

Journal of the Senate

SECOND REGULAR SESSION

SIXTY-FOURTH DAY—TUESDAY, MAY 2, 2000

The Senate met pursuant to adjournment.

President Pro Tem Quick in the Chair.

The Reverend Carl Gauck offered the following prayer:

“Let your speech be always with Grace.” (Colossians 4:6)

Lord God, may our speech be filled with care and consideration as patience decreases and tensions increase. We have heard “...there is a dogmatism of the clenched fist and a dogmatism of the open hand, a dogmatism of the gracious spirit and a dogmatism of the bitter heart and biting word.” Help us to have a disposition of the kindest heart and spirit and an open and inviting hand as we deal with each other in these closing days. In Your 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 and the Senate 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 Singleton offered the following resolution, which was adopted:

SENATE RESOLUTION NO. 1683

WHEREAS, the members of the Missouri Senate have tremendous esteem for those Show-Me State high school marching bands that have attained national renown for the excellent and professional standards to which they adhere in both practice and performance; and

WHEREAS, the Joplin High School Marching Eagles Band of Joplin, Missouri, has enjoyed the honor of being selected to participate in the 2001 Rose Bowl Parade which is held annually in Pasadena, California; and

WHEREAS, with a notable history of achievement in a wide variety of competitive venues, the Joplin High School Marching Band earned First Place at the Tulsa State Fair Parade; and

WHEREAS, the Marching Eagles have run up an impressive tally of ten First Place rankings in parade this past year alone; and

WHEREAS, during the Neewollah Marching Competition, the Joplin Marching Band received a well-deserved Outstanding rating for its exemplary percussion section; and

WHEREAS, at the All-American Magic Music Days at Disneyworld in Orlando, Florida, the Joplin Marching Eagles won Second Place in color guard, First Place in percussion, First Place in field show, First Place in parade, and Best Overall recognition; and

WHEREAS, foreshadowing their invitation to the Rose Bowl, the Joplin Marching Band took Second Place in parade, Second Place in field show, and Second in percussion at the recent Cotton Bowl in Dallas, Texas; and

WHEREAS, of the more than two thousand students

participating in the Cotton Bowl mass band performance, the Joplin Eagles percussion section was chosen to lead the all-important cadence which established the rhythm and pace of the entire routine:

NOW, THEREFORE, BE IT RESOLVED that we, the members of the Missouri Senate, Ninetieth General Assembly, join unanimously to salute the dedication and diligence demonstrated by the Joplin High School Marching Band and to congratulate the band students and staff for their selection to participate in the upcoming 2001 Rose Bowl Parade; and

BE IT FURTHER RESOLVED that the Secretary of the Senate be instructed to prepare a properly inscribed copy of this resolution in honor of the Joplin High School Eagles Marching Band.

REFERRALS

President Pro Tem Quick referred **SCR 42**; **SCR 43**; **HCR 4**; **HCR 27**; and **HCR 22** to the Committee on Rules, Joint Rules and Resolutions.

RESOLUTIONS

Senators Wiggins, Mathewson, Westfall, Quick, Howard, Klarich, Caskey, Sims, Clay, DePasco, Mueller, Yeckel and Carter offered the following resolution, which was read and adopted:

SENATE RESOLUTION NO. 1684

WHEREAS, the members of the Missouri Senate have been deeply saddened to learn of the death of Donald L. Gorman, Kansas City; and

WHEREAS, Mr. Gorman, a native of St. Louis, was a long time associate of Southwestern Bell Telephone Company which company he served faithfully and effectively representing its interests in the Missouri Capitol with a demeanor and approach which was always forthright, honest and just; and

WHEREAS, in later years after his retirement he and his long time friend Bob Waldron formed Gorman-Waldron Associates, a legislative affairs firm, with offices in Kansas City and Jefferson City; and

WHEREAS, Mr. Gorman was a lifelong Catholic, a graduate of St. Louis University, and was a faithful member of St. Thomas More Catholic Church, the Telephone Pioneers of America, and Blue Hills Country Club; and

WHEREAS, Mr. Gorman was particularly active in his application and support of Rockhurst High School, where his sons attended high school, was an ardent supporter of the school, and for two consecutive years, 1977 and 1978, was chairman of the annual Rockhurst Dinner and Auction, the main fund raiser of the school, and he was a lifetime member of the Rockhurst High School Fathers Club; and

WHEREAS, Mr. Gorman, a charming and friendly man, who was liked by everyone who ever met him, was married in 1958 to Catherine Obermark, they had four children, and Mr. Gorman was

most of all a devoted husband and father in whose heart and love his family always came first;

NOW, THEREFORE, BE IT RESOLVED, that the members of the Missouri Senate pause in their deliberations to salute the memory of Donald L. Gorman a fine and good man, express their appreciation for his lifetime of good citizenship; and his contributions to Kansas City, to Missouri and particularly to Rockhurst High School, and extend to his wife, Mrs. Catherine Gorman, family and many friends most sincere sympathy on his death; and

BE IT FURTHER RESOLVED that the Secretary of the Senate be instructed to prepare properly inscribed copies of this resolution for his wife, Mrs. Catherine Gorman; his sons, Jim Gorman and Mike Gorman; his daughters, Peggy Tudor and Kathy Gorman; Rockhurst High School; St. Louis University High School; St. Louis University; Bob Waldron; Southwestern Bell Telephone Company and Kathleen C. Affairs.

Senator Yeckel offered Senate Resolution No. 1685, regarding Scott Robert Warren, Oakville, which was adopted.

Senator Childers offered Senate Resolution No. 1686, regarding Teresa Berger Smith, Reeds Spring, which was adopted.

Senator Howard offered Senate Resolution No. 1687, regarding Benjamin Hunsaker, Bloomfield, which was adopted.

HOUSE BILLS ON THIRD READING

HB 1321, introduced by Representative Relford, et al, entitled:

An Act to amend chapter 589, RSMo, relating to crime prevention and control by adding thereto twenty-four new sections for the purpose of enacting the Interstate Compact for Adult Offender Supervision.

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

Senator Wiggins assumed the Chair.

Senator Johnson assumed the Chair.

On motion of Senator Caskey, **HB 1321** was read the 3rd time and passed by the following vote:

YEAS—Senators

Bentley	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—33

NAYS—Senators—None

Absent—Senator Bland—1

Absent with leave—Senators—None

The President declared the bill passed.

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

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

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

HB 1808, with **SCS**, introduced by Representative O'Toole, entitled:

An Act to repeal sections 87.120 and 87.176, RSMo 1994, relating to firemen's retirement and relief systems, and to enact in lieu thereof one new section relating to the same subject.

Was taken up by Senator Scott.

SCS for **HB 1808**, entitled:

SENATE COMMITTEE SUBSTITUTE FOR
HOUSE BILL NO. 1808

An Act to repeal sections 70.605, 70.661, 70.680, 70.685, 86.203, 86.207, 86.210, 86.213, 86.217, 86.220, 86.227, 86.237, 86.240, 86.243, 86.247, 86.250, 86.257, 86.263, 86.270, 86.277, 86.288, 86.290, 86.293, 86.297, 86.300, 86.303, 86.307, 86.310, 86.313, 86.317, 86.323, 86.327, 86.330, 86.337, 86.340, 86.343, 86.344, 86.350, 86.353, 86.357, 86.360, 86.364, 86.365, 86.366, 86.403, 86.433, 86.437, 86.442, 86.493, 86.675, 86.730, 86.780, 87.120, 87.176, 87.230 and 87.237, RSMo 1994, and sections 70.655, 70.675, 84.160, 86.200, 86.248, 86.251, 86.252, 86.253, 86.254, 86.255, 86.256, 86.260, 86.267, 86.280, 86.283, 86.287, 86.320, 86.354, 86.440, 86.441, 86.447, 86.483, 86.750, 86.770 and 513.430, RSMo Supp. 1999, relating to public benefits and compensation, and to enact in lieu thereof seventy-nine new

sections relating to the same subject, with an emergency clause for a certain section.

Was taken up.

Senator Scott moved that **SCS** for **HB 1808** be adopted.

Senator Scott offered **SS** for **SCS** for **HB 1808**, entitled:

SENATE SUBSTITUTE FOR
SENATE COMMITTEE SUBSTITUTE FOR
HOUSE BILL NO. 1808

An Act to repeal sections 70.605, 70.661, 70.680, 70.685, 86.203, 86.207, 86.210, 86.213, 86.217, 86.220, 86.227, 86.237, 86.240, 86.243, 86.247, 86.250, 86.257, 86.263, 86.270, 86.277, 86.288, 86.290, 86.293, 86.297, 86.300, 86.303, 86.307, 86.310, 86.313, 86.317, 86.323, 86.327, 86.330, 86.337, 86.340, 86.343, 86.344, 86.350, 86.353, 86.357, 86.360, 86.364, 86.365, 86.366, 86.403, 86.433, 86.437, 86.442, 86.493, 86.675, 86.730, 86.780, 87.120, 87.176, 87.230, 87.237, 103.085, 104.140 and 104.345, RSMo 1994, and sections 67.210, 70.655, 70.675, 84.160, 86.200, 86.248, 86.251, 86.252, 86.253, 86.254, 86.255, 86.256, 86.260, 86.267, 86.280, 86.283, 86.287, 86.320, 86.354, 86.440, 86.441, 86.447, 86.483, 86.750, 86.770, 104.010, 104.090, 104.103, 104.335, 104.344, 104.350, 104.372, 104.380, 104.395, 104.420, 104.517, 104.610, 104.1015, 104.1024, 104.1027, 104.1042, 104.1072, 104.1090, 168.021, 169.070, 169.075, 169.600, 169.620, 169.670 and 513.430, RSMo Supp. 1999, relating to certain pension benefits and compensation, and to enact in lieu thereof one hundred eight new sections relating to the same subject, with an emergency clause for a certain section.

Senator Scott moved that **SS** for **SCS** for **HB 1808** be adopted.

Senator Stoll assumed the Chair.

Senator Scott offered **SA 1**:

SENATE AMENDMENT NO. 1

Amend Senate Substitute for Senate Committee Substitute for House Bill No. 1808, Page 54, Section 86.213, Line 6 of said page, by striking the opening and closing brackets “[]” from

said line and further amend said line of said page, by striking “twenty”.

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

Senator Mathewson offered **SA 2**:

SENATE AMENDMENT NO. 2

Amend Senate Substitute for Senate Committee Substitute for House Bill No. 1808, Page 256, Section 169.670, Line 15 of said page, by inserting immediately after said line the following:

“476.687. Any judge as defined in section 476.515 who is actively serving and has served for at least ten years shall receive additional credited service for previous public employment with the state covered by another retirement plan as defined in section 105.691, RSMo, if all of the following conditions are met:

(1) Such member has a vested right to receive a retirement benefit from the other retirement plan at the time of application pursuant to this section and is not a retiree under the other retirement plan;

(2) The other retirement plan transfers to the system an amount equal to the employee's account balance under a defined contribution plan or the amount equal to the employee's pension obligation under a defined benefit plan at the time of transfer to the extent that obligation is funded as of the plan's most recent actuarial valuation, not to exceed one hundred percent, as determined by the other retirement plan's actuary using the same assumption used in performing the last regular actuarial valuation of the transferring plan, except that in no event shall the transferred amount be less than the employee's accumulated contributions on deposit with the transferring plan;

(3) No such credited service remains credited in such other retirement plan;

(4) The member applies for the additional credited service in a manner and form established by the appropriate board.”; and

Further amend the title and enacting clause accordingly.

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

Senator Goode offered **SA 3**:

SENATE AMENDMENT NO. 3

Amend Senate Substitute for Senate Committee Substitute for House Bill No. 1808, Page 256, Section 169.670, Line 15, by inserting immediately after said line the following:

“173.003. Compensation, retirement and severance policies and practices of approved public institutions, as defined in section 173.205, shall be applied uniformly, consistently and fairly to all officials and employees of such approved public institutions; and no employees or officials of such approved public institutions shall be singled out for individual compensation, retirement or severance which is inconsistent with the formally adopted policies and practices of such approved public institutions.”; and

Further amend the title and enacting clause accordingly.

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

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

SENATE AMENDMENT NO. 4

Amend Senate Substitute for Senate Committee Substitute for House Bill No. 1808, Page 4, Section 67.210, Line 8, by inserting after the word “dependents” the following: **“and the dependents of deceased employees”**.

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

Senator Caskey offered **SA 5**:

SENATE AMENDMENT NO. 5

Amend Senate Substitute for Senate Committee Substitute for House Bill No. 1808, Page 237, Section 169.075, Line 23, by inserting immediately after said line the following:

“169.596. 1. Any school district with a shortage of certified teachers, as determined by the school district, may allow retired certificated teachers, but not retired administrators, from any Missouri public teacher retirement system

to teach full time in a teaching assignment for up to two years without losing his or her retirement benefits. The total number of such retired certificated teachers shall not exceed, at any one time, the greater of ten percent of the total teacher staff for that school district or five persons. Any retired certificated teacher hired pursuant to this section shall be included in the State Directory of New Hires for purposes of income and eligibility verification pursuant to 42 U.S.C. Section 1320b-7. The provisions of this section shall not become effective until the affected retirement systems have completed actuarial studies assuring that the provisions are cost-neutral and the systems remain actuarially sound. All necessary costs shall be paid by the hiring school district and shall not exceed the school district's statutory cost limitations.

2. Any school district may employ retirees receiving a retirement allowance pursuant to sections 169.600 to 169.715 for a period of up to two years without losing his or her benefits.”; and

Further amend said bill, page 262, section B, line 1, by inserting after “169.075,” the following: “169.596”; and

Further amend said bill and section, page 262, line 20, by inserting after “169.075” the following: “169.596”; and

Further amend the title and enacting clause accordingly.

