | Ehlmann | Flotron |
| Goode | Graves | House | Howard |
| Jacob | Johnson | Kenney | Kinder |
| Klarich | Mathewson | Maxwell | Mueller |
| Quick | Rohrbach | Russell | Schneider |
| Scott | Sims | Singleton | Staples |

Steelman Stoll Westfall Wiggins
Yeckel—33

Absent with leave—Senator Clay—1
The Lieutenant Governor was present.

RESOLUTIONS

Senator Caskey offered Senate Resolution No. 1412, regarding the Clinton Sunrise Optimist Club, which was adopted.

REPORTS OF STANDING COMMITTEES

Senator DePasco, Chairman of the Committee on Rules, Joint Rules and Resolutions, submitted the following report:

Mr. President: Your Committee on Rules, Joint Rules and Resolutions, to which was referred **SB 771**, begs leave to report that it has examined the same and finds that the bill has been truly perfected and that the printed copies furnished the Senators are correct.

REFERRALS

President Pro Tem Quick referred **SB 1059**, with **SCS**; **SB 956**, with **SCS**; and **SB 1066**, with **SCS**, to the Committee on State Budget Control.

THIRD READING OF SENATE BILLS

SB 1013, with **SCS**, introduced by Senator Stoll, entitled:

An Act to amend chapter 169, RSMo, relating to certain school retirement systems, by adding thereto one new section relating to the same subject.

Was called from the Consent Calendar and taken up.

SCS for SB 1013, entitled:

SENATE COMMITTEE SUBSTITUTE FOR
SENATE BILL NO. 1013

An Act to amend chapter 169, RSMo, by adding thereto one new section relating to certain school retirement systems.

Was taken up.

Senator Stoll moved that **SCS for SB 1013** be adopted, which motion prevailed.

On motion of Senator Stoll, **SCS for SB 1013** was read the 3rd time and passed by the following vote:

YEAS—Senators

| | | | |
|-----------|-----------|-----------|---------|
| Bentley | Bland | Carter | Caskey |
| Childers | DePasco | Ehlmann | Flotron |
| Goode | Graves | House | Howard |
| Jacob | Johnson | Kenney | Kinder |
| Mathewson | Maxwell | Mueller | Quick |
| Russell | Schneider | Scott | Sims |
| Singleton | Staples | Steelman | Stoll |
| Westfall | Wiggins | Yeckel—31 | |

NAYS—Senators—None

Absent—Senators

| | |
|---------|------------|
| Klarich | Rohrbach—2 |
|---------|------------|

Absent with leave—Senator Clay—1

The President Pro Tem declared the bill passed.

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

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

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

SB 1036, with **SCS**, introduced by Senator Johnson, entitled:

An Act to authorize the conveyance of state property located in Buchanan County.

Was called from the Consent Calendar and taken up.

SCS for SB 1036, entitled:

SENATE COMMITTEE SUBSTITUTE FOR
SENATE BILL NO. 1036

An Act to authorize the conveyance of state property located in Buchanan County, with an emergency clause.

Was taken up.

Senator Johnson moved that **SCS for SB 1036** be adopted, which motion prevailed.

On motion of Senator Johnson, **SCS for SB 1036** was read the 3rd time and passed by the following vote:

YEAS—Senators

| | | | |
|-----------|-----------|-----------|---------|
| Bentley | Bland | Carter | Caskey |
| Childers | DePasco | Ehlmann | Flotron |
| Goode | Graves | House | Howard |
| Jacob | Johnson | Kenney | Kinder |
| Mathewson | Maxwell | Mueller | Quick |
| Rohrbach | Russell | Schneider | Scott |
| Sims | Singleton | Steelman | Stoll |
| Westfall | Wiggins | Yeckel—31 | |

NAYS—Senators—None

Absent—Senators

| | |
|---------|-----------|
| Klarich | Staples—2 |
|---------|-----------|

Absent with leave—Senator Clay—1

The President Pro Tem declared the bill passed.

The emergency clause was adopted by the following vote:

YEAS—Senators

| | | | |
|----------|-----------|---------|-----------|
| Bentley | Bland | Carter | Caskey |
| Childers | DePasco | Ehlmann | Flotron |
| Goode | Graves | House | Howard |
| Jacob | Johnson | Kenney | Kinder |
| Klarich | Mathewson | Maxwell | Mueller |
| Quick | Rohrbach | Russell | Schneider |
| Scott | Sims | Staples | Steelman |
| Stoll | Westfall | Wiggins | Yeckel—32 |

NAYS—Senator Singleton—1

Absent—Senators—None

Absent with leave—Senator Clay—1

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

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

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

SB 1037, introduced by Senator Bentley, entitled:

An Act to amend chapter 67, RSMo, by adding thereto one new section relating to political subdivisions.

Was called from the Consent Calendar and taken up.

On motion of Senator Bentley, **SB 1037** was read the 3rd time and passed by the following vote:

YEAS—Senators

| | | | |
|-----------|-----------|-----------|-----------|
| Bentley | Bland | Carter | Caskey |
| Childers | DePasco | Ehlmann | Flotron |
| Goode | Graves | House | Howard |
| Jacob | Johnson | Kenney | Kinder |
| Klarich | Mathewson | Maxwell | Mueller |
| Quick | Rohrbach | Russell | Schneider |
| Scott | Sims | Singleton | Staples |
| Steeleman | Stoll | Westfall | Wiggins |
| Yeckel—33 | | | |

NAYS—Senators—None

Absent—Senators—None

Absent with leave—Senator Clay—1

The President Pro Tem declared the bill passed.

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

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

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

SB 1053, introduced by Senator Goode, et al, entitled:

An Act to amend chapter 590, RSMo, relating to peace officers by adding thereto one new section

relating to profiling for traffic stops.

Was called from the Consent Calendar and taken up by Senator Goode.

Senator Wiggins assumed the Chair.

On motion of Senator Goode, **SB 1053** was read the 3rd time and passed by the following vote:

YEAS—Senators

| | | | |
|----------|-----------|-----------|-----------|
| Bentley | Bland | Carter | Caskey |
| Childers | DePasco | Ehlmann | Goode |
| House | Jacob | Johnson | Kenney |
| Kinder | Klarich | Mathewson | Maxwell |
| Quick | Schneider | Scott | Steeleman |
| Stoll | Wiggins | Yeckel—23 | |

NAYS—Senators

| | | | |
|------------|---------|--------|-----------|
| Flotron | Graves | Howard | Mueller |
| Rohrbach | Russell | Sims | Singleton |
| Westfall—9 | | | |

Absent—Senator Staples—1

Absent with leave—Senator Clay—1

The President declared the bill passed.

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

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

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

President Wilson assumed the Chair.

Senator Johnson assumed the Chair.

Senator Stoll assumed the Chair.

SB 974, introduced by Senator Bentley, entitled:

An Act to amend chapter 332, RSMo, by adding thereto one new section relating to dental services.

Was called from the Consent Calendar and taken up.

On motion of Senator Bentley, **SB 974** was read the 3rd time and passed by the following vote:

YEAS—Senators

| | | | |
|----------|-----------|-----------|---------|
| Bentley | Bland | Carter | Caskey |
| Childers | DePasco | Ehlmann | Flotron |
| Goode | Graves | House | Howard |
| Jacob | Johnson | Kenney | Kinder |
| Klarich | Mathewson | Maxwell | Mueller |
| Rohrbach | Russell | Schneider | Scott |
| Sims | Singleton | Steelman | Stoll |
| Westfall | Wiggins | Yeckel—31 | |

NAYS—Senators—None

Absent—Senators

| | |
|-------|-----------|
| Quick | Staples—2 |
|-------|-----------|

Absent with leave—Senator Clay—1

The President declared the bill passed.

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

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

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

SB 936, with **SCA 1**, introduced by Senator Childers, entitled:

An Act to repeal section 144.157, RSMo 1994, relating to the collection of certain taxes, and to enact in lieu thereof one new section relating to the same subject.

Was called from the Consent Calendar and taken up.

SCA 1 was taken up.

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

On motion of Senator Childers, **SB 936** was read the 3rd time and passed by the following vote:

YEAS—Senators

| | | | |
|----------|-----------|-----------|-----------|
| Bentley | Bland | Carter | Caskey |
| Childers | DePasco | Ehlmann | Flotron |
| Goode | Graves | House | Howard |
| Jacob | Johnson | Kenney | Kinder |
| Klarich | Mathewson | Maxwell | Mueller |
| Quick | Rohrbach | Russell | Schneider |
| Scott | Sims | Singleton | Steelman |
| Stoll | Westfall | Wiggins | Yeckel—32 |

NAYS—Senators—None

Absent—Senator Staples—1

Absent with leave—Senator Clay—1

The President declared the bill passed.

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

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

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

RESOLUTIONS

Senator Schneider offered Senate Resolution No. 1413, regarding John Matthew Boggio, Florissant, which was adopted.

Senator Schneider offered Senate Resolution No. 1414, regarding Anders, Minkler & Diehl LLP Certified Public Accountants, St. Louis, which was adopted.

Senator Kinder offered Senate Resolution No. 1415, regarding Gearlene "Gerri" Luttrell, Sikeston, which was adopted.

Senator Kinder offered Senate Resolution No. 1416, regarding Anthony G. Green, I, Sikeston, which was adopted.

Senator Kinder offered Senate Resolution No. 1417, regarding Janie Pfefferkorn, Sikeston, which was adopted.

Senator Kinder offered Senate Resolution No. 1418, regarding Harry G. Sharp, III, Sikeston, which was adopted.

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

RECESS

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

RESOLUTIONS

Senator DePasco offered Senate Resolution No. 1419, regarding Timothy Hazlett,

Independence, which was adopted.

Senator DePasco offered Senate Resolution No. 1420, regarding Frank Pendleton, Kansas City, which was adopted.

Senator DePasco offered Senate Resolution No. 1421, regarding Timothy Lever, Kansas City, which was adopted.

Senator DePasco offered Senate Resolution No. 1422, regarding Mark Blanton, Kansas City, which was adopted.

Senator DePasco offered Senate Resolution No. 1423, regarding David Finke, Richmond, which was adopted.

Senator Mueller offered Senate Resolution No. 1424, regarding Rene Degre, Sunset Hills, which was adopted.

Senator Caskey offered Senate Resolution No. 1425, regarding the Ninetieth Birthday of Mrs. Mary Abbas, Raymore, which was adopted.

Senator Stoll offered Senate Resolution No. 1426, regarding Tim Ashlock, Crystal City, which was adopted.

Senator House offered Senate Resolution No. 1427, regarding William Ira (Bill) Reed, Louisiana, which was adopted.

Senator Steelman offered Senate Resolution No. 1428, regarding Ozark Baptist Church, Houston, which was adopted.

Senator Steelman offered Senate Resolution No. 1429, regarding Ira R. Satterfield, St. James, which was adopted.

Senator Yeckel offered Senate Resolution No. 1430, regarding Dr. George Ann Fisher, Mehlville, which was adopted.

Senator Yeckel offered Senate Resolution No. 1431, regarding Joel Chandler "Joe" Petry, Mehlville, which was adopted.

