

# Journal of the Senate

SECOND REGULAR SESSION

**FORTY-NINTH DAY—TUESDAY, APRIL 4, 2000**

The Senate met pursuant to adjournment.

President Pro Tem Quick in the Chair.

The Reverend Carl Gauck offered the following prayer:

“God has not given us the spirit of fear, but of power, and of love, and of a sound mind.” (2 Timothy 1:7)

O God, King of the Universe, help us to see that there is nothing mutually exclusive about using our hearts and using our heads. We know that there have been times we have thrown good judgment to the winds - all in the name of what we have chosen to call heavenly love. Help us to strive for a balance between boldness and love - between power and wise discretion. Help us to demonstrate the “sanity of saintliness” and let not our heads, our hearts nor our hands offend against You or Your people. 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 KRCG-TV and 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 | Clay  | 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—34 |           |           |

Absent with leave—Senators—None

The Lieutenant Governor was present.

## RESOLUTIONS

Senator Childers offered Senate Resolution No. 1462, regarding Nathaniel Gene "Nathan" Stoll, Branson, which was adopted.

Senator Mueller offered the following resolution, which was adopted:

SENATE RESOLUTION NO. 1463

WHEREAS, the Honorable Sharon Burkhardt has held the office of Mayor of the City of Des Peres, Missouri, since 1992 after a two-year-long stint as a member of the Board of Aldermen; and

WHEREAS, Mayor Burkhardt will be honored on the occasion of her retirement at a reception on Monday, April 24, 2000, in appreciation of her stellar endeavors which have proven to be of great value to the City's growth and vitality; and

WHEREAS, during her tenure as Mayor, Sharon Burkhardt completed the planning for the \$300 million redevelopment of West County Shopping Center, assisted in the improvements of Dougherty Ferry Road and Manchester, oversaw the construction of the Des Peres Department of Public Safety Building, placed Phantom Forest and Bittersweet Woods as natural woodlands under the Department of Conservation Urban Wildacres Program, gained legislative and voter approval of a half-cent capital improvement sales tax for the City, negotiated and lobbied for the 1994 sales tax compromise which resulted in revenue sharing with St. Louis County, successfully annexed six neighborhoods in which nearly 1,000 new residents joined Des Peres, developed Sugar Creek Park,

beautified Manchester Road through the concept of Des Peres Corners landscaping enhancements at major intersections, and first broached the concept of urban sprawl through opposition to the Page Avenue Extension; and

WHEREAS, Mayor Burkhardt has compiled an exemplary history of endeavors with the County Municipal League, East-West Gateway Coordinating Council, Missouri Municipal League, Cities for Growth, St. Louis chapter of the PEO, Kathy Wyman Shelter for Abused Women, St. Paul Lutheran Church, Dougherty Lake Subdivision, Chaminade Mothers Club, Des Peres Rotary Club, Kirkwood Area Chamber of Commerce, and the Junior League of St. Louis; and

WHEREAS, Mayor Burkhardt's appreciation of life, dedication to family, and love and respect for her fellow man can best be understood by the handling of her fight with leukemia; and

WHEREAS, while undergoing treatment for leukemia, Mayor Burkhardt coordinated the largest single-day bone marrow testing drive by the Heart of America Bone Marrow Registry raising \$40,000; and

WHEREAS, the drive did not directly benefit Mayor Burkhardt but did provide for several marrow matches for other victims of leukemia:

NOW, THEREFORE, BE IT RESOLVED that we, the members of the Missouri Senate, Ninetieth General Assembly, join unanimously to salute the very impressive and effective labors of Sharon Burkhardt and to extend to her this legislative body's best wishes for a future filled with just as many challenges and accomplishments as she enjoyed during her tenure as Mayor of the City of Des Peres; and

BE IT FURTHER RESOLVED that the Secretary of the Senate be instructed to prepare a properly inscribed copy of this resolution for retiring Mayor Sharon Burkhardt of Des Peres.

**THIRD READING OF SENATE BILLS**

**SS for SB 850**, introduced by Senator Scott, entitled:

**SENATE SUBSTITUTE FOR  
SENATE BILL NO. 850**

An Act to repeal section 334.128, RSMo 1994, relating to the state board of registration for the healing arts, and to enact in lieu thereof one new section relating to the same subject.

Was taken up.

President Wilson assumed the Chair.

On motion of Senator Scott, **SS for SB 850** was read the 3rd time and passed by the following vote:

YEAS—Senators

|           |           |           |           |
|-----------|-----------|-----------|-----------|
| Bentley   | Carter    | Caskey    | Childers  |
| Clay      | DePasco   | 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—32 |

NAYS—Senator Ehlmann—1

Absent—Senators—None

Absent with leave—Senator Bland—1

The President declared the bill passed.

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

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

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

**SCS for SB 802**, entitled:

**SENATE COMMITTEE SUBSTITUTE FOR  
SENATE BILL NO. 802**

An Act to repeal section 99.805, RSMo Supp. 1999, relating to tax increment financing, and to enact in lieu thereof seven new sections relating to the same subject, with an effective date.

Was taken up by Senator Goode.

Senator Staples assumed the Chair.

On motion of Senator Goode, **SCS for SB 802** was read the 3rd time and passed by the following vote:

YEAS—Senators

|         |           |            |           |
|---------|-----------|------------|-----------|
| Bentley | Carter    | Childers   | Clay      |
| DePasco | Ehlmann   | Goode      | Graves    |
| House   | Jacob     | Johnson    | Kenney    |
| Kinder  | Klarich   | Mathewson  | Maxwell   |
| Quick   | Rohrbach  | Russell    | Schneider |
| Scott   | Singleton | Staples    | Steelman  |
| Stoll   | Westfall  | Wiggins—27 |           |

NAYS—Senators

|        |         |        |         |
|--------|---------|--------|---------|
| Caskey | Flotron | Howard | Mueller |
|--------|---------|--------|---------|

SimsYeckel—6

Absent—Senators—None

Absent with leave—Senator Bland—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.

### SENATE BILLS FOR PERFECTION

Senator Goode moved that **SB 772** be taken up for perfection, which motion prevailed.

Senator Goode offered **SA 1**:

#### SENATE AMENDMENT NO. 1

Amend Senate Bill No. 772, Page 6, Section 8.896, Line 17, by inserting immediately after the word "proposal" the following:

**". In evaluating the cost proposals, the low bidder shall be awarded the total number of points assigned to be awarded in phase III. For all other bidders, cost points will be calculated by reducing the maximum points available in phase III by two percent or more for each percentage point of the low bid by which the bidder exceeds the low bid".**

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

Senator Mathewson assumed the Chair.

Senator Flotron offered **SA 2**:

#### SENATE AMENDMENT NO. 2

Amend Senate Bill No. 772, Page 7, Section 327.395, Line 1, by inserting before all of said line the following:

"144.062. 1. With respect to exempt sales at retail of tangible personal property and materials for the purpose of constructing, repairing or remodeling facilities for:

(1) A county, other political subdivision or

instrumentality thereof exempt from taxation under subdivision (10) of section 39 of article III of the Constitution of Missouri; or

(2) An organization sales to which are exempt from taxation under the provisions of subdivision (19) of subsection 2 of section 144.030; or

(3) Any institution of higher education supported by public funds or any private not for profit institution of higher education, exempt from taxation under subdivision (20) of subsection 2 of section 144.030; or

(4) Any private not for profit elementary or secondary school exempt from taxation under subdivision (22) of subsection 2 of section 144.030; or

**(5) Any department or agency of the state,** hereinafter collectively referred to as exempt entities, such exemptions shall be allowed for such purchases if the purchases are related to the entities' exempt functions and activities. In addition, the sales shall not be rendered nonexempt nor shall any material supplier or contractor be obligated to pay, collect or remit sales tax with respect to such purchases made by or on behalf of an exempt entity due to such purchases being billed to or paid for by a contractor or the exempt entity contracting with any entity to render any services in relation to such purchases, including but not limited to selection of materials, ordering, pickup, delivery, approval on delivery, taking of delivery, transportation, storage, assumption of risk of loss to materials or providing warranties on materials as specified by contract, use of materials or other purchases for construction of the building or other facility, providing labor, management services, administrative services, design or technical services or advice to the exempt entity, whether or not the contractor or other entity exercises dominion or control in any other manner over the materials in conjunction with services or labor provided to the exempt entity.