Senator Caskey moved that the above amendment be adopted and requested a roll call vote be taken. He was joined in his request by Senators Bentley, Howard, Kenney and Steelman.

Senator Caskey offered SA 1 to SA 5, which was read:

SENATE AMENDMENT NO. 1 TO
SENATE AMENDMENT NO. 5

Amend Senate Amendment No. 5 to Senate Substitute for Senate Committee Substitute for House Bill No. 1808, Page 1, Section 169.596, Line 11, by inserting after “benefits” on said line; “provided said teacher had taught for at least 30

years prior to retirement.”.

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

Senator Johnson assumed the Chair.

SA 5, as amended, was adopted by the following vote:

YEAS—Senators

Bentley	Caskey	Childers	Clay
DePasco	Ehlmann	Flotron	Goode
Graves	Howard	Jacob	Kenney
Kinder	Maxwell	Mueller	Russell
Staples	Steelman	Westfall	Yeckel—20

NAYS—Senators

Bland	Carter	House	Johnson
Klarich	Mathewson	Rohrbach	Schneider
Scott Sims	Singleton	Wiggins—12	

Absent—Senators

Quick	Stoll—2
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Absent with leave—Senators—None

At the request of Senator Scott, **HB 1808**, with **SCS** and **SS** for **SCS**, as amended (pending), was placed on the Informal Calendar.

MESSAGES FROM THE HOUSE

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

Mr. President: I am instructed by the House of Representatives to inform the Senate that the House has taken up and adopted **HCR 29**.

HOUSE CONCURRENT RESOLUTION NO. 29

WHEREAS, the U.S. Department of Energy is in the second year of a ten-year plan to truck spent nuclear fuel containing weapon-grade plutonium and uranium from South Carolina to a waste storage site in Idaho; and

WHEREAS, last year, the U.S. Department of Energy routed the nuclear waste through the state of Iowa on Interstate 80, which is less traveled and has fewer accidents than other possible interstate routes; and

WHEREAS, for the summer of 2000, the U.S. Department of Energy has decided to reroute the nuclear waste through the state of Missouri on Interstate 70, which has far more traffic, far more accidents and far more maintenance problems than Interstate 80; and

WHEREAS, according to the Missouri Department of Natural Resources, in 1997, 6,242 accidents occurred on I-70 in Missouri compared to 1,574 accidents on I-80 in Iowa, and in 1998, 6,476 accidents occurred on I-70 in Missouri compared to 1,270 accidents on I-80 in Iowa; and

WHEREAS, in February of this year, the Governor of Missouri sent a letter to the U.S. energy secretary opposing the use of Interstate 70 for transportation of nuclear waste, citing the extremely high traffic volume and the large number of planned construction projects on Interstate 70 that will reduce traffic flow to a single lane throughout the summer of 2000; and

WHEREAS, the junior United States Senator from Missouri has asked the United States Department of Energy to reconsider its decision to route nuclear waste through Missouri on I-70; and

WHEREAS, in light of the U.S. Department of Energy's goal to protect the public and to protect the nuclear waste material during transportation, the decision of the Department to reroute nuclear waste on Interstate 70 instead of the safer Interstate 80 seems inconsistent with the stated goal of the Department:

NOW, THEREFORE, BE IT RESOLVED that the members of the House of Representatives of the Ninetieth General Assembly, Second Regular Session, the Senate concurring therein, hereby denounce the decision by the United States Department of Energy to reroute nuclear waste through the state of Missouri on Interstate 70 for the summer of 2000 and urge the energy secretary to utilize Interstate 80 for the transportation of nuclear waste; and

BE IT FURTHER RESOLVED that the Chief Clerk of the Missouri House of Representatives be instructed to prepare a properly inscribed copy of this resolution for Bill Richardson, the United States energy secretary.

In which the concurrence of the Senate is respectfully requested.

Also,

Mr. President: I am instructed by the House of Representatives to inform the Senate that the House has concurred in **SCA 1** to **HB 1353** and has again taken up and passed **HB 1353**, as amended.

Also,

Mr. President: I am instructed by the House of Representatives to inform the Senate that the House refuses to adopt **SCS** for **HB 1591** and requests the Senate to recede from its position, or failing to do so, grant the House a conference thereon.

PRIVILEGED MOTIONS

Senator Howard moved that the Senate refuse to recede from its position on **SCS** for **HB 1591** and grant the House a conference thereon, which motion prevailed.

CONCURRENT RESOLUTIONS

Senator Quick offered the following concurrent resolution:

SENATE CONCURRENT RESOLUTION NO. 44

WHEREAS, the general assembly is continually asked to act upon measures dealing with complex and controversial subjects; and

WHEREAS, such measures frequently require lengthy and comprehensive study and evaluation; and

WHEREAS, the committee system of evaluation of proposed legislation has proven its worth time and again to the entire membership of the general assembly:

NOW, THEREFORE, BE IT RESOLVED by the members of the Missouri Senate, the House of Representatives concurring therein, that the standing committees of each house and such other committees of the Senate and House of Representatives as the president pro tem or the speaker shall designate may meet with the approval of the president pro tem or speaker, as the case may be, to consider bills or to perform any other necessary legislative function during the interim prior to the convening of the 91st general assembly; and

BE IT FURTHER RESOLVED that the actual and necessary expenses of the members of each committee incurred while attending meetings of those committees, and the expense of the research and clerical personnel assigned thereto, be paid from the appropriate House or Senate contingent fund.

MESSAGES FROM THE GOVERNOR

The following messages were received from the Governor, reading of which was waived:

OFFICE OF THE GOVERNOR

State of Missouri
Jefferson City, Missouri
April 27, 2000

TO THE SENATE OF THE 90th GENERAL ASSEMBLY
OF THE STATE OF MISSOURI:

I have the honor to transmit to you herewith for your advice and consent the following appointment to office:

Dorothy Stroh Becvar, Democrat, 6330 San Bonita Avenue, St. Louis, St. Louis County, Missouri 63105, as a member of the State Committee of Marital and Family Therapists, for a term ending January 26, 2005, and until her successor is duly appointed and qualified; vice, reappointed to a full term.

Respectfully submitted,
MEL CARNAHAN
Governor

Also,

OFFICE OF THE GOVERNOR
State of Missouri
Jefferson City, Missouri
April 27, 2000

TO THE SENATE OF THE 90th GENERAL ASSEMBLY
OF THE STATE OF MISSOURI:

I have the honor to transmit to you herewith for your advice
and consent the following appointment to office:

Joanne S. Griffin, Republican, 1152 Center Drive, St. Louis,
St. Louis County, Missouri 63117, as a member of the Missouri
Community Service Commission, for a term ending December 15,
2000, and until her successor is duly appointed and qualified; vice,
Terrence R. Ward, resigned.

Respectfully submitted,
MEL CARNAHAN
Governor

Also,

OFFICE OF THE GOVERNOR
State of Missouri
Jefferson City, Missouri
April 27, 2000

TO THE SENATE OF THE 90th GENERAL ASSEMBLY
OF THE STATE OF MISSOURI:

I have the honor to transmit to you herewith for your advice
and consent the following appointment to office:

Maurice J. Nutt, C.Ss.R., 1118 North Grand Boulevard, St.
Louis City, Missouri 63106, as a member of the St. Louis City
Board of Police Commissioners, for a term ending January 31, 2004,
and until his successor is duly appointed and qualified; vice,
Wayman F. Smith, III, term expired.

Respectfully submitted,
MEL CARNAHAN
Governor

Also,

OFFICE OF THE GOVERNOR
State of Missouri
Jefferson City, Missouri
April 27, 2000

TO THE SENATE OF THE 90th GENERAL ASSEMBLY
OF THE STATE OF MISSOURI:

I have the honor to transmit to you herewith for your advice
and consent the following appointment to office:

Juan M. Rangel, Jr., Democrat, 7622 North Garfield, Kansas
City, Clay County, Missouri 64118, as a member of the Northwest
Missouri State University Board of Regents, for a term ending
January 1, 2005, and until his successor is duly appointed and
qualified; vice, Robert Stanton, term expired.

Respectfully submitted,
MEL CARNAHAN
Governor

Also,

OFFICE OF THE GOVERNOR
State of Missouri
Jefferson City, Missouri
April 27, 2000

TO THE SENATE OF THE 90th GENERAL ASSEMBLY
OF THE STATE OF MISSOURI:

I have the honor to transmit to you herewith for your advice
and consent the following appointment to office:

Marjorie B. Schramm, Republican, 850 Elm Tree Lane,
Kirkwood, St. Louis County, Missouri 63122, as a member of the
State Highways and Transportation Commission, for a term ending
December 1, 2005, and until her successor is duly appointed and
qualified; vice, Robert E. Jones, term expired.

Respectfully submitted,
MEL CARNAHAN
Governor

Also,

OFFICE OF THE GOVERNOR
State of Missouri
Jefferson City, Missouri
April 28, 2000

TO THE SENATE OF THE 90th GENERAL ASSEMBLY
OF THE STATE OF MISSOURI:

I have the honor to transmit to you herewith for your advice
and consent the following appointment to office:

Mark H. Comensky, Ph.D., 617 East Cherry, Nevada, Vernon
County, Missouri 64772, as a member of the Committee for
Professional Counselors, for a term ending August 28, 2001, and
until his successor is duly appointed and qualified; vice, reappointed
to a full term.

Respectfully submitted,
MEL CARNAHAN
Governor

Also,

OFFICE OF THE GOVERNOR
State of Missouri
Jefferson City, Missouri
April 28, 2000

TO THE SENATE OF THE 90th GENERAL ASSEMBLY
OF THE STATE OF MISSOURI:

I have the honor to transmit to you herewith for your advice
and consent the following appointment to office:

Timothy J. Dorsey, Republican, 1115 Woodchase Lane,
Number F, Chesterfield, St. Louis County, Missouri 63017, as a
member of the Missouri Fire Education Commission, for a term
ending April 26, 2003, and until his successor is duly appointed and
qualified; vice, Michael Goldsworthy, term expired.

Respectfully submitted,
MEL CARNAHAN
Governor

Also,

OFFICE OF THE GOVERNOR
State of Missouri
Jefferson City, Missouri
April 28, 2000

TO THE SENATE OF THE 90th GENERAL ASSEMBLY
OF THE STATE OF MISSOURI:

I have the honor to transmit to you herewith for your advice and consent the following appointment to office:

Debra A. Foster, Republican, 6140 North Hull, Kansas City, Jackson County, Missouri 64151, as a member of the Missouri Citizens' Commission on Compensation for Elected Officials, for a term ending February 1, 2004, and until her successor is duly appointed and qualified; vice, Susanne Hoffmann, term expired.

Respectfully submitted,
MEL CARNAHAN
Governor

Also,

OFFICE OF THE GOVERNOR
State of Missouri
Jefferson City, Missouri
April 28, 2000

TO THE SENATE OF THE 90th GENERAL ASSEMBLY
OF THE STATE OF MISSOURI:

I have the honor to transmit to you herewith for your advice and consent the following appointment to office:

Hugh G. Jenkins, Democrat, Route 4, Box 455, Butler, Bates County, Missouri 64730, as a member of the Land Reclamation Commission, for a term ending September 28, 2001, and until his successor is duly appointed and qualified; vice, reappointed to a full term.

Respectfully submitted,
MEL CARNAHAN
Governor

Also,

OFFICE OF THE GOVERNOR
State of Missouri
Jefferson City, Missouri
April 28, 2000

TO THE SENATE OF THE 90th GENERAL ASSEMBLY
OF THE STATE OF MISSOURI:

I have the honor to transmit to you herewith for your advice and consent the following appointment to office:

Samuel D. Leake, Democrat, 49347 Garden Grove Lane, Center, Ralls County, Missouri 63436, as a member of the State Tax Commission, for a term ending January 23, 2005, and until his successor is duly appointed and qualified; vice, Van Donley, term expired.

Respectfully submitted,
MEL CARNAHAN
Governor

Also,

OFFICE OF THE GOVERNOR
State of Missouri
Jefferson City, Missouri
April 28, 2000

TO THE SENATE OF THE 90th GENERAL ASSEMBLY
OF THE STATE OF MISSOURI:

I have the honor to transmit to you herewith for your advice and consent the following appointment to office:

Catherine B. Leapheart, 1810 Pinnacle Point, Holts Summit, Callaway County, Missouri 65043, as the Director of the Department of Labor and Industrial Relations, for a term ending at the pleasure of the Governor, and until her successor is duly appointed and qualified; vice, Karla McLucas, resigned.

Respectfully submitted,
MEL CARNAHAN
Governor

Also,

OFFICE OF THE GOVERNOR
State of Missouri
Jefferson City, Missouri
April 28, 2000

TO THE SENATE OF THE 90th GENERAL ASSEMBLY
OF THE STATE OF MISSOURI:

I have the honor to transmit to you herewith for your advice and consent the following appointment to office:

Teri E. Loney, Psy.D., Route 6, Box 24, Nevada, Vernon County, Missouri 64777, as a member of the State Committee of Marital and Family Therapists, for a term ending January 26, 2005, and until her successor is duly appointed and qualified; vice, reappointed to a full term.

Respectfully submitted,
MEL CARNAHAN
Governor

Also,

OFFICE OF THE GOVERNOR
State of Missouri
Jefferson City, Missouri
April 28, 2000

TO THE SENATE OF THE 90th GENERAL ASSEMBLY
OF THE STATE OF MISSOURI:

I have the honor to transmit to you herewith for your advice and consent the following appointment to office:

Dorothy B. McGuffin, LPC, 1821 Lakemont Lane, St. Louis, St. Louis County, Missouri 63138, as a member of the Committee for Professional Counselors, for a term ending August 28, 2003, and until her successor is duly appointed and qualified; vice, reappointed to a full term.