Senator Yeckel offered Senate Resolution No. 1432, regarding Kenneth L. Vogel, Sunset Hills, which was adopted.

THIRD READING OF SENATE BILLS

SB 1020, introduced by Senator Bentley,

entitled:

An Act to amend chapter 226, RSMo, by adding thereto one new section relating to the Payne Stewart Highway.

Was called from the Consent Calendar and taken up.

On motion of Senator Bentley, **SB 1020** was read the 3rd time and passed by the following vote:

YEAS—Senators

| | | | |
|-----------|-----------|----------|------------|
| Bentley | Carter | Caskey | Childers |
| DePasco | Ehlmann | Flotron | Goode |
| Graves | House | Howard | Jacob |
| Johnson | Kenney | Kinder | Klarich |
| Mathewson | Maxwell | Mueller | Rohrbach |
| Russell | Schneider | Scott | Sims |
| Staples | Steelman | Westfall | Wiggins—28 |

NAYS—Senator Yeckel—1

Absent—Senators

| | | | |
|-------|-------|-----------|---------|
| Bland | Quick | Singleton | Stoll—4 |
|-------|-------|-----------|---------|

Absent with leave—Senator Clay—1

The President declared the bill passed.

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

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

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

SB 1051, introduced by Senator Staples, entitled:

An Act to repeal sections 303.025 and 303.409, RSMo Supp. 1999, relating to motor vehicle financial responsibility, and to enact in lieu thereof two new sections relating to the same subject.

Was called from the Consent Calendar and taken up.

On motion of Senator Staples, **SB 1051** was read the 3rd time and passed by the following vote:

YEAS—Senators

| | | | |
|----------|---------|---------|---------|
| Bentley | Bland | Carter | Caskey |
| Childers | DePasco | Ehlmann | Flotron |
| Goode | Graves | House | Howard |

| | | | |
|----------|-----------|-----------|-----------|
| Jacob | Johnson | Kenney | Kinder |
| Klarich | Mathewson | Maxwell | Mueller |
| Rohrbach | Russell | Schneider | Scott |
| Sims | Singleton | Staples | Steelman |
| Stoll | Westfall | Wiggins | Yeckel—32 |

NAYS—Senators—None

Absent—Senator Quick—1

Absent with leave—Senator Clay—1

The President declared the bill passed.

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

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

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

SB 1042, introduced by Senator Flotron, entitled:

An Act to amend chapter 144, RSMo, relating to sales and use taxation by adding thereto one new section relating to bullion and investment coins.

Was called from the Consent Calendar and taken up.

On motion of Senator Flotron, **SB 1042** was read the 3rd time and passed by the following vote:

YEAS—Senators

| | | | |
|-----------|---------|----------|-----------|
| Bland | Carter | Caskey | Childers |
| DePasco | Ehlmann | Flotron | Graves |
| House | Howard | Jacob | Johnson |
| Kenney | Kinder | Klarich | Mathewson |
| Maxwell | Mueller | Quick | Rohrbach |
| Russell | Scott | Sims | Singleton |
| Steelman | Stoll | Westfall | Wiggins |
| Yeckel—29 | | | |

NAYS—Senators

Goode Schneider—2

Absent—Senators

Bentley Staples—2

Absent with leave—Senator Clay—1

The President declared the bill passed.

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

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

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

SB 1050, introduced by Senator House, entitled:

An Act to repeal section 190.055, RSMo Supp. 1999, relating to ambulance district board members, and to enact in lieu thereof one new section relating to the same subject.

Was called from the Consent Calendar and taken up.

On motion of Senator House, **SB 1050** was read the 3rd time and passed by the following vote:

YEAS—Senators

| | | | |
|----------|---------|-----------|-----------|
| Bentley | Bland | Carter | Caskey |
| Childers | DePasco | Flotron | Goode |
| Graves | House | Jacob | Johnson |
| Kenney | Kinder | Klarich | Mathewson |
| Maxwell | Mueller | Quick | Russell |
| Scott | Sims | Steelman | Stoll |
| Westfall | Wiggins | Yeckel—27 | |

NAYS—Senators

Howard Rohrbach Singleton—3

Absent—Senators

Ehlmann Schneider Staples—3

Absent with leave—Senator Clay—1

The President declared the bill passed.

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

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

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

SB 1018, with **SCA 1**, introduced by Senator Bentley, entitled:

An Act to authorize the conveyance of property owned by Southwest Missouri State University to the city of Springfield.

Was called from the Consent Calendar and taken up.

SCA 1 was taken up.

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

On motion of Senator Bentley, **SB 1018**, as amended, was read the 3rd time and passed by the following vote:

YEAS—Senators

| | | | |
|-----------|-----------|---------|-----------|
| Bentley | Carter | Caskey | Childers |
| DePasco | Flotron | Goode | Graves |
| House | Howard | Jacob | Johnson |
| Kenney | Kinder | Klarich | Mathewson |
| Maxwell | Mueller | Quick | Rohrbach |
| Russell | Schneider | Scott | Sims |
| Singleton | Steelman | Stoll | Westfall |
| Wiggins | Yeckel—30 | | |

NAYS—Senators—None

Absent—Senators

Bland Ehlmann Staples—3

Absent with leave—Senator Clay—1

The President declared the bill passed.

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

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

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

SB 760, introduced by Senator Klarich, entitled:

An Act to repeal section 55.010, RSMo 1994, relating to certain county auditors, and to enact in lieu thereof one new section relating to the same subject.

Was called from the Consent Calendar and taken up.

On motion of Senator Klarich, **SB 760** was read the 3rd time and passed by the following vote:

YEAS—Senators

| | | | |
|----------|-----------|---------|---------|
| Bentley | Bland | Carter | Caskey |
| Childers | DePasco | Ehlmann | Flotron |
| Goode | Graves | House | Howard |
| Jacob | Johnson | Kenney | Kinder |
| Klarich | Mathewson | Maxwell | Mueller |

| | | | |
|-------|----------|-----------|-----------|
| Quick | Rohrbach | Russell | Schneider |
| Scott | Sims | Singleton | Steelman |
| Stoll | Westfall | Wiggins | Yeckel—32 |

NAYS—Senators—None

Absent—Senator Staples—1

Absent with leave—Senator Clay—1

The President declared the bill passed.

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

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

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

SENATE BILLS FOR PERFECTION

Senator Steelman moved that **SB 597** with **SCS** and **SA 2** (pending), be called from the Informal Calendar and again taken up for perfection, which motion prevailed.

SA 2 was again taken up.

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

Senator Sims offered **SA 3**:

SENATE AMENDMENT NO. 3

Amend Senate Committee Substitute for Senate Bill No. 597, Page 2, Section 191.975, Line 32, by inserting after all of said line the following:

"210.950. 1. A parent of a newborn infant or of a child twelve months of age or less may relinquish custody of the infant or child to a hospital. The hospital may accept custody of the infant or child from the parent and the hospital shall immediately notify the division of family services which will then apply to the court for legal custody of the child.

2. If a parent of an infant or child relinquishes custody of the infant or child to a hospital as provided in subsection 1 of this section, then by operation of law and, pending court proceedings:

(1) All of the parent's rights with respect to the infant or child are terminated;

(2) The infant or child is made a ward of

the state; and

(3) The infant or child is immediately available for adoption.

3. A hospital that accepts custody of an infant or child pursuant to subsection 1 of this section shall ask the parent of the infant or child for pertinent medical information relating to the parent and the infant or child. That information includes, but is not limited to information concerning the use of controlled substances and the infant or child's birth date. If a parent provides the medical information requested by the hospital, the parent is immune from criminal liability for any act of commission or omission in connection with relinquishing custody of the infant or child to the hospital. If a parent does not provide the medical information, the division of family services is authorized to attempt to identify the parent or parents and obtain medical information and a birth date of the child.

4. A hospital that accepts custody of an infant or child pursuant to subsection 1 of this section is immune from civil, criminal, and administrative liability for any act of commission or omission in connection with the acceptance of that custody or the provision of care for the infant or child while it is in their custody.

5. If a hospital accepts custody of an infant or child pursuant to subsection 1 of this section, the state shall reimburse the hospital for the hospital's actual expenses in accepting and caring for the infant or child. The reimbursement shall be made from moneys appropriated to the department of social services for that purpose.

6. (1) If one parent of an infant or child relinquishes custody of the infant or child to a hospital as provided in subsection 1 of this section, the other parent may file an action for custody of the child. The nonrelinquishing parent must file such an action within thirty days after the hospital accepts custody of the child from the relinquishing parent. In such an action, the nonrelinquishing parent must prove

he or she is the parent of the infant or child.

(2) If a parent fails to file an action within the thirty-day period specified in subsection 6 of this section, the parent is forever barred from filing an action for custody of the infant or child and, by operation of law and without any court proceeding, all of the parent's rights with respect to the infant or child are terminated.

(3) When a nonrelinquishing parent inquires at a hospital concerning an infant or child whose custody was relinquished to the hospital as provided in subsection 1 of this section, the hospital shall refer the parent to the division of family services.

7. The division of family services shall adopt rules necessary to implement the provisions of this section. The rules shall include provisions for the reimbursement of hospitals' expenses pursuant to subsection 5 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, 2000, shall be invalid and void."; and

Further amend the title and enacting clause accordingly.

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

Senator Jacob offered SA 4:

SENATE AMENDMENT NO. 4

Amend Senate Committee Substitute for Senate Bill No. 597, Page 1, Section 191.975, Line 3, by striking all of said line and inserting in lieu thereof the following:

"2. **The division of**"; and further amend line 14, by striking the following: "The benefits of"; and

Further amend said bill, Page 2, Section 191.975, Line 26, by striking the word "and"; and further amend line 27, by inserting immediately after the word "material" the following: ", **and any other person or entity that requests such material**"; and

Further amend said bill, Pages 2 to 5, Section 453.030, Lines 1 to 116, by striking all of said section and inserting in lieu thereof the following:

"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.

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) Any man who:

(a) Is presumed to be the father pursuant to the subdivisions (1), (2), (3) or (5) 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; 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. **Such person shall be advised of the effect of his**

signature and the legal consequences thereof following the signature of the consent; 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. **The child may be placed in the pre-approved adoptive home immediately upon the signing of consents, and thereafter the court may proceed with approval of the consents.** 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 shall provide the names of all such persons unless the mother has good cause as to why she should not name such persons. The court shall determine if good cause is justifiable. By signing the consent, the birth parent acknowledges that those having an interest in the child have been supplied with all available information to assist in locating all possible fathers; 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."

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

Senator Johnson assumed the Chair.

Senator Steelman moved that **SCS for SB 597**, as amended, be adopted, which motion prevailed.

On motion of Senator Steelman, **SCS for SB 597**, as amended, was declared perfected and ordered printed.

Senator Maxwell moved that **SB 577**, with **SCS**, be called from the Informal Calendar and taken up for perfection, which motion prevailed.