2. When any exempt entity contracts for the purpose of constructing, repairing or remodeling facilities, and purchases of tangible personal property and materials to be incorporated into or consumed in the construction of the project are to be made on a tax-exempt basis, such entity shall

furnish to the contractor an exemption certificate authorizing such purchases for the construction, repair or remodeling project. The form and content of such project exemption certificate shall be approved by the director of revenue. The project exemption certificate shall include but not be limited to:

(1) The exempt entity's name, address, Missouri tax identification number and signature of authorized representative;

(2) The project location, description, and unique identification number;

(3) The date the contract is entered into, which is the earliest date materials may be purchased for the project on a tax-exempt basis;

(4) The estimated project completion date; and

(5) The certificate expiration date. Such certificate is renewable for a given project at the option of the exempt entity, only for the purpose of revising the certificate expiration date as necessary to complete the project.

3. The contractor shall furnish the certificate prescribed in subsection 2 of this section to all subcontractors, and any contractor purchasing materials shall present such certificate to all material suppliers as authorization to purchase, on behalf of the exempt entity, all tangible personal property and materials to be incorporated into or consumed in the construction of that project and no other on a tax-exempt basis. Such suppliers shall execute to the purchasing contractor invoices bearing the name of the exempt entity and the project identification number. Nothing in this section shall be deemed to exempt the purchase of any construction machinery, equipment or tools used in constructing, repairing or remodeling facilities for the exempt entity. All invoices for all personal property and materials purchased under a project exemption certificate shall be retained by the purchasing contractor for a period of five years and shall be subject to audit by the director of revenue.

4. Any excess resalable tangible personal property or materials which were purchased for the project by a contractor under a project exemption certificate but which were not incorporated into or

consumed in the construction of the project shall either be returned to the supplier for credit or the appropriate sales or use tax on such excess property or materials shall be reported on a return and paid by such contractor not later than the due date of the contractor's Missouri sales or use tax return following the month in which it was determined that the materials were not to be used in the project.

5. No contractor or material supplier shall, upon audit, be required to pay tax on tangible personal property and materials incorporated into or consumed in the construction of the project, due to the failure of the exempt entity to revise the certificate expiration date as necessary to complete any work required by the contract. If it is determined that tax is owed on such property and materials due to the failure of the exempt entity to revise such certificate expiration date, the exempt entity shall be liable for the tax owed.

6. If an entity issues exemption certificates for the purchase of tangible personal property and materials which are incorporated into or consumed in the construction of its project and such entity is found not to have had the authority granted by this section to issue such exemption certificates, then such entity shall be liable for the tax owed on such personal property and materials. In addition, if an entity which does have the authority granted by this section to issue exemption certificates issues such certificates for the purchase of tangible personal property and materials which are incorporated into or consumed in the construction of a project, or part of a project, which is found not to be related to such entity's exempt functions and activities, then such entity shall be liable for the tax owed on such personal property and materials."; and

Further amend the title and enacting clause accordingly.

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

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

#### SENATE AMENDMENT NO. 3

Amend Senate Bill No. 772, Page 3, Section 8.878, Line 33, by adding after said line the following:

"5. The provisions of Section 290.210 to 290.340 shall be excluded from any design-build contract provided pursuant to this Act."

Senator Childers moved that the above amendment be adopted and requested a roll call vote be taken. He was joined in his request by Senators Goode, Kenney, Mueller and Westfall.

**SA 3** failed of adoption by the following vote:

YEAS—Senators

|           |          |             |         |
|-----------|----------|-------------|---------|
| Bentley   | Childers | Ehlmann     | Flotrun |
| Graves    | Kenney   | Kinder      | Klarich |
| Mueller   | Rohrbach | Russell     | Sims    |
| Singleton | Staples  | Westfall—15 |         |

NAYS—Senators

|           |         |         |           |
|-----------|---------|---------|-----------|
| Carter    | Caskey  | DePasco | Goode     |
| House     | Howard  | Jacob   | Johnson   |
| Mathewson | Maxwell | Quick   | Schneider |
| Steelman  | Stoll   | Wiggins | Yeckel—16 |

Absent—Senators

Clay                    Scott—2

Absent with leave—Senator Bland—1

Senator Wiggins assumed the Chair.

At the request of Senator Goode, **SB 772** was placed on the Informal Calendar.

### MESSAGES FROM THE HOUSE

The following message was received from the House of Representatives through its Chief Clerk:

Mr. President: I am instructed by the House of Representatives to inform the Senate that the House has taken up and passed **HB 1841**, entitled:

An Act to amend chapter 263, RSMo, relating to insect pests and weeds by adding thereto one new section relating to noxious weeds.

In which the concurrence of the Senate is respectfully requested.

Read 1st time.

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 President Pro Tem Quick.

### SENATE BILLS FOR PERFECTION

Senator Staples moved that **SB 610** with **SA 3** (pending) be called from the Informal Calendar and again taken up for perfection, which motion prevailed.

**SA 3** was again taken up.

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

Senator Singleton offered **SA 4**:

#### SENATE AMENDMENT NO. 4

Amend Senate Bill No. 610, Page 2, Section 302.020, Line 35, by inserting immediately after said line the following:

"4. Notwithstanding the provisions of 307.178 RSMo Supp. 1999, all operators of motorcycles and motor tricycles shall wear a properly adjusted and fastened safety belt that meets federal National Highway, Transportation and Safety Act requirements."

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

On motion of Senator Staples, **SB 610**, as amended, was declared perfected and ordered printed.

Senator Schneider moved that **SB 678** and **SB 742** with **SCS, SS** for **SCS, SA7, SSA 1** for **SA 7, SA 2** to **SSA 1** for **SA7** and point of order (pending), be called from the Informal Calendar and again taken up for perfection, which motion prevailed.

Senator Johnson assumed the Chair.

President Pro Tem Quick ruled the pending point of order well taken.

**SSA1** for **SA7** was again taken up.

At the request of Senator Singleton, the above substitute amendment was withdrawn.

Senator Singleton offered **SSA2** for **SA7**, which was read:

#### SENATE SUBSTITUTE AMENDMENT NO. 2 FOR SENATE AMENDMENT NO.7

Amend Senate Substitute for Senate

Committee Substitute for Senate Bills Nos. 678 and 742, Page 39, Section 537.675, Line 22, by striking the word "shall" and inserting "may" and further after the word "of" insert "up to".

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

Senator Mueller offered **SA 8**:

#### SENATE AMENDMENT NO. 8

Amend Senate Substitute for Senate Committee Substitute for Senate Bills Nos. 678 and 742, Page 32, Section 514.440, Line 12 of said page, by inserting immediately after said line the following:

"516.097. 1. Any action to recover damages for **economic loss**, personal injury, property damage or wrongful death arising out of a defective or unsafe condition of any improvement to real property, including any action for contribution or indemnity for damages sustained on account of the defect or unsafe condition, shall be commenced within ten years of the date on which [any] such improvement is **substantially** completed.

2. This section shall only apply to actions against any person whose sole connection with the improvement is performing or furnishing, in whole or in part, the design, planning or construction, including architectural, engineering or construction services, of the improvement.

3. If any action is commenced against any person specified by subsection 2[, any] **of this section**, such person may, within one year of the date of the filing of such [an] action, notwithstanding the provisions of subsection 1 **of this section**, commence an action or a third party action for contribution or indemnity for damages sustained or claimed in any action because of **economic loss**, personal injury, property damage or wrongful death arising out of a defective or unsafe condition of any improvement to real property.

4. This section shall not apply [if]:

(1) An action is barred by another provision of law;

(2) **If** a person conceals any defect or deficiency in the design, planning or construction, including

architectural, engineering or construction services, in an improvement for real property, if the defect or deficiency so concealed directly results in the defective or unsafe condition for which the action is brought;

(3) [The] **To limit any** action [is] brought against any owner or possessor of real estate or improvements [thereon] **on such real estate**.

5. The statute of limitation for buildings completed on August 13, 1976, shall begin to run on August 13, 1976, and shall be for the time specified [herein] **in this section**.

**6. For the purposes of this section, the term "substantially completed" means that construction has progressed to the point that the building, facility, structure or improvement can be put to the use for which it was intended, even though comparatively minor items remain to be furnished or performed in order to conform to the plans and specifications for the completed building, facility, structure or improvement, which minor items do not prevent occupancy or use of the building, facility, structure or improvement. Certificate of substantial completion issued by a design professional or a temporary certificate of occupancy by a public official shall be evidence of substantial completion.**"; and

Further amend the title and enacting clause accordingly.