Respectfully submitted,
MEL CARNAHAN
Governor

Also,

OFFICE OF THE GOVERNOR
State of Missouri
Jefferson City, Missouri
April 28, 2000

TO THE SENATE OF THE 90th GENERAL ASSEMBLY
OF THE STATE OF MISSOURI:

I have the honor to transmit to you herewith for your advice and consent the following appointment to office:

Jocelyn J. Osborne, Republican, 456 Julian Place, Kirkwood, St. Louis County, Missouri 63122, as a member of the Missouri Community Service Commission, for a term ending December 15, 2002, and until her successor is duly appointed and qualified; vice, Logan E. Whitaker, term expired.

Respectfully submitted,
MEL CARNAHAN
Governor

Also,

OFFICE OF THE GOVERNOR
State of Missouri
Jefferson City, Missouri
April 28, 2000

TO THE SENATE OF THE 90th GENERAL ASSEMBLY
OF THE STATE OF MISSOURI:

I have the honor to transmit to you herewith for your advice and consent the following appointment to office:

Anita K. Parran, 7145 McGee Street, Kansas City, Jackson County, Missouri 64114, as a public member of the Missouri State Board of Pharmacy, for a term ending April 28, 2005, and until her successor is duly appointed and qualified; vice, Janet H. Shipton, term expired.

Respectfully submitted,
MEL CARNAHAN
Governor

Also,

OFFICE OF THE GOVERNOR
State of Missouri
Jefferson City, Missouri
April 28, 2000

TO THE SENATE OF THE 90th GENERAL ASSEMBLY
OF THE STATE OF MISSOURI:

I have the honor to transmit to you herewith for your advice and consent the following appointment to office:

Paul D. Potthoff, Republican, 4718 South Kimbrough, Springfield, Greene County, Missouri 65810, as a member of the Board of Directors for the American National Fish and Wildlife Museum District, for a term ending April 28, 2003, and until his successor is duly appointed and qualified; vice, RSMo. 184.827.

Respectfully submitted,
MEL CARNAHAN
Governor

Also,

OFFICE OF THE GOVERNOR
State of Missouri
Jefferson City, Missouri
April 28, 2000

TO THE SENATE OF THE 90th GENERAL ASSEMBLY
OF THE STATE OF MISSOURI:

I have the honor to transmit to you herewith for your advice and consent the following appointment to office:

Raeanne E. Presley, Republican, 404 Judy Street, Branson, Taney County, Missouri 65616, as a member of the Tourism Commission, for a term ending January 15, 2002, and until her successor is duly appointed and qualified; vice, Buddy Bolinger, term expired.

Respectfully submitted,
MEL CARNAHAN
Governor

Also,

OFFICE OF THE GOVERNOR
State of Missouri
Jefferson City, Missouri
April 28, 2000

TO THE SENATE OF THE 90th GENERAL ASSEMBLY
OF THE STATE OF MISSOURI:

I have the honor to transmit to you herewith for your advice and consent the following appointment to office:

Christina L. Quick, Republican, 10020 East 42nd Street, Kansas City, Jackson County, Missouri 64133, as a member of the State Milk Board, for a term ending September 28, 2001, and until her successor is duly appointed and qualified; vice, Cynthia Davis, resigned.

Respectfully submitted,
MEL CARNAHAN
Governor

Also,

OFFICE OF THE GOVERNOR
State of Missouri
Jefferson City, Missouri
April 28, 2000

TO THE SENATE OF THE 90th GENERAL ASSEMBLY
OF THE STATE OF MISSOURI:

I have the honor to transmit to you herewith for your advice and consent the following appointment to office:

Keith E. Spare, 5128 Brookside Boulevard, Kansas City, Jackson County, Missouri 64112, as a member of the Committee for Professional Counselors, for a term ending August 28, 2003, and until his successor is duly appointed and qualified; vice, Christopher Magilo, Ph.D., resigned.

Respectfully submitted,
MEL CARNAHAN
Governor

Also,

OFFICE OF THE GOVERNOR
State of Missouri
Jefferson City, Missouri
April 28, 2000

TO THE SENATE OF THE 90th GENERAL ASSEMBLY
OF THE STATE OF MISSOURI:

I have the honor to transmit to you herewith for your advice and consent the following appointment to office:

Sue Carrol Terry, Republican, 6498 East Farm Road 186, Rogersville, Greene County, Missouri 65742, as a member of the State Lottery Commission, for a term ending September 7, 2002, and until her successor is duly appointed and qualified; vice, Jana Poteet, term expired.

Respectfully submitted,
MEL CARNAHAN
Governor

Also,

OFFICE OF THE GOVERNOR
State of Missouri
Jefferson City, Missouri
May 1, 2000

TO THE SENATE OF THE 90th GENERAL ASSEMBLY
OF THE STATE OF MISSOURI:

I have the honor to transmit to you herewith for your advice and consent the following appointment to office:

J. Joe Adorjan, Republican, 223 North Bemiston, Clayton, St. Louis County, Missouri 63105, as a member of the Missouri Gaming Commission, for a term ending April 29, 2003, and until his successor is duly appointed and qualified; vice, Julian M. Seeherman, term expired.

Respectfully submitted,
MEL CARNAHAN
Governor

President Pro Tem Quick referred the above appointments to the Committee on Gubernatorial Appointments.

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

RECESS

The time of recess having expired, the Senate was called to order by President Pro Tem Quick.

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 **HCS for SCS for SB 721**, entitled:

An Act to repeal sections 209.251, 209.253, 209.255, 209.258 and 209.259, RSMo Supp. 1999, relating to telecommunications for persons with disabilities, and to enact in lieu thereof seven new sections relating to the same subject.

With House Amendment No. 1.

HOUSE AMENDMENT NO. 1

Amend House Committee Substitute for Senate Committee Substitute for Senate Bill No. 721, Page 7, Section 209.259, Line 25, by inserting after all of said line the following:

“Section B. Section 301.020, RSMo Supp. 1999, and section 302.171, as both versions appear in RSMo Supp. 1999, are repealed and three new sections enacted in lieu thereof, to be known as sections 192.936, 301.020 and 302.171, to read as follows:

192.936. 1. There is hereby created in the state treasury the “Blindness Education, Screening and Treatment Program Fund”. The fund shall consist of moneys donated pursuant to subsection 7 of section 301.020, RSMo, and subsection 3 of section 302.171, RSMo. Unexpended balances in the fund at the end of any fiscal year shall not be transferred to the general revenue fund or any other fund, the provisions of section 33.080, RSMo, to the contrary notwithstanding.

2. Subject to the availability of funds in the blindness education, screening and treatment program fund, the department shall develop a blindness education, screening and treatment program to provide blindness prevention education and to provide screening and treatment for persons who do not have adequate coverage for such services under a health benefit plan.

3. The program shall provide for:

(1) Public education about blindness and other eye conditions;

(2) Screenings and eye examinations to identify conditions that may cause blindness; and

(3) Treatment procedures necessary to prevent blindness.

4. The department may contract for program development with any department approved nonprofit organization dealing with regional and community blindness education, eye donor and vision treatment services.

5. The department may adopt rules to prescribe eligibility requirements for the program.

6. No rule or portion of a rule promulgated pursuant to the authority of this section shall become effective unless it has been promulgated pursuant to the provisions of chapter 536, RSMo.

301.020. 1. Every owner of a motor vehicle or trailer, which shall be operated or driven upon the highways of this state, except as herein otherwise expressly provided, shall annually file, by mail or otherwise, in the office of the director of revenue, an application for registration on a blank to be furnished by the director of revenue for that purpose containing:

(1) A brief description of the motor vehicle or trailer to be registered, including the name of the manufacturer, the vehicle identification number, the amount of motive power of the motor vehicle, stated in figures of horsepower and whether the motor vehicle is to be registered as a motor vehicle primarily for business use as defined in section 301.010;

(2) The name, the applicant's identification number and address of the owner of such motor vehicle or trailer;

(3) The gross weight of the vehicle and the desired load in pounds if the vehicle is a commercial motor vehicle or trailer.

2. If the vehicle is a motor vehicle primarily for

business use as defined in section 301.010 and if such vehicle is five years of age or less, the director of revenue shall retain the odometer information provided in the vehicle inspection report, and provide for prompt access to such information, together with the vehicle identification number for the motor vehicle to which such information pertains, for a period of five years after the receipt of such information. This section shall not apply unless:

(1) The application for the vehicle's certificate of ownership was submitted after July 1, 1989; and

(2) The certificate was issued pursuant to a manufacturer's statement of origin.

3. If the vehicle is any motor vehicle other than a motor vehicle primarily for business use, a recreational motor vehicle, motorcycle, motortricycle, bus or any commercial motor vehicle licensed for over twelve thousand pounds and if such motor vehicle is five years of age or less, the director of revenue shall retain the odometer information provided in the vehicle inspection report, and provide for prompt access to such information, together with the vehicle identification number for the motor vehicle to which such information pertains, for a period of five years after the receipt of such information. This subsection shall not apply unless:

(1) The application for the vehicle's certificate of ownership was submitted after July 1, 1990; and

(2) The certificate was issued pursuant to a manufacturer's statement of origin.

4. If the vehicle qualifies as a reconstructed motor vehicle, motor change vehicle, specially constructed motor vehicle, non-USA-std motor vehicle, as defined in section 301.010, the owner or lienholder shall surrender the certificate of ownership. The owner shall make an application for a new certificate of ownership, pay the required title fee, and obtain the vehicle examination certificate required pursuant to section 301.190. Notarized bills of sale along with a copy of the front and back of the certificate of ownership for all major component parts installed on the vehicle and invoices for all essential parts which are not

defined as major component parts shall accompany the application for a new certificate of ownership. If the vehicle is a specially constructed motor vehicle, as defined in section 301.010, two pictures of the vehicle shall be submitted with the application. If the vehicle is a kit vehicle, the applicant shall submit the invoice and the manufacturer's statement of origin on the kit. If the vehicle requires the issuance of a special number by the director of revenue or a replacement vehicle identification number, the applicant shall submit the required application and application fee. All applications required under this subsection shall be submitted with any applicable taxes which may be due on the purchase of the vehicle or parts. The director of revenue shall appropriately designate "Reconstructed Motor Vehicle", "Motor Change Vehicle", "Non-USA-Std Motor Vehicle", or "Specially Constructed Motor Vehicle" on the current and all subsequent issues of the certificate of ownership of such vehicle.

5. Every insurance company which pays a claim for repair of a motor vehicle which as the result of such repairs becomes a reconstructed motor vehicle as defined in section 301.010 shall in writing notify the claimant, if he is the owner of the vehicle, and the lienholder if a lien is in effect, that he is required to surrender the certificate of ownership, and the documents and fees required pursuant to subsection 3 of this section, to the director of revenue. The insurance company shall within thirty days of the payment of such claims report to the director of revenue the name and address of such claimant, the year, make, model, vehicle identification number, and license plate number of the vehicle, and the date of loss and payment.

6. Anyone who fails to comply with the requirements of this section shall be guilty of a class B misdemeanor.

7. An applicant for registration may make a donation of one dollar to promote a blindness education, screening and treatment program. The director of revenue shall collect the donations and deposit all such donations in the state treasury to the credit of the blindness education, screening and treatment program fund established in section 192.936, RSMo.

Moneys in the blindness education, screening and treatment program fund shall be used solely for the purposes established in section 192.936, RSMo, except that the department of revenue shall retain no more than one percent for its administrative costs. The donation prescribed in this subsection is voluntary and may be refused by the applicant for registration at the time of issuance or renewal. The director shall inquire of each applicant at the time the applicant presents the completed application to the director whether the applicant is interested in making the one dollar donation prescribed in this subsection.

302.171. 1. Application for a license shall be made upon an approved form furnished by the director. Every application shall state the full name, Social Security number, age, height, weight, color of eyes, sex, residence, mailing address of the applicant, and the classification for which the applicant has been licensed, and, if so, when and by what state, and whether or not such license has ever been suspended, revoked, or disqualified, and, if revoked, suspended or disqualified, the date and reason for such suspension, revocation or disqualification and whether the applicant is making a one dollar donation to promote an organ donation program as prescribed in subsection 2 of this section. The application shall also contain such information as the director may require to enable the director to determine the applicant's qualification for driving a motor vehicle; and shall state whether or not the applicant has been convicted in this or any other state for violating the laws of this or any other state or any ordinance of any municipality, relating to driving without a license, careless driving, or driving while intoxicated, or failing to stop after an accident and disclosing the applicant's identity, or driving a motor vehicle without the owner's consent. The application shall contain a certification by the applicant as to the truth of the facts stated therein. Every person who applies for a license to operate a motor vehicle who is less than twenty-one years of age shall be provided with educational materials relating to the hazards of driving while intoxicated, including information on penalties imposed by law for violation of the intoxication-related offenses of

the state. Beginning January 1, 2001, if the applicant is less than eighteen years of age, the applicant must comply with all requirements for the issuance of an intermediate driver's license pursuant to section 302.178.

2. An applicant for a license may make a donation of one dollar to promote an organ donor program. The director of revenue shall collect the donations and deposit all such donations in the state treasury to the credit of the organ donor program fund established in sections 194.297 to 194.304, RSMo. Moneys in the organ donor program fund shall be used solely for the purposes established in sections 194.297 to 194.304, RSMo, except that the department of revenue shall retain no more than one percent for its administrative costs. The donation prescribed in this subsection is voluntary and may be refused by the applicant for the license at the time of issuance or renewal of the license. The director shall make available an informational booklet or other informational sources on the importance of organ donations to applicants for licensure as designed by the organ donation advisory committee established in sections 194.297 to 194.304, RSMo. The director shall inquire of each applicant at the time the licensee presents the completed application to the director whether the applicant is interested in making the one dollar donation prescribed in this subsection and whether the applicant is interested in making an organ donation and shall also specifically inform the licensee of the ability to make an organ donation by completing the form on the reverse of the license that the applicant will receive in the manner prescribed by subsection 6 of section 194.240, RSMo. The director shall notify the department of health of information obtained from applicants who indicate to the director that they are interested in making organ donations, and the department of health shall enter the complete name, address, date of birth, race, gender and a unique personal identifier in the registry established in subsection 1 of section 194.304, RSMo.