SCS for SB 577, entitled:

SENATE COMMITTEE SUBSTITUTE FOR
SENATE BILL NO. 577

An Act to amend chapter 260, RSMo, by adding thereto thirteen new sections relating to the creation of a drycleaning solvent cleanup fund, with an expiration date.

Was taken up.

Senator Maxwell moved that **SCS for SB 577** be adopted.

Senator Maxwell offered **SS** for **SCS** for **SB 577**:

SENATE SUBSTITUTE FOR
SENATE COMMITTEE SUBSTITUTE FOR
SENATE BILL NO. 577

An Act to amend chapter 260, RSMo, by adding thereto thirteen new sections relating to the creation of a drycleaning solvent cleanup fund, with an expiration date.

Senator Maxwell moved that **SS** for **SCS** for **SB 577** be adopted.

Senator Maxwell offered **SA 1**:

SENATE AMENDMENT NO. 1

Amend Senate Substitute for Senate Committee Substitute for Senate Bill No. 577, Page 1, Section A, Line 4 of said page, by inserting after all of said line the following:

"260.375. The department shall:

(1) Exercise general supervision of the administration and enforcement of sections 260.350 to 260.430 and all standards, rules and regulations, orders or license and permit terms and conditions adopted or issued [hereunder] **pursuant to sections 260.350 to 260.430**;

(2) Develop and implement programs to achieve goals and objectives set by the state hazardous waste management plan;

(3) Retain, employ, provide for and compensate, within appropriations available therefor, such consultants, assistants, deputies, clerks and other employees on a full- or part-time basis as may be necessary to carry out the provisions of sections 260.350 to 260.430 and prescribe the times at which they shall be appointed and their powers and duties;

(4) Budget and receive duly appropriated moneys for expenditures to carry out the provisions of sections 260.350 to 260.430;

(5) Accept, receive and administer grants or other funds or gifts from public and private agencies including the federal government for the purpose of carrying out any of the functions of sections 260.350 to 260.430. Funds received by the department pursuant to this section shall be

deposited with the state treasurer and held and disbursed by him **or her** in accordance with the appropriations of the general assembly;

(6) Provide the commission all necessary support the commission may require to carry out its powers and duties including, but not limited to: keeping of records of all meetings; notification, at the direction of the chairman of the commission, of the members of the commission of the time, place and purpose of each meeting by written notice; drafting, for consideration of the commission, a state hazardous waste management plan and standards, rules and regulations necessary to carry out the purposes of sections 260.350 to 260.430; and investigation of petitions for variances and complaints made to the commission and submission of recommendations thereto;

(7) Collect and maintain, and require any person to collect and maintain, such records and information of hazardous waste generation, storage, transportation, resource recovery, treatment and disposal in this state, including quantities and types imported and exported across the borders of this state and install, calibrate and maintain and require any person to install, calibrate and maintain such monitoring equipment or methods, and make reports consistent with the purposes of sections 260.350 to 260.430;

(8) Secure necessary scientific, technical, administrative and operational services, including laboratory facilities, by contract or otherwise;

(9) Develop facts and make inspections and investigations, including gathering of samples and performing of tests and analyses, consistent with the purposes of sections 260.350 to 260.430, and in connection therewith, to enter or authorize any representative of the department to enter, at all reasonable times, in or upon any private or public property for any purpose required by sections 260.350 to 260.430 or any federal hazardous waste management act. Such entry may be for the purpose, without limitation, of developing or implementing standards, rules and regulations, orders or license or permit terms and conditions, of inspecting or investigating any records required to be kept by sections 260.350 to 260.430 or any license or permit issued [hereunder] **pursuant to**

sections 260.350 to 260.430 or any hazardous waste management practice which the department or commission believes violates sections 260.350 to 260.430, or any standard, rule or regulation, order or license or permit term or condition adopted or issued [hereunder] **pursuant to sections 260.350 to 260.430**, or otherwise endangers the health of humans or the environment, or the site of any suspected violation of sections 260.350 to 260.430, or any standard, rule or regulation, order, or license or permit term or condition adopted or issued [hereunder] **pursuant to sections 260.350 to 260.430**. The results of any such investigation shall be reduced to writing and shall be furnished to the owner or operator of the property. No person shall refuse entry or access requested for the purpose of inspection [under this provision] **pursuant to this subdivision** to an authorized representative of the department or commission who presents appropriate credentials, nor obstruct or hamper the representative in carrying out the inspection. A suitably restricted search warrant, upon a showing of probable cause in writing and upon oath, shall be issued by any judge or associate circuit judge having jurisdiction to any such representative for the purpose of enabling the representative to make such inspection;

(10) Require each hazardous waste generator located within this state and each hazardous waste generator located outside of this state before utilizing any hazardous waste facility in this state to file a registration report containing such information as the commission by regulation may specify relating to types and quantities of hazardous waste generated and methods of hazardous waste management, and to meet all other requirements placed upon hazardous waste generators by sections 260.350 to 260.430 and the standards, rules and regulations and orders adopted or issued [hereunder] **pursuant to sections 260.350 to 260.430**;

(11) Require each hazardous waste transporter operating in this state to obtain a license and to meet all applicable requirements of sections 260.350 to 260.430 and the standards, rules and regulations, orders and license terms and conditions adopted or issued [hereunder] **pursuant to sections 260.350 to 260.430**;

(12) Require each hazardous waste facility owner and operator to obtain a permit for each such facility and to meet all applicable requirements of sections 260.350 to 260.430 and the standards, rules and regulations, orders and permit terms and conditions adopted or issued [hereunder] **pursuant to sections 260.350 to 260.430**;

(13) Issue, continue in effect, revoke, modify or deny in accordance with the standards, rules and regulations, hazardous waste transporter licenses and hazardous waste facility permits;

(14) Encourage voluntary cooperation by persons or affected groups to achieve the purposes of sections 260.350 to 260.430;

(15) Enter such order or determination as may be necessary to effectuate the provisions of sections 260.350 to 260.430 and the standards, rules and regulations, and license and permit terms and conditions adopted or issued [hereunder] **pursuant to sections 260.350 to 260.430**;

(16) Enter such order or cause to be instituted in a court of competent jurisdiction such legal proceedings as may be necessary in a situation of imminent hazard, as prescribed in section 260.420;

(17) Settle or compromise as it may deem advantageous to the state, with the approval of the commission, any suit undertaken by the commission for recovery of any penalty or for compelling compliance with any provision of sections 260.350 to 260.430 or any standard, rule or regulation, order, or license or permit term or condition adopted or issued [hereunder] **pursuant to sections 260.350 to 260.430**;

(18) Advise, consult and cooperate with other agencies of the state, the federal government, other states and interstate agencies and with affected groups, political subdivisions and industries in furtherance of the purposes of sections 260.350 to 260.430 and, upon request, consult with persons subject to sections 260.350 to 260.430 on the proper measures necessary to comply with the requirements of sections 260.350 to 260.430 and rules and regulations adopted [hereunder] **pursuant to sections 260.350 to 260.430**;

(19) Encourage, coordinate, participate in or conduct studies, investigations, research and

demonstrations relating to hazardous waste management as it may deem advisable and necessary for the discharge of its duties [under] **pursuant to** sections 260.350 to 260.430;

(20) Represent the state of Missouri in all matters pertaining to interstate hazardous waste management including the negotiation of interstate compacts or agreements;

(21) Arrange for the establishment, staffing, operation and maintenance of collection stations, within appropriations or other funding available therefor, for householders, farmers and other exempted persons as provided [under] **in** section 260.380;

(22) Collect and disseminate information relating to hazardous waste management;

(23) Conduct education and training programs on hazardous waste problems and management;

(24) Encourage and facilitate public participation in the development, revision and implementation of the state hazardous waste program;

(25) Encourage waste reduction, resource recovery, exchange and energy conservation in hazardous waste management;

(26) Exercise all powers necessary to carry out the provisions of sections 260.350 to 260.430, assure that the state of Missouri complies with any federal hazardous waste management act and retains maximum control thereunder, and receives all desired federal grants, aid and other benefits;

(27) Present to the public, at a public meeting, and to the governor and the members of the general assembly, an annual report on the status of the state hazardous waste program;

(28) Develop comprehensive plans and programs to aid in the establishment of hazardous waste disposal sites as needed within the various geographical areas of the state within a reasonable period of time;

(29) Control, abate or clean up any hazardous waste placed into or on the land in a manner which endangers or is reasonably likely to endanger the health of humans or the environment and, in aid

thereof, may cause to be filed by the attorney general or a prosecuting attorney, a suit seeking mandatory or prohibitory injunctive relief or such other relief as may be appropriate. The department shall also take such action as is necessary to recover all costs associated with the cleanup of any hazardous waste from the person responsible for the waste. All money received shall be deposited in the hazardous waste fund[.] **created in section 260.391;**

(30) Oversee any corrective action work undertaken pursuant to sections 260.350 to 260.430 and rules promulgated pursuant to sections 260.350 to 260.430 to investigate, monitor, or clean up releases of hazardous waste or hazardous constituents to the environment at hazardous waste facilities. The department shall review the technical and regulatory aspects of corrective action plans, reports, documents, and associated field activities, and attest to their accuracy and adequacy. Owners or operators of hazardous waste facilities performing corrective actions shall pay to the department all reasonable costs, as determined by the commission, incurred by the department pursuant to this subdivision. All such funds remitted by owners or operators of hazardous waste facilities performing corrective actions shall be deposited in the hazardous waste fund created in section 260.391.

260.380. 1. After six months from the effective date of the standards, rules and regulations adopted by the commission pursuant to section 260.370, hazardous waste generators shall:

(1) Promptly file and maintain with the department, on registration forms it provides for this purpose, information on hazardous waste generation and management as specified by rules and regulations, and the hazardous waste generator may provide such information in a single registration form for all hazardous waste generation sites owned or operated by the hazardous waste generator or may register each hazardous waste generation site separately for the purposes of subdivision (10) of this subsection. **Hazardous waste generators shall pay a one hundred dollar registration fee upon initial registration, and a**

one hundred dollar registration renewal fee annually thereafter to maintain an active registration. Such fees shall be deposited in the hazardous waste fund created in section 260.391;

(2) Containerize and label all hazardous wastes as specified by standards, rules and regulations;

(3) Segregate all hazardous wastes from all nonhazardous wastes and from noncompatible wastes, materials and other potential hazards as specified by standards, rules and regulations;

(4) Provide safe storage and handling, including spill protection, as specified by standards, rules and regulations, for all hazardous wastes from the time of their generation to the time of their removal from the site of generation;

(5) Unless provided otherwise in the rules and regulations, utilize only a hazardous waste transporter holding a license [under] **pursuant to** sections 260.350 to 260.430 for the removal of all hazardous wastes from the premises where they were generated;

(6) Unless provided otherwise in the rules and regulations, provide a separate manifest to the transporter for each load of hazardous waste transported from the premises where it was generated. The generator shall specify the destination of such load on the manifest. The manner in which the manifest shall be completed, signed and filed with the department shall be in accordance with rules and regulations;