Senator Mueller moved that the above amendment be adopted.

Senator Caskey raised the point of order that **SA 8** is out of order as it goes beyond the scope and purpose of the original bill.

At the request of Senator Mueller, **SA 8** was withdrawn rendering the point of order moot.

Senator Rohrbach offered **SA 9**:

#### SENATE AMENDMENT NO. 9

Amend Senate Substitute for Senate Committee Substitute for Senate Bills Nos. 678 and 742, Page 54, Section 550.120, Line 19 from the top of the page, by inserting immediately at the end of said line the following:

“565.030. 1. Where murder in the first degree is charged but not submitted or where the state waives the death penalty, the submission to the trier and all subsequent proceedings in the case shall proceed as in all other criminal cases with a single stage trial in which guilt and punishment are submitted together.

2. Where murder in the first degree is submitted to the trier without a waiver of the death penalty, the trial shall proceed in two stages before the same trier. At the first stage the trier shall decide only whether the defendant is guilty or not guilty of any submitted offense. The issue of punishment shall not be submitted to the trier at the first stage. If an offense is charged other than murder in the first degree in a count together with a count of murder in the first degree, the trial judge shall assess punishment on any such offense according to law, after the defendant is found guilty of such offense and after he finds the defendant to be a prior offender pursuant to chapter 558, RSMo.

3. If murder in the first degree is submitted and the death penalty was not waived but the trier finds the defendant guilty of a lesser homicide, a second stage of the trial shall proceed at which the only issue shall be the punishment to be assessed and declared. No further evidence shall be received. If the trier is a jury it shall be instructed on the law. The attorneys may then argue as in other criminal cases the issue of punishment, after which the trier shall assess and declare the punishment as in all other criminal cases.

4. If the trier at the first stage of a trial where the death penalty was not waived finds the defendant guilty of murder in the first degree, a second stage of the trial shall proceed at which the only issue shall be the punishment to be assessed and declared. Evidence in aggravation and mitigation of punishment, including but not limited to evidence supporting any of the aggravating or mitigating circumstances listed in subsection 2 or 3 of section 565.032, may be presented subject to the rules of evidence at criminal trials. Such evidence may include, within the discretion of the court, evidence concerning the murder victim and the impact of the crime upon the family of the

victim and others. Rebuttal and surrebuttal evidence may be presented. The state shall be the first to proceed. If the trier is a jury it shall be instructed on the law. The attorneys may then argue the issue of punishment to the jury, and the state shall have the right to open and close the argument. The trier shall assess and declare the punishment at life imprisonment without eligibility for probation, parole, or release except by act of the governor:

**(1) If the trier finds by a preponderance of the evidence that the defendant is mentally retarded; or**

[(1)] **(2) If the trier does not find beyond a reasonable doubt at least one of the statutory aggravating circumstances set out in subsection 2 of section 565.032; or**

[(2) If the trier does not find that the evidence in aggravation of punishment, including but not limited to evidence supporting the statutory aggravating circumstances listed in subsection 2 of section 565.032, warrants imposing the death sentence; or]

**(3) If the trier concludes that there is evidence in mitigation of punishment, including but not limited to evidence supporting the statutory mitigating circumstances listed in subsection 3 of section 565.032, which is sufficient to outweigh the evidence in aggravation of punishment found by the trier; or**

**(4) If the trier decides under all of the circumstances not to assess and declare the punishment at death. If the trier is a jury it shall be so instructed. If the trier assesses and declares the punishment at death it shall, in its findings or verdict, set out in writing the aggravating circumstance or circumstances listed in subsection 2 of section 565.032 which it found beyond a reasonable doubt. If the trier is a jury it shall be instructed before the case is submitted that if it is unable to decide or agree upon the punishment the court shall assess and declare the punishment at life imprisonment without eligibility for probation, parole, or release except by act of the governor or death. The court shall follow the same procedure as set out in this section whenever it is required to determine punishment for murder in the first**

degree.

**5. Upon written agreement of the parties and with leave of court, the issue of the defendant's mental retardation may be taken up by the court and decided prior to trial without prejudicing the defendant's right to have this issue submitted to the tier of fact as provided in subsection 4 of this section.**

**6. As used in this section, the terms mental retardation or mentally retarded refer to a condition involving substantial limitations in general functioning characterized by significantly subaverage intellectual functioning with related deficits and limitations in adaptive behavior such as communication, self-care, home living, social skills, community use, self-direction, health and safety, functional academics, leisure and work, which condition is manifested and documented before eighteen years of age.**

**7. The provisions of this section shall govern offenses committed on or after August 28, 2000.”; and**

Further amend the title, enacting clause and intersectional references accordingly.

Senator Rohrbach moved that the above amendment be adopted.

Senator Caskey raised the point of order that **SA 9** is out of order as it goes beyond the scope and purpose of the original bill.

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

Senator Schneider offered **SA 10**:

**SENATE AMENDMENT NO. 10**

Amend Senate Substitute for Senate Committee Substitute for Senate Bills Nos. 678 and 742, Page 11, Section 196.790, Line 11 of said page, by inserting after all of said line the following:

"302.535. 1. Any person aggrieved by a decision of the department may file a petition for trial de novo by the circuit court. The burden of proof shall be on the state to adduce the evidence. Such trial shall be conducted pursuant to the Missouri rules of civil procedure and not as an

appeal of an administrative decision pursuant to chapter 536, RSMo. The petition shall be filed in the circuit court of the county where the arrest occurred. The case shall be decided by the judge sitting without a jury. The presiding judge of the circuit court may assign a [traffic judge, pursuant to section 479.500, RSMo 1994, a] circuit judge or an associate circuit judge to hear such petition.

2. The filing of a petition for trial de novo shall not result in a stay of the suspension or revocation order. But upon the filing of such petition, a restricted driving privilege for the limited purpose of driving in connection with the petitioner's business, occupation, employment, or formal program of secondary, postsecondary or higher education shall be issued by the department if the person's driving record shows no prior alcohol related enforcement contact during the immediately preceding five years. Such limited driving privilege shall terminate on the date of the disposition of the petition for trial de novo.

3. In addition to the limited driving privilege as permitted in subsection 2 of this section, the department may upon the filing of a petition for trial de novo issue a restricted driving privilege for the limited purpose of driving in connection with the petitioner's business, occupation, employment, or formal program of secondary, postsecondary or higher education. In determining whether to issue such a restrictive driving privilege, the department shall consider the number and the seriousness of prior convictions and the entire driving record of the driver.

4. Such time of restricted driving privilege pending disposition of trial de novo shall be counted toward any time of restricted driving privilege imposed pursuant to section 302.525. Nothing in this subsection shall be construed to prevent a person from maintaining his restricted driving privilege for an additional sixty days in order to meet the conditions imposed by section 302.540 for reinstating a person's driver's license.";

and

Further amend said bill, Page 26, Section 455.205, Line 21 of said page, by inserting after all of said line the following:



"479.500. 1. In the twenty-first judicial circuit, a majority of the circuit judges, en banc, may establish a traffic court, which shall be a division of the circuit court, and may authorize the appointment of not more than three municipal judges who shall be known as traffic judges. The traffic judges shall be appointed by a traffic court judicial commission consisting of the presiding judge of the circuit, who shall be the chair, one circuit judge elected by the circuit judges, one associate circuit judge elected by the associate circuit judges of the circuit, and two members appointed by the county executive of St. Louis County, each of whom shall represent one of the two political parties casting the highest number of votes at the next preceding gubernatorial election. The procedures and operations of the traffic court judicial commission shall be established by circuit court rule.

2. Traffic judges may be authorized to act as commissioners to hear in the first instance nonfelony violations of state law involving motor vehicles, and such other offenses as may be provided by circuit court rule. Traffic judges may also be authorized to hear in the first instance violations of county and municipal ordinances involving motor vehicles, and other county ordinance violations, as provided by circuit court rule.

3. In the event that a county municipal court is established pursuant to section 66.010, RSMo, which takes jurisdiction of county ordinance violations the circuit court may then authorize the appointment of no more than two traffic judges authorized to hear municipal ordinance violations other than county ordinance violations, and to act as commissioner to hear in the first instance nonfelony violations of state law involving motor vehicles, and such other offenses as may be provided by rule. [These traffic court judges also may be authorized to act as commissioners to hear in the first instance petitions to review decisions of the department of revenue or the director of revenue filed pursuant to sections 302.309, 302.311, 302.535 and 302.750, RSMo.]