3. An applicant for a license may make a donation of one dollar to promote a blindness education, screening and treatment program. The director of revenue shall collect the donations and deposit all such donations in the

state treasury to the credit of the blindness education, screening and treatment program fund established in section 192.936, RSMo. Moneys in the blindness education, screening and treatment program fund shall be used solely for the purposes established in section 192.936, RSMo, except that the department of revenue shall retain no more than one percent for its administrative costs. The donation prescribed in this subsection is voluntary and may be refused by the applicant for the license at the time of issuance or renewal of the license. The director shall inquire of each applicant at the time the licensee presents the completed application to the director whether the applicant is interested in making the one dollar donation prescribed in this subsection.

[302.171. 1. Application for a license shall be made upon an approved form furnished by the director. Every application shall state the full name, Social Security number, age, height, weight, color of eyes, color of hair, sex, residence, mailing address of the applicant, and the classification for which the applicant has been licensed, and, if so, when and by what state, and whether or not such license has ever been suspended, revoked, or disqualified, and, if revoked, suspended or disqualified, the date and reason for such suspension, revocation or disqualification and whether the applicant is making a one dollar donation to promote an organ donation program as prescribed in subsection 2 of this section. The application shall also contain such information as the director may require to enable the director to determine the applicant's qualification for driving a motor vehicle; and shall state whether or not the applicant has been convicted in this or any other state for violating the laws of this or any other state or any ordinance of any municipality, relating to careless driving, or driving while intoxicated, or failing to stop after an accident and disclosing the applicant's identity, or driving a motor vehicle

without the owner's consent. The application shall contain a certification by the applicant as to the truth of the facts stated therein. Every person who applies for a license to operate a motor vehicle who is less than twenty-one years of age shall be provided with educational materials relating to the hazards of driving while intoxicated, including information on penalties imposed by law for violation of the intoxication-related offenses of the state.

2. An applicant for a license may make a donation of one dollar to promote an organ donor program. The director of revenue shall collect the donations and deposit all such donations in the state treasury to the credit of the organ donor program fund established in sections 194.297 to 194.304, RSMo. Moneys in the organ donor program fund shall be used solely for the purposes established in sections 194.297 to 194.304, RSMo, except that the department of revenue shall retain no more than one percent for its administrative costs. The donation prescribed in this subsection is voluntary and may be refused by the applicant for the license at the time of issuance or renewal of the license. The director shall make available an informational booklet or other informational sources on the importance of organ donations to applicants for licensure as designed by the organ donation advisory committee established in sections 194.297 to 194.304, RSMo. The director shall inquire of each applicant at the time the licensee presents the completed application to the director whether the applicant is interested in making the one dollar donation prescribed in this subsection and whether the applicant is interested in making an organ donation and shall also specifically inform the licensee of the ability to make an organ donation by completing the form on the reverse of the license that the applicant will receive in the manner prescribed by subsection 6 of section 194.240, RSMo. The director shall

notify the department of health of information obtained from applicants who indicate to the director that they are interested in making organ donations, and the department of health shall enter the complete name, address, date of birth, race, gender and a unique personal identifier in the registry established in subsection 1 of section 194.304, RSMo.]

Section C. The provisions of section B of this act shall become effective January 1, 2001.”; and

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

In which the concurrence of the Senate is respectfully requested.

Senator Johnson assumed the Chair.

President Wilson assumed the Chair.

CONCURRENT RESOLUTIONS

Senator House moved that **SCR 40** be taken up for adoption, which motion prevailed.

Senator House moved that **SCR 40** be adopted.

Senator House was recognized to close.

President Pro Tem Quick referred **SCR 40** to the Committee on State Budget Control.

HOUSE BILLS ON THIRD READING

HB 1284, introduced by Representative Kissell, 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 by Senator House.

On motion of Senator House, **HB 1284** was read the 3rd time and passed by the following vote:

YEAS—Senators

Bentley	Carter	Caskey	Childers
Clay	DePasco	Ehlmann	Flotron
Goode	Graves	House	Howard

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

NAYS—Senator Rohrbach—1

Absent—Senator Bland—1

Absent with leave—Senators—None

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.

HB 1077, introduced by Representative Relford, entitled:

An Act to repeal section 89.142, RSMo Supp. 1999, relating to peripheral zoning for certain cities.

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

On motion of Senator Mathewson, **HB 1077** was read the 3rd time and passed by the following vote:

YEAS—Senators

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

NAYS—Senators—None

Absent—Senator Klarich—1

Absent with leave—Senators—None

The President declared the bill passed.

On motion of Senator Mathewson, title to the

bill was agreed to.

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

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

HB 1631, with **SCS**, introduced by Representative Hoppe, entitled:

An Act to repeal sections 311.510 and 311.540, RSMo 1994, and sections 311.070 and 311.485 RSMo Supp. 1999, relating to liquor control, and to enact in lieu thereof four new sections relating to the same subject, with penalty provisions.

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

SCS for **HB 1631**, entitled:

SENATE COMMITTEE SUBSTITUTE FOR HOUSE BILL NO. 1631

An Act to repeal sections 311.510, 311.540 and 312.210, RSMo 1994, and sections 311.070 and 311.485, RSMo Supp. 1999, relating to liquor control, and to enact in lieu thereof five new sections relating to the same subject, with penalty provisions.

Was taken up.

Senator Mathewson moved that **SCS** for **HB 1631** be adopted, which motion prevailed.

On motion of Senator Mathewson, **SCS** for **HB 1631** was read the 3rd time and passed by the following vote:

YEAS—Senators

Bentley	Bland	Carter	Clay
DePasco	Ehlmann	Flotron	Goode
Graves	House	Howard	Jacob
Johnson	Kinder	Klarich	Mathewson
Maxwell	Mueller	Quick	Rohrbach
Schneider	Scott	Sims	Staples
Steelman	Stoll	Wiggins	Yeckel—28

NAYS—Senators

Caskey	Childers	Kenney	Russell
Westfall—5			

Absent—Senator Singleton—1

Absent with leave—Senators—None

The President declared the bill passed.

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

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

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

HB 1454, with **SCS**, introduced by Representative Hoppe, entitled:

An Act to repeal section 260.285, RSMo Supp. 1999, relating to environmental control, and to enact in lieu thereof one new section relating to environmental control tax incentives.

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

SCS for **HB 1454**, entitled:

SENATE COMMITTEE SUBSTITUTE FOR HOUSE BILL NO. 1454

An Act to repeal section 260.285, RSMo Supp. 1999, relating to environmental control, and to enact in lieu thereof one new section relating to environmental control tax incentives, with an emergency clause.

Was taken up.

Senator Mathewson moved that **SCS** for **HB 1454** be adopted, which motion prevailed.

On motion of Senator Mathewson, **SCS** for **HB 1454** was read the 3rd time and passed by the following vote:

YEAS—Senators

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

NAYS—Senators—None

Absent—Senator Jacob—1

Absent with leave—Senators—None

The President declared the bill passed.

The emergency clause was adopted by the following vote:

YEAS—Senators

Bentley	Bland	Carter	Caskey
Childers	Clay	DePasco	Ehlmann
Flotron	Goode	Graves	House
Howard	Johnson	Kenney	Kinder
Klarich	Maxwell	Mueller	Quick
Russell	Schneider	Scott	Sims
Singleton	Steelman	Stoll	Westfall
Wiggins	Yeckel—30		

NAYS—Senator Rohrbach—1

Absent—Senators

Jacob Mathewson Staples—3

Absent with leave—Senators—None

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

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

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

PRIVILEGED MOTIONS

Senator Quick moved that the Senate refuse to concur in **HS** for **HCS** for **SS** for **SB 549**, as amended, and request the House to recede from its position and, failing to do so, grant the Senate a conference thereon, which motion prevailed.

REPORTS OF STANDING COMMITTEES

Senator Goode, Chairman of the Committee on Appropriations, submitted the following reports:

Mr. President: Your Committee on Appropriations, to which was referred **HCS** for **HB 1113**, 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 Appropriations, to which was referred **HCS** for **HB 1120**, 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 Appropriations, to which was referred **HB 1121**, 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 Appropriations, to which was referred **HB 1122**, begs leave to report that it has considered the same and recommends that the Senate Committee Substitute, hereto attached, do pass.

CONFERENCE COMMITTEE APPOINTMENTS

President Pro Tem Quick appointed the following conference committee to act with a like committee from the House on **HB 1591**, with **SCS**: Senators Howard, Clay, Staples, Childers and Sims.

Photographers from KY3 were given permission to take pictures in the Senate Chamber today.

HOUSE BILLS ON THIRD READING

Senator Scott moved that **HB 1808**, with **SCS** and **SS** for **SCS**, as amended (pending), be called from the Informal Calendar and again taken up for third reading and final passage, which motion prevailed.

Senator Singleton offered **SA 6**:

SENATE AMENDMENT NO. 6

Amend Senate Substitute for Senate Committee Substitute for House Bill No. 1808, Page 3, Section A, Line 4, by inserting after all of said line the following:

“43.080. [The superintendent is authorized and empowered to prescribe policies providing for increases every five years in the salaries of such members beginning with the sixth year of service, and thereafter to fix the salaries of such members in accordance therewith, except that no such five-year increase shall exceed ten percent of the member's salary.] The “service” of a member of the patrol,

who has served in the armed forces of the United States and who has subsequently been reinstated as a member of the patrol within ninety days after receiving a discharge other than dishonorable from the armed forces of the United States, shall be considered service with the patrol as a member of the patrol rendered since last becoming a member prior to entrance into the armed forces of the United States; except that no member shall be entitled to any credit, privilege or benefit provided by this chapter if such member voluntarily extends or participates in an extension of the period of service, whether by reenlistment, waiver of discharge, acceptance of commission or any other action, with the armed forces beyond the period of service for which such member was originally commissioned, enlisted, inducted or called.”; and

Further amend said bill, Page 152, Section 104.010, Line 22, by inserting after all of said line the following:

“104.080. Each member may retire at the end of the month during which such member shall reach normal retirement age with a normal annuity except that any patrolman may retire at age fifty-five with a normal annuity [and shall retire at age sixty]. Notwithstanding any other provisions to the contrary, any member who continues his employment with the transportation department or as a civilian member of the highway patrol after attaining seventy and one-half years of age shall receive service retirement benefits during the continuation of his employment if and to the extent that payment of such service retirement benefits is required by the Internal Revenue Code of 1986, as amended, and Treasury regulations promulgated thereunder; and such service retirement benefits shall be adjusted annually for additional benefits which shall accrue by reason of such continued employment in accordance with the rules and regulations of the board of trustees.”; and

Further amend said bill, Page 192, Section 104.610, Line 5, by inserting after all of said line the following:

“104.1003. Unless a different meaning is plainly required by the context, the following words and phrases as used in sections 104.1003 to 104.1093 shall mean:

(1) “Act”, the “Year 2000 Plan” created by

sections 104.1003 to 104.1093;

(2) “Actuary”, an actuary who is experienced in retirement plan financing and who is either a member of the American Academy of Actuaries or an enrolled actuary under the Employee Retirement Income Security Act of 1974;

(3) “Annuity”, annual benefit amounts, paid in equal monthly installments, from funds provided for in, or authorized by, sections 104.1003 to 104.1093;

(4) “Annuity starting date” means the first day of the first month with respect to which an amount is paid as an annuity pursuant to sections 104.1003 to 104.1093;

(5) “Beneficiary”, any person or entity entitled to receive an annuity or other benefit pursuant to sections 104.1003 to 104.1093 based upon the employment record of another person;

(6) “Board of trustees”, “board”, or “trustees”, a governing body or bodies established for the year 2000 plan pursuant to sections 104.1003 to 104.1093;

(7) “Closed plan”, a benefit plan created pursuant to this chapter and administered by a system prior to July 1, 2000. No person first employed on or after July 1, 2000, shall become a member of the closed plan, but the closed plan shall continue to function for the benefit of persons covered by and remaining in the closed plan and their beneficiaries;

(8) “Consumer price index”, the Consumer Price Index for All Urban Consumers for the United States, or its successor index, as approved by the board, as such index is defined and officially reported by the United States Department of Labor, or its successor agency;

(9) “Credited service”, the total credited service to a member's credit as provided in sections 104.1003 to 104.1093;

(10) “Department”, any department or agency of the executive, legislative, or judicial branch of the state of Missouri receiving state appropriations, including allocated funds from the federal government but not including any body corporate or politic unless its employees are eligible for retirement coverage from a system under this

chapter as otherwise provided by law;

(11) “Early retirement eligibility”, a member's attainment of fifty-seven years of age and the completion of at least five years of credited service;

(12) “Effective date”, July 1, 2000;

(13) “Employee” shall be any person who is employed by a department and is paid a salary or wage by a department in a position normally requiring the performance of duties of not less than one thousand hours per year, provided:

(a) The term “employee” shall not include any patient or inmate of any state, charitable, penal or correctional institution, or any person who is employed by a department in a position that is covered by a state-sponsored defined benefit retirement plan not created by this chapter;

(b) The term “employee” shall be modified as provided by other provisions of sections 104.1003 to 104.1093;