(7) Utilize for treatment, resource recovery, disposal or storage of all hazardous wastes, only a hazardous waste facility authorized to operate [under] **pursuant to** sections 260.350 to 260.430 or the federal Resource Conservation and Recovery Act, or a state hazardous waste management program authorized [under] **pursuant to** the federal Resource Conservation and Recovery Act, or any facility exempted from the permit required [under] **pursuant to** section 260.395;

(8) Collect and maintain such records, perform such monitoring or analyses, and submit such reports on any hazardous waste generated, its transportation and final disposition, as specified in sections 260.350 to 260.430 and rules and

regulations adopted [hereunder] **pursuant to sections 260.350 to 260.430;**

(9) Make available to the department upon request samples of waste and all records relating to hazardous waste generation and management for inspection and copying and allow the department to make unhampered inspections at any reasonable time of hazardous waste generation and management facilities located on the generator's property and hazardous waste generation and management practices carried out on the generator's property;

(10) Pay annually, on or before January first of each year, effective January 1, 1982, a fee to the state of Missouri to be placed in the hazardous waste fund to be used solely for the administrative costs of the program. The fee shall not exceed one dollar per ton of hazardous waste registered with the department as specified in subdivision (1) of this subsection for the twelve-month period ending June thirtieth of the previous year. The amount of the fee shall be established annually by the commission by rule or regulation. However, the fee shall not exceed ten thousand dollars per generator per year and no fee shall be imposed upon any generator who registers less than ten tons of hazardous waste annually with the department;

(a) All moneys payable [under] **pursuant to** the provisions of this subdivision shall be promptly transmitted to the department of revenue, which shall deposit the same in the state treasury to the credit of the hazardous waste fund **created in section 260.391;**

(b) The hazardous waste management commission shall establish and submit to the department of revenue procedures relating to the collection of the fees authorized by this subdivision. Such procedures shall include, but not be limited to, necessary records identifying the quantities of hazardous waste registered, the form and submission of reports to accompany the payment of fees, the time and manner of payment of fees, which shall not be more often than quarterly.

2. Exempted from the requirements of this section are individual householders and farmers

who generate only small quantities of hazardous waste and any person the commission determines generates only small quantities of hazardous waste on an infrequent basis, except that:

(1) Householders, farmers and exempted persons shall manage all hazardous wastes they may generate in a manner so as not to adversely affect the health of humans, or pose a threat to the environment, or create a public nuisance; and

(2) The department may determine that a specific quantity of a specific hazardous waste requires special management. Upon such determination and after public notice by press release or advertisement thereof, including instructions for handling and delivery, generators exempted [under] **pursuant to** this subsection shall deliver, but without a manifest or the requirement to use a licensed hazardous waste transporter, such waste to:

(a) Any storage, treatment or disposal site authorized to operate [under] **pursuant to** sections 260.350 to 260.430 or the federal Resource Conservation and Recovery Act, or a state hazardous waste management program authorized [under] **pursuant to** the federal Resource Conservation and Recovery Act which the department designates for this purpose; or

(b) A collection station or vehicle which the department may arrange for and designate for this purpose.

260.391. 1. There is hereby created in the state treasury a fund to be known as the "Hazardous Waste Fund". All funds received from hazardous waste permit and license fees, generator fees, taxes collected by contract hazardous waste landfill operators, general revenue, federal funds, gifts, bequests, donations, or any other moneys so designated shall be paid to the director of revenue and deposited in the state treasury to the credit of the hazardous waste fund. The hazardous waste fund, subject to appropriation by the general assembly, shall be used by the department as provided by appropriations and consistent with rules and regulations established by the hazardous waste management commission for the purpose of carrying out the provisions of sections 260.350 to

260.430, [relating to] **for the management of** hazardous waste, [for cleanup of] **responses to** hazardous [waste] **substance** emergencies **as provided in sections 260.500 to 260.550, corrective actions at regulated facilities** and [abandoned or] illegal hazardous waste sites and for payments to other state agencies for such services consistent with sections 260.350 to 260.430, upon proper warrant issued by the commissioner of administration.

2. The unexpended balance in the hazardous waste fund at the end of each fiscal year shall not be transferred to the general revenue fund of the state treasurer, except as directed by the general assembly by appropriation, and shall be invested to generate income to the fund. The provisions of section 33.080, RSMo, relating to the transfer of funds to the general revenue fund of the state by the state treasurer shall not apply to the hazardous waste fund.

3. There is hereby created within the hazardous waste fund a subaccount known as the "Hazardous Waste Facility Inspection Subaccount". All funds received from hazardous waste facility inspection fees shall be paid to the director of revenue and deposited in the state treasury to the credit of the hazardous waste facility inspection subaccount. Moneys from such subaccount shall be used by the department for conducting inspections at facilities that are permitted or are required to be permitted as hazardous waste facilities by the department.

260.395. 1. After six months from the effective date of the standards, rules and regulations adopted by the commission pursuant to section 260.370, it shall be unlawful for any person to transport any hazardous waste in this state without first obtaining a hazardous waste transporter license. Any person transporting hazardous waste in this state shall file an application for a license [under] **pursuant to** this subsection which shall:

(1) Be submitted on a form provided for this purpose by the department and shall furnish the department with such equipment identification and data as may be necessary to demonstrate to the satisfaction of the department that equipment

engaged in such transportation of hazardous waste, and other equipment as designated in rules and regulations [hereunder] **pursuant to sections 260.350 to 260.430**, is adequate to provide protection of the health of humans and the environment and to comply with the provisions of any federal hazardous waste management act and sections 260.350 to 260.430 and the standards, rules and regulations adopted [hereunder] **pursuant to sections 260.350 to 260.430**. If approved by the department, this demonstration of protection may be satisfied by providing certification that the equipment so identified meets and will be operated in accordance with the rules and regulations of the Missouri public service commission and the federal Department of Transportation for the transportation of the types of hazardous materials for which it will be used;

(2) Include, as specified by rules and regulations, demonstration of financial responsibility, including, but not limited to, guarantees, liability insurance, posting of bond or any combination thereof which shall be related to the number of units, types and sizes of equipment to be used in the transport of hazardous waste by the applicant;

(3) Include, as specified in rules and regulations, a fee payable to the state of Missouri which shall [be an amount to be determined by the number of vehicles and the gross weight of each vehicle to be covered by the license but shall not exceed one hundred dollars per vehicle to be covered by the license.] **consist of an annual application fee, plus an annual use fee based upon tonnage, mileage or a combination of tonnage and mileage. The fees established pursuant to this subdivision shall be set to generate, as nearly as is practicable, six hundred thousand dollars annually. No fee shall be collected pursuant to this subdivision from railroads that pay a fee pursuant to subsection 19 of this section. Fees collected pursuant to this subdivision shall be deposited in the hazardous waste fund created pursuant to section 260.391.**

2. If the department determines the application conforms to the provisions of any federal hazardous waste management act and sections

260.350 to 260.430 and the standards, rules and regulations adopted [hereunder] **pursuant to sections 260.350 to 260.430**, it shall issue the hazardous waste transporter license with such terms and conditions as it deems necessary to protect the health of humans and the environment. The department shall act within ninety days after receipt of the application. If the department denies the license, it shall issue a report to the applicant stating the reason for denial of the license.

3. A license may be suspended or revoked whenever the department determines that the equipment is or has been operated in violation of any provision of sections 260.350 to 260.430 or any standard, rule or regulation, order, or license term or condition adopted or issued [hereunder] **pursuant to sections 260.350 to 260.430**, poses a threat to the health of humans or the environment, or is creating a public nuisance.

4. Whenever a license is issued, renewed, denied, suspended or revoked by the department, any aggrieved person, by petition filed with the department within thirty days of the decision, may appeal such decision and shall be entitled to a hearing as provided in section 260.400.

5. A license shall be issued for a period of one year and shall be renewed upon proper application by the holder and a determination by the department that the applicant is in compliance with all provisions of sections 260.350 to 260.430 and all standards, rules and regulations, orders and license terms and conditions adopted or issued [hereunder] **pursuant to sections 260.350 to 260.430**.

6. A license is not required for the transport of any hazardous waste on the premises where it is generated or onto contiguous property owned by the generator thereof, or for those persons exempted in section 260.380. Nothing in this subsection shall be interpreted to preclude the department from inspecting unlicensed hazardous waste transporting equipment and to require that it be adequate to provide protection for the health of humans and the environment.

7. After six months from the effective date of

the standards, rules and regulations adopted by the commission pursuant to section 260.370, it shall be unlawful for any person to construct, substantially alter or operate, including postclosure activities and operations specified in the rules and regulations, a hazardous waste facility without first obtaining a hazardous waste facility permit for such construction, alteration or operation from the department. Such person must submit to the department at least ninety days prior to submitting a permit application a letter of intent to construct, substantially alter or operate any hazardous waste disposal facility. The person must file an application within one hundred eighty days of the filing of a letter of intent unless granted an extension by the commission. The department shall publish such letter of intent as specified in section 493.050, RSMo, within ten days of receipt of such letter. The letter shall be published once each week for four weeks in the county where the hazardous waste disposal facility is proposed. Once such letter is submitted, all conditions for the permit application evaluation purposes in existence as of the date of submission shall be deemed frozen, in that no subsequent action by any person to change such conditions in an attempt to thwart a fair and impartial decision on the application for a permit shall be allowed as grounds for denial of the permit. Any person before constructing, substantially altering or operating a hazardous waste facility in this state shall file an application for a permit which shall:

(1) Be submitted on a form provided for this purpose by the department and shall furnish the department with plans, specifications and such other data as may be necessary to demonstrate to the satisfaction of the department that such facility does or will provide adequate protection of the health of humans and the environment and does or will comply with the provisions of any federal hazardous waste management act and sections 260.350 to 260.430 and the standards, rules and regulations adopted [hereunder] **pursuant to sections 260.350 to 260.430;**

(2) Include plans, designs, engineering reports and relevant data for construction, alteration or operation of a hazardous waste facility, to be submitted to the department by a registered

professional engineer licensed by this state;

(3) Include, as specified by rules and regulations, demonstration of financial responsibility, including, but not limited to, guarantees, liability insurance, posting of bond or any combination thereof, which shall be related to type and size of facility;

(4) Include such environmental and geologic information, assessments and studies as required by the rules and regulations of the commission;

(5) Submit with the application for a hazardous waste disposal or treatment facility a profile of the environmental and economic characteristics of the area as required by the commission, including the extent of air pollution and groundwater contamination; and a profile of the health characteristics of the area which identifies all serious illness, the rate of which exceeds the state average for such illness, which might be attributable to environmental contamination;

(6) Include a fee payable to the state of Missouri which shall not exceed one thousand dollars, which shall cover the first year of the permit, if issued, but which is not refundable. If the permit is issued for more than one year, a fee equal in amount to the first year's fee shall be paid to the state of Missouri prior to issuance of the permit for each year the permit is to be in effect beyond the first year;

(7) The department shall supervise any field work undertaken to collect geologic and engineering data for submission with the application. The state geologist and departmental engineers shall review the geologic and engineering plans, respectively, and attest to their accuracy and adequacy. The applicant shall pay all reasonable costs, as determined by the commission, incurred by the department [under] **pursuant to** this subsection.