4. In establishing a traffic court, the circuit may be divided into such sectors as may be established

by a majority of the circuit and associate circuit judges, en banc. The traffic court in each sector shall hear those cases arising within the territorial limits of the sector unless a case arising within another sector is transferred as provided by operating procedures.

5. Traffic judges shall be licensed to practice law in this state and shall serve at the pleasure of a majority of the circuit and associate circuit judges, en banc, and shall be residents of St. Louis County, and shall receive from the state as annual compensation an amount equal to one-third of the annual compensation of an associate circuit judge. Each judge shall devote approximately one-third of his working time to the performance of his duties as a traffic judge. Traffic judges shall not accept or handle cases in their practice of law which are inconsistent with their duties as a traffic judge and shall not be a judge or prosecutor for any other court. Traffic judges shall not be considered state employees and shall not be members of the state employees' or judicial retirement system or be eligible to receive any other employment benefit accorded state employees or judges.

6. A majority of the judges, en banc, shall establish operating procedures for the traffic court which shall provide for regular sessions in the evenings after 6:00 p.m. and for Saturday or other sessions as efficient operation and convenience to the public may require. Proceedings in the traffic court, except when a judge is acting as a commissioner pursuant to this section, shall be conducted as provided in supreme court rule 37. The hearing shall be before a traffic judge without jury, and the judge shall assume an affirmative duty to determine the merits of the evidence presented and the defenses of the defendant and may question parties and witnesses. No term of imprisonment or confinement may be assessed by a traffic judge. In the event a jury trial is requested, the cause shall be certified to the circuit court for trial by jury as otherwise provided by law. Clerks and computer personnel shall be assigned as needed for the efficient operation of the court.

7. In establishing operating procedure, provisions shall be made for appropriate circumstances whereby defendants may enter not

guilty pleas and obtain trial dates by telephone or written communication without personal appearance, or to plead guilty and deliver by mail or electronic transfer or other approved method the specified amount of the fine and costs as otherwise provided by law, within a specified period of time.

8. Operating procedures shall be provided for electronic recording of proceedings, except that if adequate recording equipment is not provided at county expense, then, in that event, a person aggrieved by a judgment of a traffic judge or commissioner shall have the right of a trial de novo. The procedures for perfecting the right of a trial de novo shall be the same as that provided under sections 512.180 to 512.320, RSMo, except that the provisions of subsection 2 of section 512.180, RSMo, shall not apply to such cases.

9. The circuit court shall only have the authority to appoint two commissioners with the jurisdiction provided in subsection 3 of this section.

10. All costs to establish and operate a county municipal court under section 66.010, RSMo, and this section shall be borne by such county."; and

Further amend the title and enacting clause accordingly.

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

Senators Schneider and Ehlmann offered SA 11:

#### SENATE AMENDMENT NO. 11

Amend Senate Substitute for Senate Committee Substitute for Senate Bills Nos. 678 and 742, Page 26, Line 22, by inserting before all of said line the following:

"482.305. When sitting as a small claims court, the judge shall have original jurisdiction of all civil cases, whether tort or contract, where the amount in controversy does not exceed [three] **five** thousand dollars, exclusive of interest or costs, or as provided in this chapter." and further amend title and enacting clause accordingly.

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

Senator Kenney offered SA 12:

#### SENATE AMENDMENT NO. 12

Amend Senate Substitute for Senate Committee Substitute for Senate Bills Nos. 678 and 742, Page 22, Section 455.205, Line 17, by inserting after all of said line the following:

**"455.300. 1. There is hereby established the "Missouri Domestic Violence Commission" within the department of public safety, to study solutions for domestic violence in Missouri. The commission shall be composed of the following members:**

**(1) One judge of a juvenile court, who shall be appointed by the chief justice of the supreme court;**

**(2) One judge of a family court, who shall be appointed by the chief justice of the supreme court; and**

**(3) Nine members of the general public, one from each congressional district and no more than five from one political party.**

**All members shall serve for as long as they hold the position which made them eligible for appointment to the Missouri domestic violence commission under this subsection. All members shall serve without compensation but may be reimbursed for all actual and necessary expenses incurred in the performance of their official duties for the commission.**

**2. All meetings of the Missouri domestic violence commission shall be open to the public and shall, for all purposes, be deemed open public meetings under the provisions of sections 610.010 to 610.030, RSMo. The Missouri domestic violence commission shall meet no less than once every two months, and shall hold its first meeting no later than sixty days after January 1, 2001. Notice of all meetings of the commission shall be given to the general assembly in the same manner required for notifying the general public of meetings of the general assembly.**

**3. The Missouri domestic violence commission may make all rules it deems necessary to enable it to conduct its meetings, elect its officers, and set the terms and duties of**

its officers.

4. The commission shall elect from amongst its members a chairman, vice chairman, a secretary-reporter, and such other officers as it deems necessary.

5. The services of the personnel of any agency from which the director or deputy director is a member of the commission shall be made available to the commission at the discretion of such director or deputy director. All meetings of the commission shall be held in the state of Missouri.

6. The commission, by majority vote, may invite individuals representing local and federal agencies or private organizations and the general public to serve as ex officio members of the commission. Such individuals shall not have a vote in commission business and shall serve without compensation but may be reimbursed for all actual and necessary expenses incurred in the performance of their official duties for the commission.

455.305. 1. Beginning in 2001, the department of social services and the Missouri domestic violence commission established pursuant to this chapter, shall establish and administer up to twenty domestic violence intervention/rehabilitation pilot projects. Such projects shall operate as satellite projects through existing domestic violence prevention facilities where no such facilities exist for the following purposes:

(1) To implement, expand, and establish cooperative efforts between law enforcement officers, prosecutors, victim advocacy groups, and other related parties to investigate and prosecute incidents of domestic violence;

(2) To prevent domestic violence and provide immediate shelter for victims of domestic violence;

(3) To provide treatment and counseling to victims of domestic violence; and

(4) To work in cooperation with the community to develop education and prevention strategies regarding domestic violence.

2. Funding for the pilot programs shall be subject to appropriation.

3. The department and the commission shall promulgate rules and regulations, pursuant to chapter 536, RSMo, to implement, administer, and monitor the pilot projects. 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.

4. Beginning in 2001, the department and the commission shall submit an annual report of its activities to the speaker of the house of representatives, the president pro tem of the senate, and the governor before December thirty-first of each year."; and

Further amend the title and enacting clause accordingly.

Senator Kenney moved that the above amendment be adopted.

Senator Caskey raised the point of order that SA 12 is out of order as the amendment goes beyond the scope and purpose of the original bill.

At the request of Senator Kenney, SA 12 was withdrawn, rendering the point of order moot.

Senator Ehlmann offered SA 13:

#### SENATE AMENDMENT NO. 13

Amend Senate Substitute for Senate Committee Substitute for Senate Bills Nos. 678 and 742, Page 29, Section 487.030, Line 16 of said page, by inserting after all of said line the following:

"512.180. 1. [Any person aggrieved by a

judgment in a civil case tried without a jury before an associate circuit judge, other than an associate circuit judge sitting in the probate division or who has been assigned to hear the case on the record under procedures applicable before circuit judges, shall have the right of a trial de novo in all cases where the petition claims damages not to exceed five thousand dollars.

2.] In all [other] contested civil cases tried with or without a jury before an associate circuit judge or on assignment under such procedures applicable before circuit judges or in any misdemeanor case or county ordinance violation case a record shall be kept, and any person aggrieved by a judgment rendered in any such case may have an appeal upon that record to the appropriate [appellate] **district of the court of appeals**. At the discretion of the judge, but in compliance with the rules of the supreme court, the record may be a stenographic record or one made by the utilization of electronic, magnetic, or mechanical sound or video recording devices.

**2. Appeals to the court of appeals or to the supreme court of decisions rendered in civil cases tried before associate circuit judges shall be governed by the same rules applicable to appeals from judgments rendered by circuit judges.**"; and

Further amend the title and enacting clause accordingly.