(14) “Employer”, a department;

(15) “Executive director”, the executive director employed by a board established under the provisions of sections 104.1003 to 104.1093;

(16) “Final average pay”, the average pay of a member for the thirty-six full consecutive months of service before termination of employment when the member's pay was greatest; or if the member was on workers' compensation leave of absence or a medical leave of absence due to an employee illness, the amount of pay the member would have received but for such leave of absence as reported and verified by the employing department; or if the member was employed for less than thirty-six months, the average monthly pay of a member during the period for which the member was employed;

(17) “Fund”, a fund of the year 2000 plan established pursuant to sections 104.1003 to 104.1093;

(18) “Investment return”, “interest”, rates as shall be determined and prescribed from time to time by a board;

(19) “Member”, a person who is included in the membership of the system, as set forth in section 104.1009;

(20) “Normal retirement eligibility”, a member's attainment of at least sixty-two years of age and the completion of at least five or more years of credited service or, the attainment of at least fifty years of age with a total of years of age and years of credited service which is at least eighty [or, in the case of a member of the highway patrol who shall be subject to the mandatory retirement provisions of section 104.080, the mandatory retirement age and completion of five years of credited service or, the attainment of at least fifty years of age with a total of years of age and years of credited service which is at least eighty];

(21) “Pay” shall include:

(a) All salary and wages payable to an employee for personal services performed for a department; but excluding:

a. Any amounts paid after an employee's employment is terminated, unless the payment is made as a final installment of salary or wages at the same rate as in effect immediately prior to termination of employment in accordance with a state payroll system adopted on or after January 1, 2000;

b. Any amounts paid upon termination of employment for unused annual leave or unused sick leave; and

c. Pay in excess of the limitations set forth in Section 401(a)(17) of the Internal Revenue Code of 1986 as amended and other applicable federal laws or regulations;

(b) All salary and wages which would have been payable to an employee on workers' compensation leave of absence during the period the employee is receiving a weekly workers' compensation benefit, as reported and verified by the employing department;

(c) All salary and wages which would have been payable to an employee on a medical leave due to employee illness, as reported and verified by the employing department;

(d) For purposes of members of the general assembly, pay shall be the annual salary provided to each senator and representative pursuant to section 21.140, RSMo, plus any salary adjustment

pursuant to section 21.140, RSMo;

(22) “Retiree”, a person receiving an annuity from the year 2000 plan based upon the person's employment record;

(23) “State”, the state of Missouri;

(24) “System” or “retirement system”, the Missouri state employees' retirement system or the transportation department and highway patrol retirement system, as the case may be;

(25) “Vested former member”, a person entitled to receive a deferred annuity pursuant to section 104.1036;

(26) “Year 2000 plan”, the benefit plan created by sections 104.1003 to 104.1093.”; and

Further amend the title and enacting clause accordingly.

Senator Singleton 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, Rohrbach and Scott.

SA 6 failed of adoption by the following vote:

YEAS—Senators

Bentley	Childers	Rohrbach	Russell
Schneider	Singleton—6		

NAYS—Senators

Bland	Carter	Caskey	DePasco
Ehlmann	Flotron	Goode	Graves
House	Howard	Jacob	Johnson
Kennedy	Kinder	Klarich	Mathewson
Mueller	Quick	Scott	Sims
Staples	Steelman	Stoll	Westfall
Wiggins	Yeckel—26		

Absent—Senators

Clay Maxwell—2

Absent with leave—Senators—None

Senator Schneider offered **SA 7**:

SENATE AMENDMENT NO. 7

Amend Senate Substitute for Senate Committee Substitute for House Bill No. 1808, Page 256, Section 169.670, Line 15 of said page, by inserting immediately after said line the following:

“476.690. 1. Any judge who has become eligible to receive retirement compensation pursuant to section 476.520 and who has elected not to retire and has continued to serve as a judge after August 28, 1995, shall have added to the retirement compensation when the judge retires or dies an amount equal to the total of all annual cost-of-living increases that retired judges received between the time the judge first became eligible to retire and the year the judge actually retires or dies. In no event shall the total increase in compensation granted pursuant to this section and section 476.601 exceed sixty-five percent of the judge's retirement compensation calculated at the time of retirement or death.

2. Any judge who was eligible to retire on August 28, 1995, and elected to continue to serve as a judge after such date, but who retired before August 28, 1996, shall, upon application to the board of trustees of the Missouri state employees' retirement system, be made, constituted and appointed and employed by the board as a special consultant on the problems of retirement, aging and other state matters for the remainder of the person's life. Upon request of the board or the court from which the judge retired, the consultant shall give opinions or be available to give opinions in writing or orally in response to such request. As compensation for such services, the consultant shall have the retirement benefit recalculated from the date of the retirement, pursuant to the provisions of subsection 1 of this section.

3. Any judge who retired prior to August 28, 1995, and who is receiving judicial retirement compensation on September 1, 2000, shall upon application to the board of trustees of the Missouri state employees' retirement system, be made, constituted and appointed and employed by the board as a special consultant on the problems of retirement, aging and other state matters for the remainder of the judge's life. Upon request of the board or the court from which the judge retired, the consultant shall give opinions or be available to give opinions in writing or orally in response to such request. As compensation for such services, the consultant shall have the consultant's retirement benefit recalculated as if subsection 1 of this section was in effect on the consultant's date of retirement.

Any monthly benefit increases payable pursuant to this subsection shall become effective September 1, 2000. In no event shall the system make any retroactive compensation payments under this subsection.”; and

Further amend the title and enacting clause of said bill accordingly.

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

Senator Wiggins assumed the Chair.

Senator Howard offered SA 8:

SENATE AMENDMENT NO. 8

Amend Senate Substitute for Senate Committee Substitute for House Bill No. 1808, Page 216, Section 168.021, Line 5, by inserting immediately after said line the following:

“169.060. 1. On and after the first day of July next following the operative date, any member who is sixty or more years of age and whose creditable service is five years or more, or whose sum of age and creditable service equals eighty years or more, or who has attained age fifty-five and whose creditable service is twenty-five years or more, or whose creditable service is thirty years or more regardless of age, may retire upon written application to the board of trustees and receive the full retirement benefits on the member's creditable service. Any other member whose creditable service is twenty-five or more years, or who has attained age fifty-five and whose creditable service is at least five years but less than twenty-five years, may retire upon written application to the board of trustees and receive the actuarial equivalent of the benefit to which the member would be entitled if the member was sixty years of age.

2. On and after the first day of July next following the operative date, any member who is teaching in a district included in the retirement system at the time the member becomes disabled, or who has taught in such a district at some time in the twelve months immediately preceding the member becoming disabled, and whose disability is traceable to an injury or sickness which was sustained or commenced prior to the cessation of such teaching, and whose age is less than sixty and whose creditable service in districts included in the

retirement system is five years or more, may be retired with disability benefits as provided in sections 169.010 to 169.141 upon written application to the board of trustees, if the member is incapacitated because of physical or mental disability as such disability is herein defined. If such disability shall cease to exist before the recipient of such benefits reaches age sixty, the member's membership status as of the date of the member's disability retirement shall be restored. If the member seeks, before becoming eligible for such retirement allowance, to withdraw the member's accumulated contributions, the total of such disability payments shall be deducted from the amount otherwise due the member.

3. Disability, as a basis for retirement, shall render the individual incapable of earning a livelihood in any occupation and shall be of such a nature as to warrant the assumption that it will be permanent. Whether or not such disability exists in any case shall be adjudged in the manner provided in subsection 15 of section 169.020 by the board of trustees on the basis of reports made by two or more physicians selected by the board to examine the member. Until the member reaches age sixty, the recipient of a disability retirement allowance may be required to submit to periodic examinations by physicians selected by the board, and if any such examination shows that the recipient is no longer incapable of earning a livelihood in any occupation, the member's disability retirement shall be terminated. **For the purposes of adjustments to Social Security Administration disability benefits pursuant to 20 CFR 404.408 any member receiving disability benefits pursuant to this section who is at least fifty-five years of age and whose creditable service is at least twenty-five years shall be considered to be receiving a normal retirement benefit pursuant to this section.**"; and

Further amend said bill, page 245, Section 169.620, line 9, by inserting the following immediately following said line:

"169.663. 1. On or after July first next following October 13, 1969, any member who is serving an employer included in the system at the time the member becomes disabled, or who has served in such a district at some time in the twelve

months immediately preceding the member's becoming disabled, and whose disability is traceable to an injury or sickness which was sustained or commenced prior to the cessation of such service, and whose age is less than sixty and whose creditable service is five years or more, may be retired with disability benefits upon written application to the board of trustees, if the member is incapacitated because of physical or mental disability as such disability is herein defined. If such disability shall cease to exist before the recipient of such benefits reaches age sixty, the member's membership status as of the date of the member's disability retirement shall be restored. If the member dies before becoming eligible for a retirement allowance, or if the member seeks to withdraw the member's accumulated contributions, the total of such disability payments shall be deducted from the amount otherwise due the member, the member's beneficiary, or the member's estate.

2. "Disability", as a basis for retirement, shall render the individual incapable of earning a livelihood in any occupation and shall be of such nature as to warrant the assumption that it will be permanent. Whether or not such disability exists, in any case, shall be adjudged in the manner provided in subsection 15 of section 169.020 by the board of trustees on the basis of evidence that the board by its regulations may require.

3. For the purposes of adjustments to Social Security Administration disability benefits pursuant to 20 CFR 404.408 any member receiving disability benefits pursuant to this section who is at least fifty-five years of age and whose creditable service is at least twenty-five years shall be considered to be receiving a normal retirement benefit pursuant to this section."; and

Further amend Senate Substitute for Senate Committee Substitute for House Bill No. 1808, Page 261, Section B, Line 25 of said page, by inserting after the numeral "168.021," the numeral "168.060,"; and

Further amend said bill, Page 262, Section B, Line 1 of said page, by inserting after the numeral "169.620," the numeral "169.663,"; and further amend line 20 of said page, by inserting after the

numeral “168.021,” the numeral “168.060,”; and further amend said line, by inserting after the numeral “169.620,” the numeral “169.663,”; and

Further amend the title and enacting clause accordingly.

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

President Wilson assumed the Chair.

Senator Caskey offered **SA 9**:

SENATE AMENDMENT NO. 9

Amend Senate Substitute for Senate Committee Substitute for House Bill No. 1808, page 175, Section 104.372, Line 12 of said page, by inserting after all of said line the following:

“104.374. 1. The normal annuity of a member, other than a member of the general assembly or a member who served in an elective state office, shall be an amount equal to one and six-tenths percent of the average compensation of the member multiplied by the number of years of creditable service of the member. Years of membership service and twelfths of a year are to be used in calculating any annuity. Absences for sickness and injury of less than twelve months or for military service or training under subsection 2 of section 104.330 shall be counted as years of membership service.

2. In addition to the amount determined pursuant to subsection 1 of this section, the normal annuity of a uniformed member of the water patrol shall be increased by thirty-three and one-third percent of the benefit.

3. Employees who are fully vested at the age of sixty-five years and who continue to be employed by an agency covered under the system or members of the general assembly who serve in the general assembly after the age of sixty-five years shall have added to their normal annuity when they retire or die an amount equal to the total of all annual cost-of-living increases that the retired members of the system received during the years between when the employee or member of the general assembly reached sixty-five years of age and the year that the employee or member of the general assembly terminated employment or died. In no event shall the total increase in compensation granted under this subsection and subsection 2 of section 104.612

exceed sixty-five percent of the person's normal annuity calculated at the time of retirement or death.

4. In addition to the amount determined pursuant to subsection 1 of this section, the normal annuity of a uniformed conservation agent shall be increased by thirty-three and one-third percent of the benefit.”; and

Further amend said bill, Page 192, Section 104.610, Line 5 of said page, by inserting after all of said line the following:

“10. Any person who is receiving or hereafter may receive retirement benefits pursuant to section 104.374, and would qualify for a benefit pursuant to subsection 4 of section 104.374 if such person were an active employee or beneficiary of an active employee, such person shall, upon application to the board of trustees of the system from which he or she is receiving retirement benefits, shall be made, constituted, appointed and employed by the board as a special consultant on the problems of retirement, aging, and other state matters, for the remainder of the person's life, and upon request of the board, or other state agencies where such person was employed prior to retirement, give opinions, and be available to give opinions in writing, or orally, in response to such requests, as may be required, and for such services shall be compensated monthly, in an amount, which, when added to any monthly state retirement benefits received on his or her retirement, shall be equal to the retirement benefits the person would be receiving currently if the person had benefitted from changes in the law effecting increases pursuant to subsection 4 of section 104.374.”; and

Further amend the title and enacting clause accordingly.

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

SA 9 failed of adoption by the following vote:

YEAS—Senators

Bland	Caskey	House	Howard
Maxwell	Russell	Singleton	Staples

Wiggins—9

NAYS—Senators

Bentley	Carter	Childers	DePasco
Ehlmann	Flotron	Goode	Graves
Jacob	Johnson	Kenney	Kinder
Klarich	Mathewson	Mueller	Quick
Rohrbach	Schneider	Scott	Sims
Steelman	Stoll	Westfall	Yeckel—24

Absent—Senator Clay—1

Absent with leave—Senators—None

Senator Mueller offered **SA 10**:

SENATE AMENDMENT NO. 10

Amend Senate Substitute for Senate Committee Substitute for House Bill No. 1808, Page 256, Section 169.670, Line 15, by inserting after all of said line the following:

“355.561. 1. Unless this chapter, the articles, bylaws, the members acting pursuant to subsection 2 of this section, or the board of directors acting pursuant to subsection 3 of this section, require a greater vote or voting by class, an amendment to a corporation's articles to be adopted must be approved:

(1) By the board if the corporation is a public benefit corporation, **other than a church or a convention or association of churches as described in subsection 6 of this section**, and the amendment does not relate to the number of directors, the composition of the board, the term of office of directors, or the method or way in which directors are elected or selected;

(2) Except as provided in subsection 1 of section 355.556, by the members by two-thirds of the votes cast or a majority of the voting power, whichever is less; and

(3) In writing by any person or persons whose approval is required by a provision of the articles authorized by section 355.606.