8. (1) Prior to issuing or renewing a hazardous waste facility permit, the department shall issue public notice by press release or advertisement and shall notify all record owners of adjoining property by mail directed to the last known address, and the village, town or city, if any,

and the county in which the hazardous waste facility is located; and, upon request, shall hold a public hearing after public notice as required in this subsection at a location convenient to the area affected by the issuance of the permit.

(2) Prior to issuing, reviewing every five years as required in subsection 12 of this section, or renewing a hazardous waste disposal facility permit the department shall issue public notice by press release and advertisement and shall notify all record owners of property, within one mile of the outer boundaries of the site, by mail directed to the last known address; and shall hold a public hearing after public notice as required in this subsection at a location convenient to the area affected by the issuance of the permit.

9. If the department determines that the application conforms to the provisions of any federal hazardous waste management act and sections 260.350 to 260.430 and the standards, rules and regulations adopted [hereunder] **pursuant to sections 260.350 to 260.430**, it shall issue the hazardous waste facility permit, with such terms and conditions and require such testing and construction supervision as it deems necessary to protect the health of humans or the environment. The department shall act within one hundred and eighty days after receipt of the application. If the department denies the permit, it shall issue a report to the applicant stating the reason for denial of a permit.

10. A permit may be suspended or revoked whenever the department determines that the hazardous waste facility is, or has been, operated in violation of any provision of sections 260.350 to 260.430 or any standard, rule or regulation, order or permit term or condition adopted or issued [hereunder] **pursuant to sections 260.350 to 260.430**, poses a threat to the health of humans or the environment or is creating a public nuisance.

11. Whenever a permit is issued, renewed, denied, suspended or revoked by the department, any aggrieved person, by petition filed with the department within thirty days of the decision, may appeal such decision and shall be entitled to a hearing as provided in section 260.400.

12. A permit shall be issued for a fixed term, which shall not exceed ten years in the case of any land disposal facility, storage facility, incinerator, or other treatment facility. Each permit for a land disposal facility shall be reviewed five years after the date of its issuance or reissuance and shall be modified as necessary to assure that the facility continues to comply with the currently applicable requirements of federal and state law. Nothing in this subsection shall preclude the department from reviewing and modifying a permit at any time during its term. Review of any application for a permit renewal shall consider improvements in the state of control and measurement technology as well as changes in applicable regulations. Each permit issued [under] **pursuant to** this section shall contain such terms and conditions as the department determines necessary to protect human health and the environment, and upon proper application by the holder and a determination by the department that the applicant is in compliance with all provisions of sections 260.350 to 260.430 and all standards, rules and regulations, orders and permit terms and conditions adopted or issued [hereunder] **pursuant to sections 260.350 to 260.430**.

13. A hazardous waste facility permit is not required for:

(1) On-site storage of hazardous wastes where such storage is exempted by the commission by rule or regulation; however, such storage must conform to the provisions of any federal hazardous waste management act and sections 260.350 to 260.430 and the applicable standards, rules and regulations adopted [hereunder] **pursuant to sections 260.350 to 260.430** and any other applicable hazardous materials storage and spill prevention requirements provided by law;

(2) A publicly owned treatment works which has an operating permit [under] **pursuant to** section 644.051, RSMo, and is in compliance with that permit;

(3) A resource recovery facility which the department certifies uses hazardous waste as a supplement to, or substitute for, nonwaste material, and that the sole purpose of the facility is manufacture of a product rather than treatment or

disposal of hazardous wastes;

(4) That portion of a facility engaged in hazardous waste resource recovery, when the facility is engaged in both resource recovery and hazardous waste treatment or disposal, provided the owner or operator can demonstrate to the department's satisfaction and the department finds that such portion is not intended and is not used for hazardous waste treatment or disposal.

14. Facilities exempted [under] **pursuant to** subsection 13 of this section must comply with the provisions of subdivisions (3) to (7) of section 260.390 and such other requirements, to be specified by rules and regulations, as are necessary to comply with any federal hazardous waste management act or regulations hereunder. Generators who use such an exempted facility shall keep records of hazardous wastes transported, except by legal flow through sewer lines, to the facility and submit such records to the department in accordance with the provisions of section 260.380 and the standards, rules and regulations adopted [hereunder.] **pursuant to sections 260.350 to 260.430. Any person, before constructing, altering or operating a resource recovery facility in this state shall file an application for a certification. Such application shall include:**

(1) **Plans, designs, engineering reports and other relevant information as specified by rule that demonstrate that the facility is designed and will operate in a manner protective of human health and the environment; and**

(2) **An application fee of not more than five hundred dollars for a facility that recovers waste generated at the same facility or an application fee of not more than one thousand dollars for a facility that recovers waste generated at off-site sources. Such fees shall be deposited in the hazardous waste fund created in section 260.391.**

The department shall review such application for conformance with applicable laws, rules and standard engineering principles and practices. The applicant shall pay to the department all reasonable costs, as determined

by the commission, incurred by the department pursuant to this subsection. All such funds shall be deposited in the hazardous waste fund created in section 260.391.

15. The owner or operator of any hazardous waste facility in existence on September 28, 1977, who has achieved federal interim status [under] **pursuant to** 42 U.S.C. 6925(e), and who has submitted to the department Part A of the federal facility permit application, may continue to receive and manage hazardous wastes in the manner as specified in the Part A application, and in accordance with federal interim status requirements, until completion of the administrative disposition of a permit application submitted pursuant to sections 260.350 to 260.430. The department may at any time require submission of, or the owner or operator may at any time voluntarily submit, a complete application for a permit pursuant to sections 260.350 to 260.430 and commission regulations. The authority to operate [under] **pursuant to** this subsection shall cease one hundred eighty days after the department has notified an owner or operator that an application for permit pursuant to sections 260.350 to 260.430 must be submitted, unless within such time the owner or operator submits a completed application therefor. Upon submission of a complete application, the authority to operate [under] **pursuant to** this subsection shall continue for such reasonable time as is required to complete the administrative disposition of the permit application. If a facility loses its federal interim status, or the Environmental Protection Agency requires the owner or operator to submit Part B of the federal application, the department shall notify the owner or operator that an application for a permit must be submitted pursuant to this subsection. In addition to compliance with the federal interim status requirements, the commission shall have the authority to adopt regulations requiring persons operating [under the authority of] **pursuant to** this subsection to meet additional state interim status requirements.

16. A license or permit shall not be issued to any person who is determined by the department to habitually engage in or to have habitually engaged in hazardous waste management practices which

pose a threat to the health of humans or the environment or who is determined by the department to habitually violate or to have habitually violated the requirements of the Missouri solid or hazardous waste laws, the solid or hazardous waste laws of other states or federal laws pertaining to hazardous waste. Nor shall a license or permit be issued to any person who has been adjudged in contempt of any court order enforcing the provisions of the Missouri solid or hazardous waste laws, the solid or hazardous waste laws of other states or federal laws pertaining to hazardous waste or who has offered, in person or through an agent, any inducement, including any discussion of potential employment opportunities, to any employee of the department when such person has an application for a permit pending or a permit under review. For the purposes of this subsection, the term "person" shall include any officer or management employee of the applicant, or any officer or management employee of any corporation or business which owns an interest in the applicant, or any officer or management employee of any business which is owned either wholly or in part by any person, corporation, or business which owns an interest in the applicant.

17. No person, otherwise qualified [under] **pursuant to** sections 260.350 to 260.430 for a license to transport hazardous wastes or for a permit to construct, substantially alter or operate a hazardous waste facility, shall be denied such license or permit on the basis of a lack of need for such transport service or such facility because of the existence of other services or facilities capable of meeting that need; except that permits for hazardous waste facilities may be denied on determination made by the department that the financial resources of the persons applying are such that the continued operation of the sites in accordance with sections 260.350 to 260.430 cannot be reasonably assured or on determination made by the department that the probable volume of business is insufficient to ensure and maintain the solvency of then existing permitted hazardous waste facilities.

18. All hazardous waste landfills constructed after October 31, 1980, shall have a leachate collection system. The rules and regulations of the

commission shall treat and protect all aquifers to the same level of protection. The provisions of this subsection shall not apply to the disposal of tailings and slag resulting from mining, milling and primary smelting operations.

19. Any railroad corporation as defined in section 388.010, RSMo, that transports any hazardous waste as defined in section 260.360 or any hazardous substance as defined in section 260.500 shall pay an annual fee of three hundred fifty dollars. Fees collected pursuant to this subsection shall be deposited in the hazardous waste fund created in section 260.391.

260.475. 1. Every hazardous waste generator shall pay, in addition to the fees imposed in section 260.380, a fee of twenty-five dollars per ton annually on all hazardous waste which is discharged, deposited, dumped or placed into or on the soil as a final action, and two dollars per ton on all other hazardous waste transported off site. No fee shall be imposed upon any hazardous waste generator who registers less than ten tons of hazardous waste annually pursuant to section 260.380, or upon:

(1) Hazardous waste which must be disposed of as provided by a remedial plan for an abandoned or uncontrolled hazardous waste site;

(2) Fly ash waste, bottom ash waste, slag waste and flue gas emission control waste generated primarily from the combustion of coal or other fossil fuels;

(3) Solid waste from the extraction, beneficiation and processing of ores and minerals, including phosphate rock and overburden from the mining of uranium ore and smelter slag waste from the processing of materials into reclaimed metals;

(4) Cement kiln dust waste;

(5) Waste oil; or

(6) Hazardous waste that is:

(a) Reclaimed or reused for energy and materials;

(b) Transformed into new products which are not wastes;

(c) Destroyed or treated to render the hazardous waste nonhazardous; or

(d) Waste discharged to a publicly owned treatment works.

2. The fees imposed in this section shall be reported and paid to the department on an annual basis not later than the first of January. The payment shall be accompanied by a return in such form as the department may prescribe.

3. **Thirty percent of all moneys collected or received by the department [under] pursuant to this section shall be transmitted to the department of revenue for deposit in the state treasury to the credit of the hazardous waste remedial fund created in section 260.480. Seventy percent of all moneys collected or received by the department pursuant to this section shall be transmitted to the department of revenue for deposit in the state treasury to the credit of the hazardous waste fund created pursuant to section 260.391.** Following each annual reporting date, the state treasurer shall certify the amount deposited in the fund to the commission.

4. If any generator or transporter fails or refuses to pay the fees imposed by this section, or fails or refuses to furnish any information reasonably requested by the department relating to such fees, there shall be imposed, in addition to the fee determined to be owed, a penalty of fifteen percent of the fee, **thirty percent of which shall be deposited in the hazardous waste remedial fund, and seventy percent of which shall be deposited in the hazardous waste fund.**

5. If the fees or any portion of the fees imposed by this section are not paid by the date prescribed for such payment, there shall be imposed interest upon the unpaid amount at the rate of ten percent per annum from the date prescribed for its payment until payment is actually made, **thirty percent of which shall be deposited in the hazardous waste remedial fund, and seventy percent of which shall be deposited in the hazardous waste fund.**

6. The state treasurer is authorized to deposit all of the moneys in the hazardous waste remedial fund in any of the qualified depositories of the state. All such deposits shall be secured in such a

manner and shall be made upon such terms and conditions as are now or may hereafter be provided for by law relative to state deposits. Interest received on such deposits shall be credited to the hazardous waste remedial fund.