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

Senator Rohrbach offered **SA 14**:

**SENATE AMENDMENT NO. 14**

Amend Senate Substitute for Senate Committee Substitute for Senate Bills Nos. 678 and 742, Page 27, Section 482.330, Line 21, by inserting after all of said line the following:

"483.310. 1. Whenever any funds other than court costs collected and disbursed pursuant to subsection 2 of section 488.012, RSMo, are paid into the registry of any circuit court [and the court determines, upon its own finding or after application by one of the parties, that such funds can be reasonably expected to remain on deposit

for a period sufficient to provide income through investment, the court may make an order directing] the clerk [to] **shall** deposit such funds [as are described in the order] in savings deposits in banks, savings and loan associations, credit unions, or in United States treasury bills and invest funds only in investments permitted by the state treasurer in article IV, section 15 of the Missouri Constitution. Deposits of such funds in any bank or savings and loan association shall not exceed the limits of the federal deposit insurance on accounts in such institution. Additional deposits in excess of FDIC, FSLIC and NCUSIF shall be secured by government securities or in accordance with the state treasurer's investment requirements in article IV, section 15 of the Missouri Constitution. All such accounts shall be in the name of the "Clerk of the ..... Court as Trustee in ..... (Style and Cause Number)", the exact name to be prescribed in the court's order. The court may prescribe a bond or other guarantee for the security of the fund. Necessary costs, including reasonable costs for administering the investment, may be paid from the income received from the investment of the trust fund. The net income so derived shall be added to and become a part of the principal.

[2. In the absence of such an application by one of the parties within sixty days from the payment of such funds into the registry of the court, the clerk of the court may invest funds placed in the registry of the court in savings deposits in banks, credit unions or savings and loan associations carrying federal deposit insurance to the extent of the insurance or in United States treasury bills and invest funds only in investments permitted the state treasurer in article IV, section 15 of the Missouri Constitution and the income derived therefrom may be used by the clerk for paying the premiums on bonds of employees of the clerk, rent on safety deposit boxes, subscriptions on publications available pursuant to section 477.235, RSMo, books and publications of the Missouri Bar and books and other publications and materials published by the state of Missouri, printing of pamphlets or booklets of the rules adopted by the court or clerk and forms used in the court which comply with the statutes of the state of Missouri and the rules of the supreme court, copies of which

shall be distributed to litigants and members of the bar practicing in the court, and other expenditures of the circuit clerk's office, and the balance, if any, shall be paid into the general revenue fund of the county, except that when provision is made in a county charter for the appointment of a court administrator to perform the duties of a circuit clerk or for the appointment of a circuit clerk by the court, such income may also be used for any expenditures of the court other than expenditures for travel or entertainment. If any application for the investment of such funds is filed by one of the parties after sixty days, an order may be entered providing for investment of funds as provided in subsection 1 of this section, and the clerk shall thereupon reinvest such funds within a reasonable time thereafter in accordance with the order.]

2. [3.] As used in this section and section 483.312, the term "clerk" shall mean the circuit clerk with respect to funds in those cases for which the circuit clerk is responsible for collecting court costs as provided in section 483.550 and shall also mean those clerks who are designated by or pursuant to section 483.550 to collect court costs with respect to funds in those cases for which they are so made responsible for collecting court costs.

3. [4.] If a clerk is charged by a court with collecting any moneys which are not court costs as defined by sections 488.010 to 488.020, RSMo, the clerk may use any of the procedures provided by sections 488.010 to 488.020, RSMo, to collect such funds, if not paid as ordered by the court.

4. [5.] The clerk may deposit funds in depository institutions and invest funds only in investments permitted by the state treasurer in article IV, section 15 of the Missouri Constitution.""; and

Further amend the title and enacting clause accordingly.

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

Senator Clay offered SA 15:

SENATE AMENDMENT NO. 15

Amend Senate Substitute for Senate Committee Substitute for Senate Bills Nos. 678 and 742, Page

53, Section 537.693, Line 6 of said page, by inserting after all of said line the following:

**"537.780. 1. Notwithstanding the provisions of any other law, any person convicted and subsequently imprisoned for one or more crimes which he did not commit may, under the conditions hereinafter provided, bring a suit for damages in circuit court against the state of Missouri.**

**2. The person, hereinafter referred to as the "claimant", shall establish the following by clear and convincing evidence:**

**(1) That he was convicted of a crime and subsequently sentenced to a term of imprisonment, served all or any part of his sentence;**

**(2) He did not commit the crime for which he was convicted;**

**(3) He did not by his own conduct cause or bring about his conviction; and**

**(4) If alleged, that the wrongful imprisonment was the result of any intentional wrongdoing by an individual law enforcement officer or prosecuting attorney.**

**3. The suit, accompanied by a statement of the facts concerning the claim for damages, verified in the manner provided for the verification of complaints in civil actions, shall be brought by the claimant within a period of two years after his release from imprisonment, or after the grant of a pardon to him; provided, however, that any eligible claimant released or pardoned during the five-year period prior to the effective date of this section shall have two years to file a suit.**

**4. (1) Damages awarded pursuant to this section shall not exceed twice the amount of the claimant's income in the year prior to his incarceration or twenty thousand dollars for each year of incarceration, whichever is greater.**

**(2) In addition to the damages awarded pursuant to subdivision (1) of this subsection, the claimant shall be entitled to receive reasonable attorney fees.**

**5. (1) A person serving a term of imprisonment for a crime other than a crime of which the person was mistakenly convicted shall not be eligible to file a claim for damages pursuant to the provisions of this section.**

**(2) A person shall not be eligible to file a claim for damages pursuant to this section if the person:**

**(a) Is or was serving a sentence concurrently with the sentence for the crime of which the person was wrongfully convicted; and**

**(b) The sentence being served concurrently is not related to the crime of which such person was wrongfully convicted.**

As used in this subdivision, a sentence is related to the crime for which the person is wrongfully convicted if it is imposed as a result of a probation or parole violation based on the same incident giving rise to the wrongful conviction.

**6. In any action where the claimant alleges intentional wrongdoing, the court, unless otherwise agreed by all the parties, shall instruct the jury to apportion fault among such persons and parties, or the court, if there is no jury, shall make findings, indicating the percentage of total fault of all the parties to each claim that is allocated to each party or person. The court shall determine the award of damages to each plaintiff in accordance with the findings, and enter judgment against each party liable.**

**7. In any action where the claimant does not allege intentional wrongdoing, any award of damages shall be paid by the state.**

**8. By January 1, 2001, the supreme court shall develop a jury instruction to be used in civil actions brought pursuant to this section.";** and

Further amend the title and enacting clause accordingly.

Senator Clay moved that the above amendment be adopted.

Senator Schneider raised the point of order that SA 15 is out of order as it goes beyond the scope and purpose of the original bill.

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

Senator Kenney offered SA 16:

**SENATE AMENDMENT NO. 16**

Amend Senate Substitute for Senate Committee Substitute for Senate Bills Nos. 678 and 742, Page 22, Section 455.205, Line 17, by inserting after all of said line the following:

**"455.300. 1. There is hereby established the "Missouri Domestic Violence Commission" under the control of the Supreme Court, to study solutions for domestic violence in Missouri. The commission shall be composed of the following members:**

**(1) One judge of a juvenile court, who shall be appointed by the chief justice of the supreme court;**

**(2) One judge of a family court, who shall be appointed by the chief justice of the supreme court; and**

**(3) Nine members of the general public, one from each congressional district and no more than five from one political party.**

All members shall serve for as long as they hold the position which made them eligible for appointment to the Missouri domestic violence commission under this subsection. All members shall serve without compensation but may be reimbursed for all actual and necessary expenses incurred in the performance of their official duties for the commission.

**2. All meetings of the Missouri domestic violence commission shall be open to the public and shall, for all purposes, be deemed open public meetings under the provisions of sections 610.010 to 610.030, RSMo. The Missouri domestic violence commission shall meet no less than once every two months, and shall hold its first meeting no later than sixty days after January 1, 2001. Notice of all meetings of the commission shall be given to the general assembly in the same manner required for notifying the general public of meetings of the general assembly.**

3. The Missouri domestic violence commission may make all rules it deems necessary to enable it to conduct its meetings, elect its officers, and set the terms and duties of its officers.

4. The commission shall elect from amongst its members a chairman, vice chairman, a secretary-reporter, and such other officers as it deems necessary.

5. The services of the personnel of any agency from which the director or deputy director is a member of the commission shall be made available to the commission at the discretion of such director or deputy director. All meetings of the commission shall be held in the state of Missouri.

6. The commission, by majority vote, may invite individuals representing local and federal agencies or private organizations and the general public to serve as ex officio members of the commission. Such individuals shall not have a vote in commission business and shall serve without compensation but may be reimbursed for all actual and necessary expenses incurred in the performance of their official duties for the commission.