2. The members may condition the amendment's adoption on receipt of a higher percentage of affirmative votes or on any other

basis.

3. If the board initiates an amendment to the articles or board approval is required by subsection 1 of this section to adopt an amendment to the articles, the board may condition the amendment's adoption on receipt of a higher percentage of affirmative votes or any other basis.

4. If the board or the members seek to have the amendment approved by the members at a membership meeting, the corporation shall give notice to its members of the proposed membership meeting in writing in accordance with section 355.251. The notice must state that the purpose, or one of the purposes, of the meeting is to consider the proposed amendment and contain or be accompanied by a copy or summary of the amendment.

5. If the board or the members seek to have the amendment approved by the members by written consent or written ballot, the material soliciting the approval shall contain or be accompanied by a copy or summary of the amendment.

6. An amendment to the articles of a public benefit corporation, which is a church or a convention or association of churches, to be adopted must be approved:

(1) **By the members by two-thirds of the votes cast or a majority of the voting power, whichever is less; and**

(2) **In writing by any person or persons whose approval is required by a provision of the articles or bylaws authorized by section 355.606.**

355.596. 1. Unless this chapter, the articles, bylaws, the members acting pursuant to subsection 2 of this section, or the board of directors acting pursuant to subsection 3 of this section, require a greater vote or voting by class, an amendment to a corporation's bylaws to be adopted must be approved:

(1) By the board if the corporation is a public benefit corporation, **other than a church or a convention or association of churches as described in subsection 6 of this section**, and the amendment does not relate to the number of directors, the composition of the board, the term of office of directors, or the method or way in which

directors are elected or selected;

(2) By the members by two-thirds of the votes cast or a majority of the voting power, whichever is less; and

(3) In writing by any person or persons whose approval is required by a provision of the articles authorized by section 355.606.

2. The members may condition the amendment's adoption on its receipt of a higher percentage of affirmative votes or on any other basis.

3. If the board initiates an amendment to the bylaws or board approval is required by subsection 1 of this section to adopt an amendment to the bylaws, the board may condition the amendment's adoption on receipt of a higher percentage of affirmative votes or on any other basis.

4. If the board or the members seek to have the amendment approved by the members at a membership meeting, the corporation shall give notice to its members of the proposed membership meeting in writing in accordance with section 355.251. The notice must also state that the purpose, or one of the purposes, of the meeting is to consider the proposed amendment and contain or be accompanied by a copy or summary of the amendment.

5. If the board or the members seek to have the amendment approved by the members by written consent or written ballot, the material soliciting the approval shall contain or be accompanied by a copy or summary of the amendment.

6. An amendment to the bylaws of a public benefit corporation, which is a church or a convention or association of churches, to be adopted must be approved:

(1) By the members by two-thirds of the votes cast or a majority of the voting power, whichever is less; and

(2) In writing by any person or persons whose approval is required by a provision of the bylaws authorized by section 355.606.”; and

Further amend said title and enacting clause accordingly.

Senator Mueller moved that the above

amendment be adopted, which motion prevailed.

Senator Rohrbach offered **SA 11:**

SENATE AMENDMENT NO. 11

Amend Senate Substitute for Senate Committee Substitute for House Bill No. 1808, Page 212, Section 104.1090, Line 4, by inserting immediately after said line the following:

“105.1225. 1. No state agency shall release the personal information of any state employee receiving compensation without the consent of the employee. As used in this section, personal information shall mean the home address and home phone number of the employee.

2. This section shall not apply to the following:

(1) Any release necessary to comply with any federal law or any specific state law;

(2) Releases for authorized use by any federal agency, state agency, court of law or law enforcement agency; and

(3) Motor vehicle and driver's license information subject to sections 32.090 and 32.091, RSMo.”; and

Further amend the title and enacting clauses accordingly.

Senator Rohrbach moved that the above amendment be adopted.

Senator Caskey raised the point of order that **SA 11** is out of order as it goes beyond the scope and purpose of the legislation.

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

Senator Schneider offered **SA 12:**

SENATE AMENDMENT NO. 12

Amend Senate Substitute for Senate Committee Substitute for House Bill No. 1808, Page 261, Section 513.430, Line 8, by inserting immediately after said line the following:

“Section 1. Any member of the general assembly who has served at least fifteen years as a member of the general assembly and attains the age of sixty years or more, and who elects not to retire and continues to serve as a member

of the general assembly, shall have added to the retirement compensation when the member dies or retires an amount equal to the total of all annual cost-of-living increases that retired members received between the time the member of the general assembly attains the age of sixty years or more and has fifteen years or more of service as a member of the general assembly, and the date that the member actually retires or dies. In no event shall the total increase in compensation granted pursuant to this section exceed sixty-five percent of the member's retirement compensation calculated at the time of retirement or death.”; and

Further amend the title and enacting clause of said bill accordingly.

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

Senator Scott moved that **SS** for **SCS** for **HB 1808**, as amended, be adopted, which motion prevailed.

Senator Scott was recognized to close on final passage of the bill.

President Pro Tem Quick referred **SS** for **SCS** for **HB 1808**, as amended, to the Committee on State Budget Control.

HCS for **HB 1142**, with **SCS**, entitled:

An Act to repeal section 304.200, RSMo Supp. 1999, relating to traffic regulations, and to enact in lieu thereof one new section relating to the same subject.

Was taken up by Senator Johnson.

SCS for **HCS** for **HB 1142**, entitled:

SENATE COMMITTEE SUBSTITUTE FOR
HOUSE COMMITTEE SUBSTITUTE FOR
HOUSE BILL NO. 1142

An Act to repeal sections 407.850 and 407.870, RSMo 1994, and sections 304.170 and 304.200, RSMo Supp. 1999, relating to the regulation of farm equipment, and to enact in lieu thereof four new sections relating to the same subject.

Was taken up.

Senator Johnson moved that **SCS** for **HCS** for **HB 1142** be adopted.

Senator Childers offered **SA 1**:

SENATE AMENDMENT NO. 1

Amend Senate Committee Substitute for House Committee Substitute for House Bill No. 1142, Page 1, In the Title, Line 3, by striking “the regulation of farm equipment” and inserting in lieu thereof the following: “motor vehicles”; and

Further amend said bill and page, Section A, Line 4, by inserting after all of said line the following:

“301.010. As used in this chapter and sections 304.010 to 304.040, 304.120 to 304.260, RSMo, and sections 307.010 to 307.175, RSMo, the following terms mean:

(1) “All-terrain vehicle”, any motorized vehicle manufactured and used exclusively for off-highway use which is fifty inches or less in width, with an unladen dry weight of six hundred pounds or less, traveling on three, four or more low pressure tires, with a seat designed to be straddled by the operator, and handlebars for steering control;

(2) “Automobile transporter”, any vehicle combination designed and used specifically for the transport of assembled motor vehicles;

(3) “Axle load”, the total load transmitted to the road by all wheels whose centers are included between two parallel transverse vertical planes forty inches apart, extending across the full width of the vehicle;

(4) “Boat transporter”, any vehicle combination designed and used specifically to transport assembled boats and boat hulls;

(5) “Body shop”, a business that repairs physical damage on motor vehicles that are not owned by the shop or its officers or employees by mending, straightening, replacing body parts, or painting;

(6) “Bus”, a motor vehicle primarily for the transportation of a driver and eight or more passengers but not including shuttle buses;

(7) “Commercial motor vehicle”, a motor vehicle designed or regularly used for carrying freight and merchandise, or more than eight passengers but not including vanpools or shuttle buses;

(8) “Cotton trailer”, a trailer designed and

used exclusively for transporting cotton at speeds less than forty miles per hour from field to field or from field to market and return;

(9) “Dealer”, any person, firm, corporation, association, agent or subagent engaged in the sale or exchange of new, used or reconstructed motor vehicles or trailers;

(10) “Director” or “director of revenue”, the director of the department of revenue;

(11) “Driveaway operation”, the movement of a motor vehicle or trailer by any person or motor carrier other than a dealer over any public highway, under its own power singly, or in a fixed combination of two or more vehicles, for the purpose of delivery for sale or for delivery either before or after sale;

(12) **“Dromedary”, a truck-tractor designed for drawing other vehicles and which may carry part of a load when operating independently. When attached to a semi-trailer, it supports a part of the weight thereof;**

(13) “Farm tractor”, a tractor used exclusively for agricultural purposes;

[(13)] (14) “Fleet”, any group of ten or more motor vehicles owned by the same owner;

[(14)] (15) “Fleet vehicle”, a motor vehicle which is included as part of a fleet;

[(15)] (16) “Fullmount”, a vehicle mounted completely on the frame of either the first or last vehicle in a saddlemount combination;

[(16)] (17) “Gross weight”, the weight of vehicle and/or vehicle combination without load, plus the weight of any load thereon;

[(17)] (18) “Hail-damaged vehicle”, any vehicle, the body of which has become dented as the result of the impact of hail;

[(18)] (19) “Highway”, any public thoroughfare for vehicles, including state roads, county roads and public streets, avenues, boulevards, parkways or alleys in any municipality;

[(19)] (20) “Improved highway”, a highway which has been paved with gravel, macadam, concrete, brick or asphalt, or surfaced in such a manner that it shall have a hard, smooth surface;

[(20)] (21) “Intersecting highway”, any highway which joins another, whether or not it crosses the same;

[(21)] (22) “Junk vehicle”, a vehicle which is incapable of operation or use upon the highways and has no resale value except as a source of parts or scrap, and shall not be titled or registered;

[(22)] (23) “Kit vehicle”, a motor vehicle assembled by a person other than a generally recognized manufacturer of motor vehicles by the use of a glider kit or replica purchased from an authorized manufacturer and accompanied by a manufacturer's statement of origin;

[(23)] (24) “Land improvement contractors' commercial motor vehicle”, any not-for-hire commercial motor vehicle the operation of which is confined to:

(a) An area that extends not more than a radius of one hundred miles from its home base of operations when transporting its owner's machinery, equipment, or auxiliary supplies to or from projects involving soil and water conservation, or to and from equipment dealers' maintenance facilities for maintenance purposes; or

(b) An area that extends not more than a radius of twenty-five miles from its home base of operations when transporting its owner's machinery, equipment, or auxiliary supplies to or from projects not involving soil and water conservation. Nothing in this subdivision shall be construed to prevent any motor vehicle from being registered as a commercial motor vehicle or local commercial motor vehicle;

[(24)] (25) “Local commercial motor vehicle”, a commercial motor vehicle whose operations are confined solely to a municipality and that area extending not more than fifty miles therefrom, or a commercial motor vehicle whose property-carrying operations are confined solely to the transportation of property owned by any person who is the owner or operator of such vehicle to or from a farm owned by such person or under the person's control by virtue of a landlord and tenant lease; provided that any such property transported to any such farm is for use in the operation of such farm;

[(25)] (26) “Local log truck”, a commercial

motor vehicle which is registered pursuant to this chapter to operate as a motor vehicle on the public highways of this state, used exclusively in this state, used to transport harvested forest products, operated solely at a forested site and in an area extending not more than a fifty-mile radius from such site, carries a load with dimensions not in excess of twenty-five cubic yards per two axles with dual wheels, and is not operated on the national system of interstate and defense highways described in Title 23, Section 103(e) of the United States Code, does not have more than four axles and does not pull a trailer which has more than two axles. A local log truck may not exceed the limits required by law, however, if the truck does exceed such limits as determined by the inspecting officer, then notwithstanding any other provisions of law to the contrary, such truck shall be subject to the weight limits required by such sections as licensed for eighty thousand pounds;

[(26)] **(27)** “Local transit bus”, a bus whose operations are confined wholly within a municipal corporation, or wholly within a municipal corporation and a commercial zone, as defined in section 390.020, RSMo, adjacent thereto, forming a part of a public transportation system within such municipal corporation and such municipal corporation and adjacent commercial zone;

[(27)] **(28)** “Log truck”, a vehicle which is not a local log truck and is used exclusively to transport harvested forest products to and from forested sites which is registered pursuant to this chapter to operate as a motor vehicle on the public highways of this state for the transportation of harvested forest products;

[(28)] **(29)** “Major component parts”, the rear clip, cowl, frame, body, cab, front-end assembly, and front clip, as those terms are defined by the director of revenue pursuant to rules and regulations or by illustrations;

[(29)] **(30)** “Manufacturer”, any person, firm, corporation or association engaged in the business of manufacturing or assembling motor vehicles, trailers or vessels for sale;

[(30)] **(31)** “Mobile scrap processor”, a business located in Missouri or any other state that comes onto a salvage site and crushes motor vehicles and parts for transportation to a shredder

or scrap metal operator for recycling;

[(31)] **(32)** “Motor change vehicle”, a vehicle manufactured prior to August, 1957, which receives a new, rebuilt or used engine, and which used the number stamped on the original engine as the vehicle identification number;

[(32)] **(33)** “Motor vehicle”, any self-propelled vehicle not operated exclusively upon tracks, except farm tractors;

[(33)] **(34)** “Motor vehicle primarily for business use”, any vehicle other than a recreational motor vehicle, motorcycle, motortricycle, or any commercial motor vehicle licensed for over twelve thousand pounds:

(a) Offered for hire or lease; or

(b) The owner of which also owns ten or more such motor vehicles;

[(34)] **(35)** “Motorcycle”, a motor vehicle operated on two wheels;