7. No fee shall be collected [under] **pursuant to this section after January 1, [2004] 2005.**

260.479. 1. The hazardous waste management commission shall establish, by rule, five categories of hazardous waste based on the tonnage produced annually by individual generators and each category shall be further divided into subdivisions based upon the management method. Subdivision A shall include waste which is placed in a hazardous waste disposal facility or which is stored for a period of more than one hundred eighty days; provided, however, for the purposes of this section, the commission may identify hazardous waste which shall be taxed [under] **pursuant to** subdivision A when stored for longer than ninety days as well as waste which may be stored for up to one year and taxed as provided in subdivision B below. Subdivision B shall include all other hazardous waste produced. Category 1 shall contain the range of greatest production and category 5 the range of least production with categories 2, 3 and 4 containing those ranges of waste production in between 1 and 5. The commission shall review the categories and establish such categories that will, as near as practical, generate approximately [one] **two and [one-half] eight-tenths million dollars annually for the first fiscal year fees are assessed pursuant to this section, and such revenue target shall be adjusted annually thereafter by the same percentage as the change in the general price level as measured by the Consumer Price Index for All Urban Consumers for the United States, or its successor index, as defined and officially recorded by the United States Department of Labor or its successor agency.** The director shall annually request that [an amount] **one million dollars** be appropriated from general revenue [or federal] funds [which is at least equal to one-third the amount levied against hazardous waste generators pursuant to this section] **for deposit in the hazardous waste remedial fund created pursuant to section**

260.480.

2. **Except as provided in this subsection,** based on the categories established pursuant to this section, each hazardous waste generator registered with the department of natural resources, except the state and any political subdivision thereof, shall pay a fee based on the volume of waste produced in each of the five categories and managed [under] **pursuant to** subdivisions A and B as follows:

| Category | Subdivision A | Subdivision B |
|----------|----------------------------|----------------------------|
| 1 | [\$50,000] \$80,000 | [\$25,000] \$40,000 |
| 2 | \$30,000 | \$15,000 |
| 3 | \$20,000 | \$10,000 |
| 4 | \$10,000 | \$ 5,000 |
| 5 | \$ 1,000 | \$ 500 |

Category 1 limitations established pursuant to this subsection shall be adjusted annually by the same percentage as the change in the general price level as measured by the Consumer Price Index for All Urban Consumers for the United States, or its successor index, as defined and officially recorded by the United States Department of Labor or its successor agency. No company shall pay more than [fifty] eighty thousand dollars annually [under the provisions of] pursuant to this section[.] ; provided that such maximum amount shall be adjusted annually by the same percentage as the change in the general price level as measured by the Consumer Price Index for All Urban Consumers for the United States, or its successor index, as defined and officially recorded by the United States Department of Labor or its successor agency. No individual generator subject to a fee pursuant to this section shall pay less than fifty dollars annually.

3. No tax shall be imposed [under] **pursuant to** this section upon hazardous waste generators whose waste consists solely of waste oil or facilities licensed [under] **pursuant to** chapter 197, RSMo. The commission may exempt intermittent generators or generators of very small volumes of hazardous waste from payment of fees required [under] **pursuant to** this section, provided those generators comply with all other applicable

provisions of sections 260.360 to 260.430.

4. Any hazardous waste generator registered with the department which discharges waste to a publicly owned treatment works having an approved pretreatment program as required by chapter 204, RSMo, shall not pay any fee required in sections 260.350 to 260.550 on such waste discharged which is in compliance with pretreatment requirements. The hazardous waste management commission may exempt such generators from the provisions of sections 260.350 to 260.430 if such exemption will not be in violation of the federal Resource Conservation and Recovery Act.

5. No fee shall be imposed [under] **pursuant to** this section [upon any hazardous waste fuel which is produced from hazardous waste by processing, blending or other treatment and which fuel is generated after June 30, 1987, or] upon any hazardous waste which must be disposed of as provided by a remedial plan for an abandoned or uncontrolled hazardous waste site, or upon smelter slag from the processing of materials into reclaimed metals. **Fees on hazardous waste fuel produced from hazardous waste by processing, blending or other treatment shall be assessed and collected only at the facility where such hazardous waste fuel is utilized as a substitute for other fuel. No facility using hazardous waste fuel shall pay more than eighty thousand dollars annually pursuant to this subsection for the first fiscal year fees are assessed pursuant to this section, and such maximum amount shall be adjusted annually thereafter by the same percentage as the change in the general price level as measured by the Consumer Price Index for All Urban Consumers for the United States, or its successor index, as defined and officially recorded by the United States Department of Labor or its successor agency. This subsection shall not be construed to apply to hazardous waste used directly as a fuel.**

6. The department may establish by rule and regulation categories of waste based upon waste characteristics pursuant to subsection 2 of section 260.370. When the commission adopts hazardous waste categories, it shall establish and annually

revise a fee schedule based upon waste characteristics. Each generator shall annually pay a fee, in lieu of the fee required in subsection 2 of this section, based upon the volume of waste produced annually within each hazard category.

7. All fees within this section shall be based on hazardous waste produced within the preceding state fiscal year beginning with July first of the year this section goes into effect and payable at the end of the calendar year on December thirty-first and annually thereafter in the same manner.

8. The department shall promptly transmit **fifty-five percent of all funds collected [under] pursuant to this section to the director of revenue for deposit in the hazardous waste remedial fund created pursuant to section 260.480. The department shall promptly transmit forty-five percent of all funds collected pursuant to this section to the director of revenue for deposit in the hazardous waste fund created pursuant to section 260.391.**

9. [This section shall become effective on January 1, 1987, or at such time that annual receipts to the hazardous waste remedial fund as established in section 260.480 are less than one million five hundred thousand dollars, whichever first occurs. The provisions of subsection 4 of section 260.478,] Notwithstanding **any other provision of law to the contrary**, no tax based on the number of employees employed by a hazardous waste generator shall be collected [after January 1, 1987]. No tax or fee shall be levied pursuant to this section after January 1, [2004] **2005**.

260.480. 1. There is hereby created within the state treasury a fund to be known as the "Hazardous Waste Remedial Fund". All moneys received from fees, penalties, general revenue, federal funds, gifts, bequests, donations, or any other moneys so designated shall be deposited in the state treasury to the credit of such fund, and shall be invested to generate income to the fund. Notwithstanding the provisions of section 33.080, RSMo, the unexpended balance in the hazardous waste remedial fund at the end of each fiscal year shall not be transferred to the general revenue fund except as directed by the general assembly by appropriation to replace funds appropriated from

the general revenue fund for the purposes for which expenditures from the hazardous waste remedial fund are allowed.

2. The department may use the fund, upon appropriation, for the nonfederal share and any other expenditures which are not covered [under] **pursuant to** the federal Comprehensive Environmental Response, Compensation and Liability Act of 1980, for the following purposes:

(1) Administrative services as appropriate and necessary for the identification, assessment and cleanup of abandoned or uncontrolled sites [under] **pursuant to** sections 260.435 to 260.550;

(2) Payments to other state agencies for such services consistent with sections 260.435 to 260.550, upon proper warrant issued by the commissioner of administration, including, but not limited to, the department of health for the purpose of conducting health studies of persons exposed to waste from an uncontrolled or abandoned hazardous waste site or exposed to the release of any hazardous substance as defined in section 260.500;

(3) Acquisition of property as provided in section 260.420;

(4) [Emergency response activities as provided in sections 260.500 to 260.550;

(5)] The study of the development of a hazardous waste facility in Missouri as authorized in section 260.037;

[(6)] (5) Financing the nonfederal share of the cost of cleanup and site remediation activities as well as post-closure operation and maintenance costs, pursuant to the federal Comprehensive Environmental Response, Compensation and Liability Act of 1980; and

[(7)] (6) Reimbursement of owners or operators who accept waste pursuant to departmental orders [under] **pursuant to** subdivision (2) of subsection 1 of section 260.420.

3. Neither the state of Missouri nor its officers, employees or agents shall be liable for any injury caused by a dangerous condition at any abandoned or uncontrolled site unless such condition is the result of an act or omission

constituting gross negligence on the part of the state, its officers, employees or agents.

4. The department may contract with any person to perform the acts authorized in this section.

5. No moneys shall be available from the fund for abandoned site cleanup unless the director has made all reasonable efforts to secure voluntary agreement to pay the costs of necessary remedial actions from owners or operators of abandoned or uncontrolled hazardous waste sites or other responsible persons.

6. The director shall make all reasonable efforts to recover the full amount of any funds expended from the fund through litigation or cooperative agreements with responsible persons. All moneys recovered or reimbursed pursuant to this section through voluntary agreements or court orders shall be deposited with the state treasurer and credited to the account of the hazardous waste remedial fund.

260.500. As used in sections 260.500 to 260.550, unless the context clearly indicates otherwise, the following terms mean:

(1) "Cleanup", all actions necessary to contain, collect, control, identify, analyze, clean up, treat, disperse, remove, or dispose of a hazardous substance;

(2) "Cleanup costs", all costs incurred by the state or any of its political subdivisions, or their agents, or by any other person participating with the approval of the department of natural resources in the prevention or mitigation of damages from a hazardous substance emergency or the cleanup of a hazardous substance involved in a hazardous substance emergency, **including a proportionate share of those costs necessary to maintain the services authorized in sections 260.500 to 260.550;**

(3) "Department", the department of natural resources;

(4) "Director", the director of the department of natural resources;

(5) "Hazardous substance", any substance or mixture of substances that presents a danger to the

public health or safety or the environment and includes:

(a) Any hazardous waste identified or listed by the department [under] **pursuant to** sections 260.350 to 260.430;

(b) Any element, compound, mixture, solution, or substance designated pursuant to Sections 101(14) and 102 of the Comprehensive [Environment] **Environmental Response, Compensation and Liability Act of 1980, as amended, and Section 302 of the Superfund Amendments and Reauthorization Act of 1986, as amended;** and

(c) Any hazardous material designated by the Secretary of the United States Department of Transportation [under] **pursuant to** the Hazardous Materials Transportation Act;

(d) "Hazardous substances" does not include radioactive materials, wastes, emissions or discharges that are licensed or regulated by laws of the federal government or of this state. However, such material released due to a transportation accident shall be considered a hazardous substance;

(6) "Hazardous substance emergency":

(a) Any release of hazardous substances in quantities equal to or in excess of those determined pursuant to Section 101(14) or 102 of the Comprehensive Environmental Response, Compensation and Liability Act of 1980, **as amended, and Section 304 of the Superfund Amendments and Reauthorization Act of 1986, as amended;**