455.305. 1. Beginning in 2001, the department of social services and the Missouri domestic violence commission established pursuant to this chapter, shall establish and administer up to twenty domestic violence intervention/rehabilitation pilot projects. Such projects shall operate as satellite projects through existing domestic violence prevention facilities where no such facilities exist for the following purposes:

(1) To implement, expand, and establish cooperative efforts between law enforcement officers, prosecutors, victim advocacy groups, and other related parties to investigate and prosecute incidents of domestic violence;

(2) To prevent domestic violence and provide immediate shelter for victims of domestic violence;

(3) To provide treatment and counseling to victims of domestic violence; and

(4) To work in cooperation with the community to develop education and prevention strategies regarding domestic violence.

2. Funding for the pilot programs shall be subject to appropriation.

3. The department and the commission shall promulgate rules and regulations, pursuant to chapter 536, RSMo, to implement, administer, and monitor the pilot projects. 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.

4. Beginning in 2001, the department and the commission shall submit an annual report of its activities to the speaker of the house of representatives, the president pro tem of the senate, and the governor before December thirty-first of each year."; and

Further amend the title and enacting clause accordingly.

Senator Kenney moved that the above amendment be adopted.

Senator Steelman offered SA 1 to SA 16:

SENATE AMENDMENT NO. 1 TO  
SENATE AMENDMENT NO. 16

Amend Senate Amendment No. 16 to Senate Substitute for Senate Committee Substitute for Senate Bills Nos. 678 and 742, Page 1, Section 455.300, Line 4 of said amendment, by inserting after "Violence" the following: "**and Women in the Workplace**"; and further amend page 1, line 8 of said amendment, by inserting after all of said line the following:

**"(2) One judge of a circuit court, who shall be appointed by the chief justice of the supreme court;**

**(3) One commissioner from the human rights commission, who shall be appointed by the governor;"**; and further amend said section, by renumbering the remaining subdivisions accordingly; and further amend page 1, line 16 of said amendment, by inserting after "violence" the following: **"and women in the workplace"**; and

Further amend said amendment, page 2, section 455.300, line 1 of said amendment, by inserting after "violence" the following: **"and women in the workplace"**; and further amend line 6 of said page, by inserting after "violence" the following: **"and women in the workplace"**; and further amend line 12 of said page, by after "violence" the following: **"and women in the workplace"**; and

Further amend said amendment, page 3, Section 455.305, lines 7 and 8, by striking said lines and inserting in lieu thereof the following: **"administer up to twenty pilot projects to address domestic violence intervention and rehabilitation and study the prevalence and consequences of and remedies for sexual discrimination, including sexual harassment, of women in the workplace. Such projects that focus on domestic violence, shall"**; and further amend line 10 of said page of said amendment, by inserting after "exist" the following: **". The projects shall be"**; and further amend said page of said amendment, line 15, by inserting after "violence" the following: **"and sexual discrimination and harassment in the workplace"**; and further amend said page of said amendment, line 17, by inserting after "violence" the following: **"and sexual discrimination and harassment in the workplace"**; and further amend said page of said amendment, line 19, by inserting after "violence" the following: **"and sexual discrimination and harassment in the workplace"**; and further amend said page of said amendment, line 21, by inserting after "violence" the following: **"and sexual discrimination and harassment in the workplace"**; and

Further amend said amendment, Page 4, Section 455.305, line 16 of said amendment by

inserting after all of said line the following:

"Further amend said bill, page 29, Section 512.190, Line 18, by inserting before all of said line the following:

**"510.195. In any action involving an allegation of domestic violence or in any action filed pursuant to section 213.111 involving an allegation of sexual discrimination in the workplace, including sexual harassment, the parties shall be entitled to a trial before a jury."**

Senator Steelman moved that the above amendment be adopted.

Senator Schneider raised the point of order that **SA 16** is out of order as it goes beyond the scope and purpose of the original bill.

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

**SA 1** to **SA 16** was again taken up.

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

**SA 16** was again taken up.

Senator Bentley offered **SA 2** to **SA 16**, which was read:

SENATE AMENDMENT NO. 2 TO

SENATE AMENDMENT NO. 16

Amend Senate Amendment No. 16 to Senate Substitute for Senate Committee Substitute for Senate Bill No. 678, Page 1, Section 455.300, Line 13, by adding at the end of the line "at least two of the nine members shall be a director or a volunteer at a domestic violence shelter."

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

Senator Caskey raised the point of order that **SA 16** is out of order as it goes beyond the scope and purpose of the original bill.

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

Senator Russell offered **SA 17**:

SENATE AMENDMENT NO. 17

Amend Senate Substitute for Senate Committee Substitute for Senate Bills Nos. 678 and 742, Page 62, Section 2, Line 2, by adding after said line the following:



"Section 3. In all proceedings before the administrative hearing commission or any state agency it shall not be necessary for a corporation authorized to do business in this state to be represented by counsel if such corporation is represented by either the president or chief executive officer of such corporation or a person employed by such corporation and designated by the president or chief executive officer to represent the corporation. In any such proceeding before the administrative hearing commission or a state agency whereby a corporation is represented by either its president or chief executive officer, or by a designated person, such representation shall not be construed to be the practice of law as such term is defined in section 484.010."; and further amend the title and enacting clause accordingly.

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

Senator Mathewson assumed the Chair.

Senator Schneider moved that **SS** for **SCS** for **SBs 678** and **742**, as amended, be adopted, which motion prevailed.

On motion of Senator Schneider, **SS** for **SCS** for **SBs 678** and **742**, as amended, was declared perfected and ordered printed.

Senator Maxwell moved that **SB 577**, with **SCS**, **SS** for **SCS** and **SA 4** (pending), be called from the Informal Calendar and again taken up for perfection, which motion prevailed.

**SA 4** was again taken up.

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

Senator Schneider offered **SA 5**:

#### SENATE AMENDMENT NO. 5

Amend Senate Substitute for Senate Committee Substitute for Senate Bill No. 577, Page 26, Section 260.960, Line 6 of said page, by inserting immediately after said line the following:

**"Section 1. 1. Notwithstanding any other provision of law, when the department of natural resources intends to enter into any contract or other written agreement or approve**

**any letter of intent for payment of money by the state in excess of one hundred thousand dollars or potential reduction of a party's financial obligation to the state in excess of one hundred thousand dollars shall forward a copy to the attorney general before entering into that contract or other written agreement or approving that letter of intent.**

**2. Upon receiving the contract, written agreement or letter of intent, the attorney general shall, within ten days, review and approve that contract for its legal form as may be necessary to protect the legal interest of the state. If the attorney general does not approve, then the attorney general shall return the contract, written agreement or letter of intent with additional provisions as may be necessary to the proper enforcement of the contract as required to protect the state's legal interest.**

**3. The review shall be restricted to the legal form of the contract, written agreement or letter of intent to protect the legal interest of the state of Missouri. The basis for not approving the contract, written agreement or letter of intent shall not include the parties or economic terms to such agreements.**

**4. Communications related to the attorney general's review are attorney-client communications except the attorney general's written disposition shall be subject to chapter 610, RSMo, when and if the contract, written agreement or letter of intent becomes effective.";** and

Further amend the title and enacting clause accordingly.

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

Senator Steelman offered **SA 6**, which was read:

#### SENATE AMENDMENT NO. 6

Amend Senate Substitute for Senate Committee Substitute for Senate Bill No. 577, Page 18, Section 260.930, Line 10 of said page, by inserting a period "." on said line after the word "facility" and further amend said bill, page, and

section by striking lines 11 and 12 and inserting in lieu thereof the following:

"The provisions of this subsection shall apply to any dry cleaning facility or dry cleaning facility site which has been included in a corrective action plan approved by the director. The director shall only approve a corrective action plan after making a determination that a sufficient balance in the fund exists to implement the plan."

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

Senator Rohrbach offered SA 7:

SENATE AMENDMENT NO. 7

Amend Senate Substitute for Senate Committee Substitute for Senate Bill No. 577, Page 26, Section 260.960, Line 6, by inserting after all of said line the following:

"640.010. 1. There is hereby created a department of natural resources in charge of a director appointed by the governor, by and with the advice and consent of the senate. The director shall administer the programs assigned to the department relating to environmental control and the conservation and management of natural resources. The director shall coordinate and supervise all staff and other personnel assigned to the department. He shall faithfully cause to be executed all policies established by the boards and commissions assigned to the department, be subject to their decisions as to all substantive and procedural rules and his decisions shall be subject to appeal to the board or commission on request of the board or commission [or by affected parties]. The director shall recommend policies to the various boards and commissions assigned to the department to achieve effective and coordinated environmental control and natural resource conservation policies.