[(35)] **(36)** “Motorized bicycle”, any two-wheeled or three-wheeled device having an automatic transmission and a motor with a cylinder capacity of not more than fifty cubic centimeters, which produces less than three gross brake horsepower, and is capable of propelling the device at a maximum speed of not more than thirty miles per hour on level ground;

[(36)] **(37)** “Motortricycle”, a motor vehicle operated on three wheels, including a motorcycle while operated with any conveyance, temporary or otherwise, requiring the use of a third wheel. A motortricycle shall not be included in the definition of all-terrain vehicle;

[(37)] **(38)** “Municipality”, any city, town or village, whether incorporated or not;

[(38)] **(39)** “Nonresident”, a resident of a state or country other than the state of Missouri;

[(39)] **(40)** “Non-USA-std motor vehicle”, a motor vehicle not originally manufactured in compliance with United States emissions or safety standards;

[(40)] **(41)** “Operator”, any person who operates or drives a motor vehicle;

[(41)] **(42)** “Owner”, any person, firm,

corporation or association, who holds the legal title to a vehicle or in the event a vehicle is the subject of an agreement for the conditional sale or lease thereof with the right of purchase upon performance of the conditions stated in the agreement and with an immediate right of possession vested in the conditional vendee or lessee, or in the event a mortgagor of a vehicle is entitled to possession, then such conditional vendee or lessee or mortgagor shall be deemed the owner for the purpose of this law;

[(42)] **(43)** “Public garage”, a place of business where motor vehicles are housed, stored, repaired, reconstructed or repainted for persons other than the owners or operators of such place of business;

[(43)] **(44)** “Rebuilder”, a business that repairs or rebuilds motor vehicles owned by the rebuilder, but does not include certificated common or contract carriers of persons or property;

[(44)] **(45)** “Reconstructed motor vehicle”, a vehicle that is altered from its original construction by the addition or substitution of two or more new or used major component parts, excluding motor vehicles made from all new parts, and new multistage manufactured vehicles;

[(45)] **(46)** “Recreational motor vehicle”, any motor vehicle designed, constructed or substantially modified so that it may be used and is used for the purposes of temporary housing quarters, including therein sleeping and eating facilities which are either permanently attached to the motor vehicle or attached to a unit which is securely attached to the motor vehicle. Nothing herein shall prevent any motor vehicle from being registered as a commercial motor vehicle if the motor vehicle could otherwise be so registered;

[(46)] **(47)** “Rollback or car carrier”, any vehicle specifically designed to transport wrecked, disabled or otherwise inoperable vehicles, when the transportation is directly connected to a wrecker or towing service;

[(47)] **(48)** “Saddlemount combination”, a combination of vehicles in which a truck or truck tractor tows one or more trucks or truck tractors, each connected by a saddle to the frame or fifth wheel of the vehicle in front of it. The saddle is a

mechanism that connects the front axle of the towed vehicle to the frame or fifth wheel of the vehicle in front and functions like a fifth wheel kingpin connection. When two vehicles are towed in this manner the combination is called a double saddlemount combination. When three vehicles are towed in this manner, the combination is called a triple saddlemount combination;

[(48)] **(49)** “Salvage dealer and dismantler”, a business that dismantles used motor vehicles for the sale of the parts thereof, and buys and sells used motor vehicle parts and accessories;

[(49)] **(50)** “Salvage vehicle”, a motor vehicle, semitrailer or house trailer which, by reason of condition or circumstance, has been declared salvage, either by its owner, or by a person, firm, corporation, or other legal entity exercising the right of security interest in it, or by an insurance company as a result of settlement of a claim for loss due to damage or theft; or a vehicle, ownership of which is evidenced by a salvage title; or abandoned property which is titled pursuant to section 304.155, RSMo, or section 304.157, RSMo, and designated with the words “salvage/abandoned property”;

[(50)] **(51)** “School bus”, any motor vehicle used solely to transport students to or from school or to transport students to or from any place for educational purposes;

[(51)] **(52)** “Shuttle bus”, a motor vehicle used or maintained by any person, firm, or corporation as an incidental service to transport patrons or customers of the regular business of such person, firm, or corporation to and from the place of business of the person, firm, or corporation providing the service at no fee or charge. Shuttle buses shall not be registered as buses or as commercial motor vehicles;

[(52)] **(53)** “Special mobile equipment”, every self-propelled vehicle not designed or used primarily for the transportation of persons or property and incidentally operated or moved over the highways, including farm equipment, implements of husbandry, road construction or maintenance machinery, ditch-digging apparatus, stone crushers, air compressors, power shovels, cranes, graders, rollers, well-drillers and wood-sawing equipment used for hire, asphalt

spreaders, bituminous mixers, bucket loaders, ditchers, leveling graders, finished machines, motor graders, road rollers, scarifiers, earth-moving carryalls, scrapers, drag lines, rock-drilling and earth-moving equipment. This enumeration shall be deemed partial and shall not operate to exclude other such vehicles which are within the general terms of this section;

[(53)] **(54)** “Specially constructed motor vehicle”, a motor vehicle which shall not have been originally constructed under a distinctive name, make, model or type by a manufacturer of motor vehicles. The term “specially constructed motor vehicle” includes kit vehicles;

[(54)] **(55)** “Stinger-steered combination”, a truck tractor-semitrailer wherein the fifth wheel is located on a drop frame located behind and below the rearmost axle of the power unit;

[(55)] **(56)** “Tandem axle”, a group of two or more axles, arranged one behind another, the distance between the extremes of which is more than forty inches and not more than ninety-six inches apart;

[(56)] **(57)** “Tractor”, “truck tractor” or “truck-tractor”, a self-propelled motor vehicle designed for drawing other vehicles, but not for the carriage of any load when operating independently. When attached to a semitrailer, it supports a part of the weight thereof;

[(57)] **(58)** “Trailer”, any vehicle without motive power designed for carrying property or passengers on its own structure and for being drawn by a self-propelled vehicle, except those running exclusively on tracks, including a semitrailer or vehicle of the trailer type so designed and used in conjunction with a self-propelled vehicle that a considerable part of its own weight rests upon and is carried by the towing vehicle. The term “trailer” shall not include cotton trailers as defined in subdivision (8) of this section and shall not include manufactured homes as defined in section 700.010, RSMo;

[(58)] **(59)** “Truck”, a motor vehicle designed, used, or maintained for the transportation of property;

[(59)] **(60)** “Truck-tractor semitrailer-semitrailer”, a combination vehicle in which the

two trailing units are connected with a B-train assembly which is a rigid frame extension attached to the rear frame of a first semitrailer which allows for a fifth-wheel connection point for the second semitrailer and has one less articulation point than the conventional “A dolly” connected truck-tractor semitrailer-trailer combination;

[(60)] **(61)** “Truck-trailer boat transporter combination”, a boat transporter combination consisting of a straight truck towing a trailer using typically a ball and socket connection with the trailer axle located substantially at the trailer center of gravity rather than the rear of the trailer but so as to maintain a downward force on the trailer tongue;

[(61)] **(62)** “Used parts dealer”, a business that buys and sells used motor vehicle parts or accessories, but not including a business that sells only new, remanufactured or rebuilt parts. “Business” does not include isolated sales at a swap meet of less than three days;

[(62)] **(63)** “Vanpool”, any van or other motor vehicle used or maintained by any person, group, firm, corporation, association, city, county or state agency, or any member thereof, for the transportation of not less than eight nor more than forty-eight employees, per motor vehicle, to and from their place of employment; however, a vanpool shall not be included in the definition of the term “bus” or “commercial motor vehicle” as defined by subdivisions (6) and (7) of this section, nor shall a vanpool driver be deemed a “chauffeur” as that term is defined by section 302.010, RSMo; nor shall use of a vanpool vehicle for ride-sharing arrangements, recreational, personal, or maintenance uses constitute an unlicensed use of the motor vehicle, unless used for monetary profit other than for use in a ride-sharing arrangement;

[(63)] **(64)** “Vehicle”, any mechanical device on wheels, designed primarily for use, or used, on highways, except motorized bicycles, vehicles propelled or drawn by horses or human power, or vehicles used exclusively on fixed rails or tracks, or cotton trailers or motorized wheelchairs operated by handicapped persons;

[(64)] **(65)** “Wrecker” or “tow truck”, any emergency commercial vehicle equipped, designed and used to assist or render aid and transport or tow disabled or wrecked vehicles from a highway, road,

street or highway rights-of-way to a point of storage or repair, including towing a replacement vehicle to replace a disabled or wrecked vehicle;

[(65)] (66) “Wrecker or towing service”, the act of transporting, towing or recovering with a wrecker, tow truck, rollback or car carrier any vehicle not owned by the operator of the wrecker, tow truck, rollback or car carrier for which the operator directly or indirectly receives compensation or other personal gain.”; and

Further amend said bill, Page 2, Section 304.170, Line 32, by inserting after “semitrailer” the following: “**or dromedary and semitrailer**”; and further amend line 35, by inserting after “semitrailer” the following: “**or dromedary and semitrailer**”; and further amend line 37, by inserting after “semitrailer” the following: “**or dromedary and semitrailer**”; and further amend line 38, by striking “which” and inserting in lieu thereof the following: “**such semitrailer**”; and

Further amend said bill and section, Page 3, Line 53, by striking “and” and inserting in lieu thereof a comma “,”; and further amend line 54, by striking the following: “having a length not in excess of sixty-five feet”.

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

Senator Jacob assumed the Chair.

Senator Caskey offered SA 2:

SENATE AMENDMENT NO. 2

Amend Senate Committee Substitute for House Committee Substitute for House Bill No. 1142, Page 7, Section 407.870, Line 24, by adding after all of said line:

“Section 1. Prior to awarding a contract, the office of administration or the state agency responsible for evaluating a contract for the purchase of goods shall evaluate the bids received according to the criteria and procedures established by the department of agriculture for determining if a product is a biobased product and if a product is a biobased product produced in this state. The office of administration or other agency shall first remove bids that offer supplies that are not biobased products or that will not be produced

in this state. From among the remaining bids, the office of administration shall select the lowest responsive and responsible bid, from among the bids that offer biobased products that have been produced this state where sufficient competition can be generated within this state to ensure that compliance with these requirements will not result in an excessive price for the product or acquiring a disproportionately inferior product. If there are two or more qualified bids that offer biobased products that have been produced in this state, it shall be deemed that there is sufficient competition to prevent an excessive price for the product or the acquiring of a disproportionately inferior product. This section applies to all agency procurement offices of this state.”; and

Further amend the title and enacting clause accordingly.

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

Senator Johnson moved that SCS for HCS for HB 1142, as amended, be adopted, which motion prevailed.

On motion of Senator Johnson, SCS for HCS for HB 1142, as amended, was read the 3rd time and passed by the following vote:

YEAS—Senators

Bentley	Bland	Caskey	Childers
Clay	DePasco	Ehlmann	Flotron
Goode	Graves	House	Howard
Jacob	Johnson	Kenney	Kinder
Klarich	Mathewson	Maxwell	Mueller
Rohrbach	Russell	Sims	Singleton
Steelman	Stoll	Westfall	Wiggins
Yeckel—29			

NAYS—Senators—None

Absent—Senators

Carter	Quick	Schneider	Scott
Staples—5			

Absent with leave—Senators—None

The President declared the bill passed.

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.

Kinder	Klarich	Mathewson	Maxwell
Mueller	Rohrbach	Russell	Scott
Sims	Stoll	Westfall	
Wiggins	Yeckel—30		

PRIVILEGED MOTIONS

Senator Wiggins moved that **SCS** for **SB 719**, with **HCS**, be taken up for 3rd reading and final passage, which motion prevailed.

HCS for **SCS** for **SB 719**, entitled:

HOUSE COMMITTEE SUBSTITUTE FOR
SENATE COMMITTEE SUBSTITUTE FOR
SENATE BILL NO. 719

An Act to repeal section 70.500, RSMo Supp. 1999, relating to the Kansas and Missouri Metropolitan Culture District, and to enact in lieu thereof one new section relating to the same subject.

Was taken up.

Senator Wiggins moved that **HCS** for **SCS** for **SB 719** be adopted, which motion prevailed by the following vote:

YEAS—Senators

Bentley	Bland	Carter	Caskey
Childers	Clay	DePasco	Ehlmann
Goode	Graves	House	Howard
Jacob	Johnson	Kenney	Kinder
Klarich	Mathewson	Maxwell	Mueller
Rohrbach	Schneider	Sims	Steelman
Stoll	Westfall	Wiggins	Yeckel—28

NAYS—Senators—None

Absent—Senators

Flotron	Quick	Russell	Scott
Singleton	Staples—6		

Absent with leave—Senators—None

On motion of Senator Wiggins, **HCS** for **SCS** for **SB 719** was read the 3rd time and passed by the following vote:

YEAS—Senators

Bentley	Bland	Carter	Caskey
Childers	Clay	DePasco	Ehlmann
Flotron	Goode	Graves	House
Howard	Jacob	Johnson	Kenney

NAYS—Senators—None

Absent—Senators

Quick	Schneider	Singleton	Staples—4
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Absent with leave—Senators—None

The President declared the bill passed.

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

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

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

Bill ordered enrolled.

HOUSE BILLS ON THIRD READING

HCS for **HBs 1386** and **1086**, with **SCS**, entitled:

An Act to amend chapter 570, RSMo, relating to stealing and related offenses by adding thereto one new section relating to financial exploitation of the elderly or disabled, with penalty provisions.

Was taken up by Senator Maxwell.