(b) Any release of petroleum including crude oil or any fraction thereof, natural gas, natural gas liquids, liquefied natural gas, or synthetic gas usable for fuel (or mixtures of natural gas and such synthetic gas) in excess of fifty gallons for liquids or three hundred cubic feet for gases, except that the notification and reporting of any release of natural gas or natural gas mixtures by or from intrastate facilities, regardless of the quantity of such release, shall be as specified by the public service commission rather than pursuant to the notification and reporting requirements contained in, or authorized by, sections 260.500 to 260.550. Interstate natural gas pipeline facilities

shall report natural gas releases to the state and the National Response Center in accordance with federal Department of Transportation regulatory requirements;

(c) Any release of a hazardous waste which is reportable [under] **pursuant to** sections 260.350 to 260.430;

(d) Any release of a hazardous substance which requires immediate notice [under] **pursuant to** Part 171 of Title 49 of the Code of Federal Regulations;

(e) The department [shall] **may** promulgate rules and regulations identifying the substances and the quantities thereof which, if released, constitute a hazardous substance emergency;

(7) "Person", any individual, partnership, copartnership, firm, company, public or private corporation, association, joint stock company, trust, estate, political subdivision, or any agency, board, department, or bureau of the state or federal government, or any other legal entity whatever which is recognized by law as the subject of rights and duties;

(8) "Person having control over a hazardous substance", any person producing, handling, storing, transporting, refining, or disposing of a hazardous substance when a hazardous substance emergency occurs, including bailees, carriers, and any other person in control of a hazardous substance when a hazardous substance emergency occurs, whether they own the hazardous substance or are operating under a lease, contract, or other agreement with the legal owner thereof;

(9) "Release", any threatened or real emission, discharge, spillage, leakage, pumping, pouring, emptying or dumping of a substance into or onto the land, air or waters of the state unless done in compliance with the conditions of a federal or state permit, unless the substance is confined and is expected to stay confined to property owned, leased or otherwise controlled by the person having control over the substance, or unless, in the case of pesticides, if application is done in accordance with the product label;

(10) "State of Missouri basic emergency operations plan", the state plan, its annexes, and

appendices as developed or maintained by the state emergency management agency for response to natural and man-made disasters in this state;

(11) "Waters of the state", all rivers, streams, lakes and other bodies of surface and subsurface water lying within or forming a part of the boundaries of the state which are not entirely confined and located completely upon lands owned, leased or otherwise controlled by a single person or by two or more persons jointly or as tenants in common and includes waters of the United States lying within the state.

260.535. Moneys received pursuant to the provisions of sections 260.500 to 260.550 which are not required by article IX, section 7 of the constitution to be distributed to schools shall be deposited in the hazardous waste [remedial] fund **created in section 260.391** and shall, upon appropriation, be used for control, abatement, analysis, cleanup, investigation and other reasonable costs incurred when responding to hazardous substance emergencies, or shall be used to reimburse the federal government for federal funds expended for the purposes named in this section. All other costs of the department necessary to carry out the provisions of sections 260.500 to 260.550 shall be **paid from the hazardous waste fund**, appropriated from general revenue or **paid** from available federal funds.

260.546. 1. In the event that a hazardous substance release occurs for which a political subdivision or volunteer fire protection association as defined in section 320.300, RSMo, provides emergency services, the person having control over a hazardous substance shall be liable for such reasonable cleanup costs incurred by the political subdivision or volunteer fire protection association. Such liability includes the cost of materials, supplies and contractual services actually used to secure an emergency situation. The liability may also include the cost for contractual services which are not routinely provided by the department or political subdivision or volunteer fire protection association. Such liability shall not include the cost of normal services which otherwise would have been provided. Such liability shall not include budgeted administrative costs or the costs

for duplicate services if multiple response teams are requested by the department or political subdivision unless, in the opinion of the department or political subdivision, duplication of service was required to protect the public health and environment. Such liability shall be established upon receipt by the person having control of the spilled hazardous substance of an itemized statement of costs provided by the political subdivision.

2. Full payment shall be made within thirty days of receipt of the cost statement unless the person having control over the hazardous substance contests the amount of the costs pursuant to this section. If the person having control over the hazardous substance elects to contest the payment of such costs, he shall file an appeal with the director within thirty days of receipt of the cost statement.

3. Upon receipt of such an appeal, the director shall notify the parties involved of the appeal and collect such evidence from the parties involved as he deems necessary to make a determination of reasonable cleanup costs. Within thirty days of notification of the appeal, the director shall notify the parties of his decision. The director shall direct the person having control over a hazardous substance to pay those costs he finds to be reasonable and appropriate. The determination of the director shall become final thirty days after receipt of the notice by the parties involved unless prior to such date one of the involved parties files a petition for judicial review pursuant to chapter 536, RSMo.

4. The political subdivision or volunteer fire protection association may apply to the department for reimbursement from the hazardous waste [remedial] fund created in section [260.535] **260.391**, for the costs for which the person having control over a hazardous substance shall be liable if the political subdivision or volunteer fire protection association is able to demonstrate a need for immediate relief for such costs and believes it will not receive prompt payment from the person having control over a hazardous substance. When the liability owed to the political subdivision or volunteer fire protection association by the person

having control over a hazardous substance is paid, the political subdivision or volunteer fire protection association shall reimburse the department for any payment it has received from the hazardous waste remedial fund. Such reimbursement to a political subdivision or volunteer fire protection association by the department shall be paid back to the department by the political subdivision or volunteer fire protection association within that time limit imposed by the department notwithstanding failure of the person having control over a hazardous substance to reimburse the political subdivision or volunteer fire protection association within that time.

260.569. 1. The department shall be reimbursed for its site-specific costs incurred in administration and oversight of the voluntary cleanup. The department shall bill applicants who conduct the voluntary cleanup at rates established by rule by the hazardous waste management commission. Such rates shall not be more than the lesser of the costs to the department or one hundred dollars per hour. The department shall furnish to the applicant a complete, full and detailed accounting of the costs incurred by the department for which the applicant is charged. The applicant may appeal any charge to the commission within thirty days of receipt of the bill. Appeal to the commission shall stay the required payment date until thirty days following the rendering of the decision of the commission. The department of natural resources shall initially draw down its charges against the application fee. Timely remittance of reimbursements, as provided in subsection 3 of this section, to the department is a condition of continuing participation. If, after the conclusion of the remedial action, a balance remains, the department shall refund that amount within sixty days. If the department fails to render any decision or take any action within the time period specified in sections 260.565 to 260.575, then the applicant shall not be required to reimburse the department for costs incurred for such review or action.

2. All funds remitted by the applicant conducting the voluntary cleanup shall be deposited into the hazardous waste **remedial fund created in section 260.480** and shall be used by the

department upon appropriation for its administrative and oversight costs.

3. The department may terminate an applicant from further participation for cause. Grounds for termination include, but are not limited to:

(1) Discovery of conditions such as to warrant action [under] **pursuant to** sections 260.350 to 260.480, as amended, the Resource Conservation and Recovery Act, 42 U.S.C. section 6901 et seq., as amended, or the Comprehensive Environmental Response, Compensation and Liability Act, 42 U.S.C. section 9601 et seq., as amended;

(2) Failure to submit cost reimbursements within sixty days following notice from the department that such reimbursements are due;

(3) Failure to submit required information within ninety days following notice from the department that such information is required;

(4) Failure to submit a remedial action plan within ninety days following notice from the department that such plan is due;

(5) Failure to properly implement the remedial action plan; and

(6) Continuing noncompliance with any of the provisions of sections 260.565 to 260.575 or the rules and regulations promulgated [thereunder] **pursuant to sections 260.565 to 260.575**.

4. Upon termination pursuant to subdivision (1) of subsection 3 of this section or subsection 11 of section 260.567, if there is a balance in the applicant's application fee after deducting costs incurred by the department of natural resources, such balance shall be refunded within sixty days. Upon termination pursuant to subdivisions (2) to (6) of subsection 3 of this section, if a balance remains in the applicant's application fee, such balance shall be forfeited and deposited in the hazardous waste **remedial** fund."; and

Further amend the title and enacting clause accordingly.

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

Senator Mathewson assumed the Chair.

Senator Rohrbach offered **SA 2**, which was

read:

SENATE AMENDMENT NO. 2

Amend Senate Substitute for Senate Committee Substitute for Senate Bill No. 577, Page 9, Section 260.920, Line 18 of said page by deleting on said line the word "including" and inserting in lieu thereof the words "except for".

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

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

SENATE AMENDMENT NO. 3

Amend Senate Substitute for Senate Committee Substitute for Senate Bill No. 577, Page 15, Section 260.925, Line 8, striking the word "substantially" and substitute "materially" and amend line 17 by striking the word "solely".

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

Senator Schneider offered **SA 4**:

SENATE AMENDMENT NO. 4

Amend Senate Substitute for Senate Committee Substitute for Senate Bill No. 577, Page 16, Section 260.925, Line 11 by striking the word "Ten" and substitute the word "Twenty-Five".

Senator Schneider moved that the above amendment be adopted.

At the request of Senator Maxwell, **SB 577** with **SCS, SS** for **SCS** and **SA4** (pending), was placed on the Informal Calendar.

At the request of Senator Goode, **SB 803**, with **SCS**, was placed on the Informal Calendar.

Senator Quick moved that **SJR 53** be taken up for perfection, which motion prevailed.

Senator Johnson assumed the Chair.

Senator Quick offered **SS** for **SJR 53**, entitled:

SENATE SUBSTITUTE FOR SENATE JOINT RESOLUTION NO. 53

Joint Resolution submitting to the qualified voters of Missouri, an amendment repealing sections 2, 5, 7 and 9 of article III of the

Constitution of Missouri relating to changing the number of members of the general assembly, and adopting four new sections in lieu thereof relating to the same subject.

Senator Quick moved that **SS** for **SJR 53** be adopted.

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

SENATE AMENDMENT NO. 1

Amend Senate Substitute for Senate Joint Resolution No. 53, Page 9, Section 9, Line 4 by striking the word "five" and substitute the words "and forty".

Senator Schneider moved that the above amendment be adopted and requested a roll call vote be taken. He was joined in his request by Senators Bentley, Childers, Graves and Rohrbach.

SA 1 failed of adoption by the following vote:

YEAS—Senators

| | | | |
|-----------|----------|-------------|----------|
| Bentley | Ehlmann | Flotron | Graves |
| House | Kenney | Kinder | Rohrbach |
| Schneider | Steelman | Westfall—11 | |

NAYS—Senators

| | | | |
|-----------|---------|-----------|----------|
| Bland | Carter | Caskey | Childers |
| DePasco | Goode | Howard | Jacob |
| Johnson | Klarich | Mathewson | Maxwell |
| Mueller | Quick | Scott | Sims |
| Singleton | Staples | Stoll | Wiggins |
| Yeckel—21 | | | |

Absent—Senator Russell—1

Absent with leave—Senator Clay—1

Senator Mathewson assumed the Chair.