2. The director shall appoint directors of staff to service each of the policy making boards or commissions assigned to the department. Each director of staff shall be qualified by education, training and experience in the technical matters of the board to which he is assigned and his appointment shall be approved by the board to which he is assigned and he shall be removed or reassigned on their request in writing to the director

of the department. All other employees of the department and of each board and commission assigned to the department shall be appointed by the director of the department in accord with chapter 36, RSMo, and shall be assigned and may be reassigned as required by the director of the department in such a manner as to provide optimum service, efficiency and economy.

3. The air conservation commission, chapter 203, RSMo, and others, the clean water commission, chapter 204, RSMo, and others, are transferred by type II transfer to the department of natural resources. The governor shall appoint the members of these bodies in accord with the laws establishing them, with the advice and consent of the senate. The bodies hereby transferred shall retain all rulemaking and hearing powers allotted by law, as well as those of any bodies transferred to their jurisdiction. All the powers, duties and functions of the state environmental improvement authority, chapter 260, RSMo, and others, are transferred by type III transfer to the air conservation commission. All the powers, duties and functions of the water resources board, chapter 256, RSMo, and others, are transferred by type I transfer to the clean water commission and the board is abolished. No member of the clean water commission shall receive or shall have received, during the previous two years from the date of his appointment, a significant portion of his income directly or indirectly from permit holders or applicants for a permit under the jurisdiction of the clean water commission. The state park board, chapter 253, RSMo, is transferred to the department of natural resources by type I transfer.

4. All the powers, duties and functions of the state soil and water districts commission, chapter 278, RSMo, and others, are transferred by a type II transfer to the department.

5. All the powers, duties and functions of the state geologist, chapter 256, RSMo, and others, are transferred by type I transfer to the department of natural resources. All the powers, duties and functions of the state land survey authority, chapter 60, RSMo, are transferred to the department of natural resources by type I transfer and the authority is abolished. All the powers, duties and

functions of the state oil and gas council, chapter 259, RSMo, and others are transferred to the department of natural resources by type II transfer. The director of the department shall appoint a state geologist who shall have the duties to supervise and coordinate the work formerly done by the departments or authorities abolished by this subsection, and shall provide staff services for the state oil and gas council.

6. All the powers, duties and functions of the land reclamation commission, chapter 444, RSMo, and others, are transferred to the department of natural resources by type II transfer. All necessary personnel required by the commission shall be selected, employed and discharged by the commission. The director of the department shall not have the authority to abolish positions.

7. The functions performed by the division of health in relation to the maintenance of a safe quality of water dispensed to the public, sections 640.100 to 640.115, and others, and for licensing and regulating solid waste management systems and plans are transferred by type I transfer to the department of natural resources.

8. (1) The state interagency council for outdoor recreation, chapter 258, RSMo, is transferred to the department of natural resources by type II transfer. The council shall consist of representatives of the following state agencies: department of agriculture; department of conservation; office of administration; department of natural resources; department of economic development; department of social services; department of transportation; and the University of Missouri.

(2) The council shall function as provided in chapter 258, RSMo, except that the department of natural resources shall provide all staff services as required by the council notwithstanding the provisions of [sections] **section 258.030** [and 258.040], RSMo, and all personnel and property of the council are hereby transferred by type I transfer to the department of natural resources and the office of executive secretary to the council is abolished.

**640.020. 1. Other provisions of law notwithstanding, the department of natural**

**resources, including any board or commission assigned to the department of natural resources in accordance with section 640.010 that is authorized by statute to adopt rules, shall have the authority to promulgate such rules, pursuant to chapter 536, RSMo, to establish standards, guidelines and requirements to ensure that the state of Missouri is in compliance with the provisions of any applicable federal statutes and federal regulations, as follows:**

**(1) The clean air commission shall have the authority to promulgate such rules, pursuant to chapter 536, RSMo, to establish standards, guidelines and requirements to ensure that the state of Missouri is in compliance with the substantive provisions of the federal Clean Air Act, as amended, relating to air pollution control;**

**(2) The clean water commission shall have the authority to promulgate such rules, pursuant to chapter 536, RSMo, to establish standards, guidelines and requirements to ensure that the state of Missouri is in compliance with the substantive provisions of the federal Clean Water Act, as amended, relating to water pollution control, and subtitle I of the federal Resource Conservation and Recovery Act, as amended, relating to underground storage tanks;**

**(3) The hazardous waste management commission shall have the authority to promulgate such rules, pursuant to chapter 536, RSMo, to establish standards, guidelines and requirements to ensure that the state of Missouri is in compliance with the substantive provisions of the federal Resource Conservation and Recovery Act, as amended, relating to hazardous waste management;**

**(4) The land reclamation commission shall have the authority to promulgate such rules, pursuant to chapter 536, RSMo, to establish standards, guidelines and requirements to ensure that the state of Missouri is in compliance with the substantive provisions of the federal Surface Mining Control and Reclamation Act, as amended, relating to**

surface mining and land reclamation;

(5) The safe drinking water commission shall have the authority to promulgate such rules, pursuant to chapter 536, RSMo, to establish standards, guidelines and requirements to ensure that the state of Missouri is in compliance with the substantive provisions of the federal Safe Drinking Water Act, as amended, relating to drinking water systems;

(6) The department shall have the authority to promulgate such rules, pursuant to chapter 536, RSMo, to establish standards, guidelines and requirements to ensure that the state of Missouri is in compliance with the substantive provisions of subtitle D of the federal Resource Conservation and Recovery Act, as amended, relating to solid waste management.

2. The rules promulgated by the department or any commission or board assigned to the department shall not be any stricter than those required pursuant to the provision of the applicable federal statutes and federal regulations nor shall such rules be enforced in any area of the state of Missouri prior to the time required by the federal statutes or regulations, unless the department, commission or board makes specific findings, based on competent and substantial evidence in the administrative record, that:

(1) Specific circumstances or conditions in the state of Missouri are causing, or have the potential to cause, specific harm to human health and the environment; and

(2) Either:

(a) The specific circumstances or conditions are not subject to regulation by any applicable federal statute or federal regulation; or

(b) The existing federal statutes or regulations are not sufficient to adequately protect human health and the environment in the state of Missouri; and

(3) A more restrictive rule is necessary to address the specific circumstance or condition in order to prevent or alleviate the specific harm caused to human health and the environment.

3. For any rule promulgated pursuant to subsection 2 of this section, the department, commission or board shall specifically enumerate in the administrative record and shall publish in the Missouri Register, along with the notice of proposed rulemaking, findings of fact relative to the specific circumstances or conditions causing harm, the nature and scope of the specific harm to human health and the environment, and the health-based and/or science-based reasons justifying why the adoption of a more restrictive rule will prevent or alleviate the specific harm to human health and the environment.

4. For any rule promulgated pursuant to subsection 2 of this section, the fiscal notes required by sections 536.200 and 536.205, RSMo, shall contain, in addition to the requirements imposed those sections, a discussion and explanation of the consideration by the department, commission or board of the effects on human health and the environment, economics, pollution prevention and the effectiveness and cost of reasonably available control methods for the proposed more restrictive rule.

5. Any rule that is more restrictive than federal statutes or federal regulations that is adopted by the department or a commission or board assigned to the department without complying with the procedures set forth in this section is void."; and

Further amend the title and enacting clause accordingly.

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

Senator Maxwell moved that SS for SCS for SB 577, as amended, be adopted, which motion prevailed.

On motion of Senator Maxwell, SS for SCS for SB 577, as amended, was declared perfected and ordered printed.

Senator Johnson moved that SB 957, 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.

Senator Scott assumed the Chair.

Senator Johnson offered **SSA 1** for **SA 2**:

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

Amend Senate Committee Substitute for Senate Bill No. 957, Page 5, Section 205.971, Line 1, by inserting immediately after "205.971." the following: "**1.**"; and

Further amend said bill and section, page 6, line 25, by inserting immediately after said line the following:

**"2. Every county or city not within a county with an existing board at the time of the effective date of this act shall vote in the August primary election on a question submitted in substantially the following form:**

**OFFICIAL BALLOT**

**In addition to sheltered workshops, residence facilities and related services, shall the ..... (insert name of board in the county or city not within a county) provide and fund, as it deems necessary and without a tax increase, any other services or programs for persons with developmental disabilities and their families, including Special Olympics and respite care?**

**9 Yes                      9 No".**

Senator Johnson moved that the above substitute amendment be adopted.