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

SENATE AMENDMENT NO. 2

Amend Senate Substitute for Senate Joint Resolution No. 53, Page 5, Section 5, Line 17 of said page, by striking the following: "[thirty-four] **thirty-five**" and inserting in lieu thereof the following: "thirty-four"; and

Further amend said bill, Section 7, Page 6, Line 9 of said page, by striking the following: "[thirty-

four] **thirty-five**" and inserting in lieu thereof the following: "thirty-four"; and

Further amend said bill and section, Page 7, Line 5 of said page, by striking the opening and closing brackets "[]" around "thirty-four"; and further amend line 6 of said page, by striking "thirty-five"; and further amend line 14 of said page, by striking the following: "[thirty-four] **thirty-five**" and inserting in lieu thereof the following: "thirty-four"; and

Further amend said bill, Page 9, Section 9, line 5 of said page, by striking the following: "thirty-five" and inserting in lieu thereof the following: "**thirty-four**"; and

Further amend said bill, Page 9, Section B, line 12 of said page, by striking "and" and further amend line 13 of said page, by striking all of said line and inserting in lieu thereof the following: "?".

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

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

SENATE AMENDMENT NO. 3

Amend Senate Substitute for Senate Joint Resolution No. 53, Page 5, Section 5, Line 21, by inserting after "be" the following: "**and as determined by the actual population enumeration of the United States Bureau of the Census**".

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

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

SENATE AMENDMENT NO. 4

Amend Senate Substitute for Senate Joint Resolution No. 53, Page 4, Section 2, Line 4, by striking the words "sixty-three" and inserting in lieu thereof: "**five**"; and further amend said page and section, line 6, by inserting after the word "figure" the following: "**as determined by the actual population enumeration of the United States Bureau of the Census**".

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

Senator Quick moved that **SS** for **SJR 35**, as amended, be adopted and requested a roll call vote be taken. He was joined in his request by Senators Ehlmann, Mathewson, Schneider and Singleton.

SS for **SJR 35**, as amended, failed of adoption by the following vote:

YEAS—Senators

| | | | |
|-----------|---------|-----------|------------|
| DePasco | Ehlmann | Goode | House |
| Johnson | Kinder | Mathewson | Quick |
| Singleton | Staples | Stoll | Wiggins—12 |

NAYS—Senators

| | | | |
|---------|-----------|----------|----------|
| Bland | Caskey | Childers | Flotron |
| Graves | Howard | Jacob | Kenney |
| Klarich | Maxwell | Mueller | Rohrbach |
| Russell | Schneider | Steelman | Westfall |

Yeckel—17

Absent—Senators

| | | | |
|---------|--------|-------|--------|
| Bentley | Carter | Scott | Sims—4 |
|---------|--------|-------|--------|

Absent with leave—Senator Clay—1

SJR 35 was again taken up.

At the request of Senator Quick, **SJR 35** was placed on the Informal Calendar.

REPORTS OF STANDING COMMITTEES

On behalf of Senator Scott, Chairman of the Committee on Pensions and General Laws, Senator Quick submitted the following report:

Mr. President: Your Committee on Pensions and General Laws, to which was referred **HS** for **HCS** for **HJR 61**, begs leave to report that it has considered the same and recommends that the Senate Committee Substitute, hereto attached, do pass.

REFERRALS

President Pro Tem Quick referred **SCR 34** to the Committee on Rules, Joint Rules and Resolutions.

INTRODUCTIONS OF GUESTS

Senator Caskey introduced to the Senate, Dale Jenkins and Gene Irvin, Adrian; and Bob Madeo, Warrensburg.

Senator Mueller introduced to the Senate, Dan and Jason Wells, Kirkwood.

Senator Wiggins introduced to the Senate, Ed Rucker and Kim Byers, Kansas City.

Senator Wiggins introduced to the Senate, the Physician of the Day, Dr. Larry Rues, M.D., Kansas City.

Senator Flotron introduced to the Senate, Forester Jenkins and Mark Selby, Florissant; and Joe Smith, St. Peters.

Senator DePasco introduced to the Senate, Jay, Connie and Jake Fulcher, Independence; and Roger and Caroline Walker; and Jake was made an honorary page.

Senator Graves introduced to the Senate, one hundred fourth grade students from Brookfield Elementary School, Brookfield.

Senator Schneider introduced to the Senate, Bill and Rosemary Cira, and a group from the 14th Senatorial District.

On behalf of Senator Graves and herself, Senator Bentley introduced to the Senate, Betty Preston, Chillicothe.

Senator Graves introduced to the Senate, members of the Chillicothe Chamber of Commerce.

Senator Stoll introduced to the Senate, Nancy Craig, Jefferson County.

Senator Yeckel introduced to the Senate, Ben James and Lauren Kelly, Home Schoolers from St. Louis; and Ben, James and Lauren were made honorary pages.

Senator Staples introduced to the Senate, Roger Koontz and fourth grade students from Alton.

Senator Yeckel introduced to the Senate, Lisa Urbanek and Cub Scouts, Den 7, Pack 267, from Beasley School, St. Louis; and Jeremy Garner, Sergio Maciel, Eric Schroeder, Mark Urbanek and James Walls were made honorary pages.

Senator Schneider introduced to the Senate, sixty fourth grade students from Halls Ferry Elementary School, Florissant; and Jonathan

Rundell, Lakiesha Cole, Chelsea Thomas and Nicole Henniger were made honorary pages.

Senator Bentley introduced to the Senate, Dale Shotts, Casey Brezik, Ann Soots and Fred Rosenberger, Springfield; and Dale and Casey were made honorary pages.

Senator Schneider introduced to the Senate, Sheryl and Codi White and Caleb Minter, St. Louis County; and Codi and Caleb were made honorary pages.

Senator Caskey introduced to the Senate, Magdalena Netzel, Whooch, Poland.

Senator Howard introduced to the Senate, Ann Ridings, Chesterfield; and Joetta Martin, Poplar Bluff.

Senator Bland introduced to the Senate, members of the Westport-Edison Charter School ROTC Drill and Color Guard, Kansas City; and Jason Jarrett, Juan Sanchez, Quiana Williams, Martin Andrade and Lashunda Gibson were made honorary pages.

Senator Sims introduced to the Senate,

Andriette Fields, Brittany Johnson, Alexzandra Smith, Laura Muhammad, Asiah Gayfield, Ametra Harris, Devin Bradford, Shannon George, Felicia McNeal, Kelsey Thomas, Judy Forland, Roneiceia Forland, Sieadah Farmer, Kimberly Woods, Rhonda Ford, Thea Troupe, Kyra Rayford, Sierra Rayford, Rachael Gilbert, Alycia Davis, Layteza Waites, Anita Spence, Jasmin Andrews, Brandi Fair, Dominique Fair, Kaci Casen, Sha'Mell West Smith, Donette Masser, Deven Washington, Aydne Gilbert, Kaycee Williams, Tobi Williams, Courtney Brooks, Gadeanna Baisa and Brittany Fields, Girls Inc., of St. Louis City.

Senator Bland introduced to the Senate, Kimberly Scoggin and John Socgfack, New Century, Kansas; Rosemary Davis Kelly, Blue Springs; and Ambassador Mohamed Aly Thiam, Republic of Guinea.

Senator Wiggins introduced to the Senate, Meredith Donna Oswald, Kansas City; and Meredith was made an honorary page.

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

SENATE CALENDAR

FORTY-SIXTH DAY—WEDNESDAY, MARCH 29, 2000

FORMAL CALENDAR

HOUSE BILLS ON SECOND READING

HCS for HB 1737

THIRD READING OF SENATE BILLS

SS for SCS for SBs 867 &
552-Maxwell
(In Budget Control)

SS for SB 813-House
SB 771-DePasco

SENATE BILLS FOR PERFECTION

1. SB 697-Schneider,
with SCS
2. SB 604-Wiggins
3. SB 850-Scott
4. SB 1049-Caskey, et al
5. SB 944-Caskey, with
SCAs 1 & 2
6. SB 802-Goode, et al,
with SCS
7. SB 1017-Mathewson, et
al, with SCAs 1 & 2
8. SB 744-Klarich
9. SB 957-Johnson and
Quick, with SCS
10. SB 925-Caskey and
Mathewson, with SCS
11. SB 772-Goode
12. SB 926-Stoll and
House, with SCS
13. SB 826-Jacob, et al,
with SCS
14. SB 930-Jacob, with SCS
15. SJR 50-Stoll
16. SB 885-Mathewson,
with SCS
17. SB 902-Mathewson
18. SB 720-Caskey
19. SB 980-Jacob, with SCS
20. SB 1016-Jacob, et al
21. SB 851-Wiggins and Stoll
22. SB 817-Stoll, with SCS
23. SB 830-Caskey
24. SB 892-Quick
25. SB 793-Staples, with SCS
26. SBs 959 & 598-Howard,
with SCS
27. SB 954-Bentley and
Johnson, with SCS
28. SBs 1027 & 815-Sims,
with SCS
29. SBs 538 & 565-Russell,
with SCS
30. SBs 584, 539, 630, 777,
796, 918 & 927-Bentley,
with SCS
31. SBs 818 & 564-Maxwell
and Kinder, with SCS
32. SB 955-Mathewson, et al
33. SB 1048-Mathewson,
with SCS
34. SB 866-Klarich

HOUSE BILLS ON THIRD READING

HS for HCS for HJR 61-
Van Zandt, with SCS

INFORMAL CALENDAR

SENATE BILLS FOR PERFECTION

- | | |
|---|---|
| SBs 545, 628, 647, 728, 834 & 832-Staples, with SCS (pending) | SB 577-Maxwell, with SCS, SS for SCS & SA 4 (pending) |
|---|---|

SBs 599 & 531-Schneider,
with SCS (pending)

SB 610-Staples and
DePasco, with SA 3
(pending)

SBs 678 & 742-Schneider,
with SCS, SS for SCS,
SA 7, SSA 1 for SA 7,
SA 2 to SSA 1 for SA 7
& point of order (pending)

SB 729-House, with SCS,
SA 1 & SA 2 to SA 1
(pending)

SB 803-Goode, et al, with SCS

SBs 807, 553, 574, 614,
747 & 860-Jacob, with
SCS, SS for SCS & SA 2
(pending)

SB 827-Scott, et al, with
SS & SA 2 (pending)

SJR 31-Schneider

SJR 35-Goode, et al, with
SS & SS#2 for SS
(pending)

SJR 45 & 41-House, with
SCS (pending)

SJR 46-Goode, et al, with
SCS (pending)

SJR 47-Quick, et al, with
SCS, SS for SCS, SA 1,
SSA 1 for SA 1 & point
of order (pending)

SJR 53-Quick

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CONSENT CALENDAR

Senate Bills

Reported 2/15

SB 740-Wiggins

Reported 3/13

SB 683-Childers, with SCS
(In Budget Control)

Reported 3/15

SB 956-Flotron and Goode,
with SCS
(In Budget Control)

SB 1066-Bland and Maxwell,
with SCS
(In Budget Control)

SB 1059-Westfall, with SCS
(In Budget Control)

Reported 3/16

SB 864-Caskey

SB 1075-Jacob, with SCS

RESOLUTIONS

SR 1337-Schneider
SR 1204-Goode

SR 1373-Mathewson
SCR 33-Kinder, et al

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