Senator Mathewson assumed the Chair.

Senator Caskey offered **SA 1** to **SSA1** for **SA 2**, which was read:

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

Amend Senate Substitute Amendment No. 1 for Senate Amendment No. 2 for Senate Committee Substitute for Senate Bill No. 957, Page 1, Line 16, by adding at the end of said line, the following: "**and shall at least 80% of the moneys be used to fund sheltered workshops, residence facilities, and related services**".

Senator Caskey moved that the above amendment be adopted.

At the request of Senator Caskey, **SA 1** to **SSA 1** for **SA 2** was withdrawn.

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

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

Amend Senate Substitute Amendment No. 1 for Senate Amendment No. 2 to Senate Bill No. 957, Page 1, Line 8, by striking the word "shall" on said line and inserting in lieu thereof the word "**may**".

Senator Howard moved that the above amendment be adopted.

At the request of Senator Johnson, **SB 957**, with **SCS, SA 2, SSA 1** for **SA2** and **SA 2** to **SSA 1** for **SA 2** (pending), was placed on the Informal Calendar.

**REPORTS OF STANDING COMMITTEES**

On behalf of Senator Caskey, Chairman of the Committee on Civil and Criminal Jurisprudence, Senator Quick submitted the following reports:

Mr. President: Your Committee on Civil and Criminal Jurisprudence, to which was referred **SB 1047**, begs leave to report that it has considered the same and recommends that the Senate Committee Substitute, hereto attached, do pass.

Also,

Mr. President: Your Committee on Civil and Criminal Jurisprudence, to which was referred **SB 1045**, begs leave to report that it has considered the same and recommends that the Senate Committee Substitute, hereto attached, do pass.

Also,

Mr. President: Your Committee on Civil and Criminal Jurisprudence, to which were referred **SB 1043, SB 1031, SB 580** and **SB 671**, begs leave to report that it has considered the same and recommends that the Senate Committee Substitute, hereto attached, do pass.

**RESOLUTIONS**

Senator Caskey offered Senate Resolution No. 1464, regarding the Sixtieth Wedding Anniversary

of Mr. and Mrs. Galen Marr, Warrensburg, which was adopted.

Senator Caskey offered Senate Resolution No. 1465, regarding Donna A. Burden, Warrensburg, which was adopted.

### INTRODUCTIONS OF GUESTS

Senator Mathewson introduced to the Senate, Josie Hines, West Plains.

Senator Mathewson introduced to the Senate, thirty-five ninth grade students from Brunswick High School, Chariton County; and Daniela Perez-Borges, Kevin Reichert, Joni Sparks and Mathew Drewitz were made honorary pages.

Senator Childers introduced to the Senate, Sarah Ellsworth, West Plains.

Senator Staples introduced to the Senate, Amelia Garrison, West Plains; and Harry Thayer, Oregon County.

On behalf of Senator Childers and himself, Senator Maxwell introduced to the Senate, Rhonda Davis, Koshkonong.

On behalf of Senator Jacob and himself, Senator Rohrbach introduced to the Senate, the Physician of the Day, Dr. George Fuchs, M.D., Lake Ozark.

Senator Johnson introduced to the Senate, Katelynn Clement, Coralie Burson, Shirley Clement, Roberta Schneider and Imogene Clark, Savannah; and Katelynn and Coralie were made honorary pages.

On behalf of Senator House and himself, the President introduced to the Senate, Steve Yoakum, Casey McCoy, Zach Kohler and Michael S. Yoakum, St. Charles; and Casey, Zach and Michael were made honorary pages.

Senator Schneider introduced to the Senate, Mrs. McKean, Mr. Pulley, Mrs. Steinmann, Mrs. Wright and one hundred fifth and sixth grade students from Commons Lane Elementary, St. Louis County; and Jared Bumbry, Kim Wasser, Charity Hope and Jeremy Minter were made honorary pages.

Senator Russell introduced to the Senate, Janis Hoyt and students from the Camdenton School sixth grade Gifted Program.

Senator Russell introduced to the Senate, Regina Herzog, Peggy Rittner, Dave Wall, Lee Smith and students from the Camdenton School Gifted Program.

Senator Rohrbach introduced to the Senate, Dan Dunek and a student government class from Pilot Grove.

Senator Kinder introduced to the Senate, eighth grade students from Immaculate Conception School, Jackson.

Senator Ehlmann introduced to the Senate, Pat McDonnell and members of People Building Community, St. Charles.

Senator Johnson introduced to the Senate, seventh grade students from Truman Middle School, St. Joseph.

Senator Yeckel introduced to the Senate, seventy sixth grade students from St. Simon School, St. Louis; and Eric DeGreeff, Steve Messmer, Kerry Nolan and Melissa Weber were made honorary pages.

Senator Flotron introduced to the Senate, seventy-five fourth grade students and twenty-five adults from Bellerive Elementary School, Creve Coeur.

Senator Klarich introduced to the Senate, Pam Levy and sixty fourth grade students from Geggie Elementary School, Eureka.

Senator Rohrbach introduced to the Senate, David O'Neill, Gary and Patty Warren, Ronnie and Linda Kalwiet and gifted students from Wheatland School, Wheatland.

Senator Childers introduced to the Senate, Katherine Baker, West Plains.

Senator Kenney introduced to the Senate, Lena Schulte, Turkey.

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

SENATE CALENDAR

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FIFTIETH DAY—WEDNESDAY, APRIL 5, 2000

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FORMAL CALENDAR

HOUSE BILLS ON SECOND READING

HB 1568-Riback Wilson and  
Holand  
HB 1596-Auer  
HB 1948-Gratz, et al  
HB 1077-Relford

HB 1808-O'Toole  
HB 1647-Skaggs  
HB 1841-Kreider and  
Robirds

THIRD READING OF SENATE BILLS

SS for SCS for SBs 867 &  
552-Maxwell  
(In Budget Control)  
SCS for SB 597-Steelman  
(In Budget Control)

SB 944-Caskey  
(In Budget Control)  
SB 1017-Mathewson, et al

SENATE BILLS FOR PERFECTION

1. SB 926-Stoll and  
House, with SCS
2. SB 826-Jacob, et al,  
with SCS
3. SB 930-Jacob, with SCS
4. SJR 50-Stoll
5. SB 885-Mathewson,  
with SCS
6. SB 902-Mathewson
7. SB 720-Caskey
8. SB 980-Jacob, with SCS
9. SB 1016-Jacob, et al
10. SB 851-Wiggins and Stoll
11. SB 817-Stoll, with SCS
12. SB 830-Caskey
13. SB 892-Quick

14. SB 793-Staples, with SCS
15. SBs 959 & 598-Howard,  
with SCS
16. SB 954-Bentley and  
Johnson, with SCS
17. SBs 1027 & 815-Sims,  
with SCS
18. SBs 538 & 565-Russell,  
with SCS
19. SBs 584, 539, 630,  
777, 796, 918 &  
927-Bentley, with SCS
20. SBs 818 & 564-Maxwell  
and Kinder, with SCS
21. SB 955-Mathewson, et al
22. SB 1048-Mathewson, with SCS

23. SB 866-Klarich  
 24. SB 748-Johnson, with  
 SCS  
 25. SB 1047-Rohrbach,  
 with SCS

26. SB 1045-Caskey, with  
 SCS  
 27. SBs 1043, 1031, 580 &  
 671-Mathewson,  
 with SCS

### 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)  
 SBs 599 & 531-Schneider,  
 with SCS (pending)  
 SB 604-Wiggins  
 SB 697-Schneider, with  
 SCS & SA 1 (pending)  
 SB 729-House, with SCS,  
 SA 1 & SA 2 to SA 1  
 (pending)  
 SB 744-Klarich  
 SB 772-Goode  
 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)

- SB 925-Caskey, et al,  
 with SCS (pending)  
 SB 957-Johnson and Quick,  
 with SCS, SA 2, SSA 1  
 for SA 2 & SA 2 to  
 SSA 1 for SA 2 (pending)  
 SJR 31-Schneider  
 SJR 35-Goode, et al, with  
 SS & SS#2 for SS  
 (pending)  
 SJRs 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

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

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

Reported 3/16

SB 864-Caskey  
(In Budget Control)

SB 1075-Jacob, with SCS

RESOLUTIONS

SR 1204-Goode  
SR 1373-Mathewson

SCR 33-Kinder, et al

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