SCS for **HCS** for **HBs 1386** and **1086**, entitled:

SENATE COMMITTEE SUBSTITUTE FOR
HOUSE COMMITTEE SUBSTITUTE FOR
HOUSE BILLS NOS. 1386 and 1086

An Act to repeal sections 660.250, 660.260 and 660.300, RSMo 1994, and sections 210.903, 210.909, 210.915 and 210.936, RSMo Supp. 1999, relating to care for the elderly or disabled, and to enact in lieu thereof ten new sections relating to the same subject, with penalty provisions.

Was taken up.

Senator Maxwell moved that **SCS** for **HCS** for **HBs 1386** and **1086** be adopted.

Senator Maxwell offered **SA 1**:

SENATE AMENDMENT NO. 1

Amend Senate Committee Substitute for House Committee Substitute for House Bills Nos. 1386 and 1086, Page 7, Section 660.300, Line 34, by striking the following: "9 CSR 30-4.025" and inserting in lieu thereof the following: "**9 CSR 30-4.030**".

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

Senator Wiggins assumed the Chair.

Senator Steelman offered SA 2:

SENATE AMENDMENT NO. 2

Amend Senate Committee Substitute for House Committee Substitute for House Bills Nos. 1386 and 1086, Page 9, Section 660.300, Line 88, by inserting after "felony." the following: "**If such person is an in-home services employee and upon a determination of guilt by a court, the supervising in-home services provider may be subject to administrative penalties of one thousand dollars per violation to be collected by the department. Penalties collected pursuant to this section shall be deposited as designated in section 198.067, RSMo.**".

Senator Steelman moved that the above amendment be adopted.

At the request of Senator Maxwell, HCS for HBs 1386 and 1086, with SCS and SA 2 (pending), was placed on the Informal Calendar.

PRIVILEGED MOTIONS

Senator Caskey moved that SCS for SB 721, with HCS, as amended, be taken up for 3rd reading and final passage, which motion prevailed.

HCS for SCS for SB 721, as amended, entitled:

HOUSE COMMITTEE SUBSTITUTE FOR
SENATE COMMITTEE SUBSTITUTE FOR
SENATE BILL NO. 721

An Act to repeal sections 209.251, 209.253, 209.255, 209.258 and 209.259, RSMo Supp. 1999, relating to telecommunications for persons with disabilities, and to enact in lieu thereof seven new sections relating to the same subject.

Was taken up.

Senator Caskey moved that HCS for SCS for SB 721, as amended, be adopted, which motion prevailed by the following vote:

YEAS—Senators

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

NAYS—Senators—None

Absent—Senators

Flotron Johnson Staples—3

Absent with leave—Senators—None

On motion of Senator Caskey, HCS for SCS for SB 721, as amended, was read the 3rd time and passed by the following vote:

YEAS—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
Stoll	Stoll	Westfall	Wiggins
Yeckel—33			

NAYS—Senators—None

Absent—Senator Staples—1

Absent with leave—Senators—None

The President declared the bill passed.

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

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

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

Bill ordered enrolled.

MESSAGES FROM THE HOUSE

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

Mr. President: I am instructed by the House of Representatives to inform the Senate that the Speaker has appointed the following to replace Rep. Franklin on bills in conference: **SCS** for **HCS** for **HB 1105** replace with Rep. Scheve, **SCS** for **HCS** for **HBs 1106 and 1107** replace with Rep. Williams (159), **SCS** for **HCS** for **HB 1108** replace with Rep. Days, **SCS** for **HCS** for **HBs 1109 and 1111** replace with Rep. Lakin, **SCS** for **HCS** for **HB 1110** replace with Rep. Scheve.

Also,

Mr. President: I am instructed by the House of Representatives to inform the Senate that the House has taken up and passed **HCS** for **SS** for **SB 813**, entitled:

An Act to repeal section 85.011, RSMo 1994, and section 590.135, RSMo Supp. 1999, relating to law enforcement officers, and to enact in lieu thereof three new sections relating to the same subject.

With House Amendments Nos. 1, 3, 4, 5, 6, 7, House Substitute Amendment No. 2 for House Amendment No. 8, House Amendment No. 9, House Amendment No. 1 to House Amendment No. 10, House Amendment No. 10, as amended, and House Amendments Nos. 11, 12, and 13.

HOUSE AMENDMENT NO. 1

Amend House Committee Substitute for Senate Substitute for Senate Bill No. 813, Page 3, Section 650.010, Line 14, by adding after the word "employee" the following: "developmental aide, psychiatric aide, security aide".

HOUSE AMENDMENT NO. 3

Amend House Committee Substitute for Senate Substitute for Senate Bill No. 813, Page 1, Section 85.011, Line 1, by inserting immediately after the number "85.011." the number "1."; and

Further amend said bill, Page 2, Section 85.011, Line 24, by inserting after all of said line the following:

"2. Any chief law enforcement officer employed by the state or any political

subdivision of the state shall be provided written policies and procedures outlining disciplinary actions and dismissals in regards to such officer's position by the governing body."; and

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

HOUSE AMENDMENT NO. 4

Amend House Committee Substitute for Senate Substitute for Senate Bill No. 813, Page 2, Section 85.011, Line 24, by inserting the following at the end of said section:

"306.165. Each water [patrolman] **patrol officer** appointed by the Missouri state water patrol and each of such other employees as may be designated by the patrol, before entering upon his **or her** duties, shall take and subscribe an oath of office to perform [his] **all** duties faithfully and impartially, and shall be given a certificate of appointment, a copy of which shall be filed with the secretary of state, granting [him] all the powers of a peace officer to enforce all laws of this state, upon all of the following:

(1) The waterways of this state bordering the lands set forth in subdivisions (2), (3), (4), and (5) of this section;

(2) All federal land, where not prohibited by federal law or regulation, and state land adjoining the waterways of this state;

(3) All land within three hundred feet of the areas in subdivision (2) of this section;

(4) All land adjoining and within six hundred feet of any waters impounded in areas not covered in subdivision (2) with a shoreline in excess of four miles;

(5) All land adjoining and within six hundred feet of the rivers and streams of this state;

(6) Any other jurisdictional area, pursuant to the provisions of section 306.167.

Each water [patrolman] **patrol officer** may board any watercraft at any time, with probable cause, for the purpose of making any inspection necessary to determine compliance with the provisions of this chapter. Each water [patrolman] **patrol officer** may arrest on view[,] and without a warrant[,] any

person he **or she** sees violating or who [he] **such patrol officer** has reasonable grounds to believe has violated any law of this state, upon any water or land area subject to his **or her** jurisdiction as provided in this section. It is further provided that each water [patrolman] **patrol officer** shall be bonded in like manner and amount as sheriffs [under] **pursuant to** section 57.020, RSMo. Each water [patrolman] **patrol officer** shall, within six months after receiving [his] a certificate of appointment, satisfactorily complete a law enforcement training course including six hundred hours of actual instruction conducted by a duly constituted law enforcement agency or any other school approved [under] **pursuant to** chapter 590, RSMo. **In addition to the powers previously prescribed in this section, each water patrol officer, while investigating an accident or crime which was originally committed within such patrol officer's jurisdiction as set forth in this section, may arrest any person who he or she has probable cause to believe has committed such crime, even if such person is presently out of the water patrol's jurisdiction.**"; and

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

HOUSE AMENDMENT NO. 5

Amend House Committee Substitute for Senate Substitute for Senate Bill No. 813, Page 4, Section 650.010, Line 33, by inserting the following new section immediate following said line:

"84.610. **1.** Any police officer, policeman or employee adversely affected by any action taken by the chief which he is required to report to the board under the provisions of subdivision (1) of section 84.500 shall have the right to have such action of the chief of police reviewed by the police board upon filing with the secretary of the board within ten days after the effective date of such action a written request for review by said police board. Whereupon the police board shall [grant] **appoint a hearing officer to take evidence in** a public hearing within fifteen days after the filing of such request. The [board] **hearing officer** shall have the power to inquire into all the facts and circumstances pertaining to such action and may compel the attendance of witnesses by subpoena at the request of either the police officer, policeman

or employee involved, the chief of police or [any member of the board.] **the hearing officer. The hearing officer shall within thirty days after the public hearing make a report to the board.** The board shall have the power upon **receiving** such [hearing] **report** to affirm, modify or reverse such action of the chief and may make such orders as the board may deem necessary. The board shall report all decisions in writing to the chief of police and to the officer or employee involved. [Each decision of the police board in such cases shall be final and not subject to review by any court.]".

HOUSE AMENDMENT NO. 6

Amend House Committee Substitute for Senate Substitute for Senate Bill No. 813, Page 1, Section 85.011, Line 1, by inserting immediately before said section the following:

"57.1010. As used in sections 57.1010 to 57.1016, the following terms mean:

(1) **"Full-time", any employee who is designated as full-time by a political subdivision, or any employee who works at least thirty-five hours per week for such political subdivision.**

(2) **"Policeman", any regular or permanent employee of the police department of a political subdivision, including a probationary policeman. The term "policeman" shall not include:**

(a) **Any civilian employee of a police department; or**

(b) **Any person temporarily employed as a policeman for an emergency;**

(3) **"Salary", the regular remuneration earned by a policeman or sheriff's deputy as an employee of a political subdivision, but not including employer paid fringe benefits except the value of employer paid medical benefits, including dental and vision, for employees, and not including consideration for agreeing to retire or other nonrecurring or unusual payments that are not a part of regular remuneration; the office of administration by its rules may further define salary in a manner consistent with this definition.**

(4) **"Sheriff's deputy", any person**

contemplated by the terms “deputy” or “deputy sheriff” as used in this chapter.

57.1013. 1. There is hereby established in the state treasury the “Policemen and Sheriff’s Deputies Trust Fund”. The moneys in the fund shall only be used for the purposes as provided in sections 57.1010 to 57.1016. The fund shall consist of moneys required by law to be credited to such fund and moneys appropriated to the fund by the general assembly.

2. Beginning in the fiscal year 2002, the general assembly shall appropriate from general revenue to the policemen and sheriff’s deputies trust fund an amount necessary to fulfill the minimum salary requirements for policemen and sheriff’s deputies in those political subdivisions that meet the criteria described in section 57.1016. The appropriation shall be sufficient to ensure that all qualifying political subdivisions are able to comply with the minimum salary requirements of section 57.1016. The office of administration shall determine, prior to January 1, 2001, those political subdivisions which shall be eligible to receive funds pursuant to sections 57.1010 to 57.1016 during the fiscal years 2002, 2003, and 2004. A qualifying political subdivision shall be eligible to receive funds appropriated pursuant to sections 57.1010 to 57.1016 only during the fiscal years 2002, 2003, and 2004.

57.1016. 1. Notwithstanding the provisions of sections 57.201 to 57.251, and sections 84.160 and 84.510, RSMo, beginning with the fiscal year 2002, the minimum salary for all full-time policemen and sheriff’s deputies in this state shall be twenty thousand dollars.

2. Any political subdivision that, on January 1, 2001, pays any of its full-time policemen or sheriff’s deputies less than twenty thousand dollars may, for the fiscal years 2002, 2003, and 2004, use moneys from the policemen and sheriff’s deputies trust fund established pursuant to section 57.1013 to increase the salaries of such policemen and sheriff’s deputies to a minimum of twenty thousand dollars. Any political subdivision that, prior to January 1, 2001, had paid all of its full-time policemen or sheriff’s deputies a salary greater than nineteen

thousand nine hundred ninety-nine dollars shall continue to do so without assistance from such fund.

3. The office of administration and the department of public safety may issue such rules as may be necessary for the enforcement of sections 57.1010 to 57.1016. No rule or portion of a rule promulgated pursuant to sections 57.1010 to 57.1016 shall become effective unless it is promulgated pursuant to chapter 536, RSMo.

4. The provisions of sections 57.1010 to 57.1016 shall terminate on July 1, 2005.”;

And further amend said title, enacting clause and intersectional references accordingly.

HOUSE AMENDMENT NO. 7

Amend House Committee Substitute for Senate Substitute for Senate Bill No. 813, Page 4, Section 650.010, Line 33, by inserting after all of said line the following:

“Section B. Sections 1, 2, 3, 4, 5, 6, 7, 8, 9, 10, 11, 12, 13, 14, 15, 16, 17, 18, 19 and 20 are hereby enacted, to read as follows:

Section 1. Sections 1 to 20 of this act shall be known as the “Missouri Law Enforcement District Act”.

Section 2. As used in sections 1 to 20 of this act, the following terms mean:

(1) “Approval of the required majority” or “direct voter approval”, a simple majority;

(2) “Board”, the board of directors of a district;

(3) “District”, a law enforcement district organized pursuant to sections 1 to 20 of this act.

Section 3. 1. A district may be created to fund, promote, plan, design, construct, improve, maintain and operate one or more projects relating to law enforcement or to assist in such activity.

2. A district is a political subdivision of the state.

3. A district may be created in any county of the first classification without a charter form

of government and a population of fifty thousand inhabitants or less.

Section 4. 1. Whenever the creation of a district is desired, ten percent of the registered voters within the proposed district may file a petition requesting the creation of a district. The petition shall be filed in the circuit court of the county in which the proposed district is located.

2. The proposed district area shall be contiguous and may contain any portion of one or more municipalities.

3. The petition shall set forth:

(1) The name and address of each owner of real property located within the proposed district or who is a registered voter resident within the proposed district;

(2) A specific description of the proposed district boundaries including a map illustrating such boundaries;

(3) A general description of the purpose or purposes for which the district is being formed; and

(4) The name of the proposed district.

4. In the event any owner of real property within the proposed district who is named in the petition or any legal voter resident within the district shall not join in the petition or file an entry of appearance and waiver of service of process in the case, a copy of the petition shall be served upon said owner or legal voter in the manner provided by supreme court rule for the service of petitions generally. Any objections to the petition shall be raised by answer within the time provided by supreme court rule for the filing of an answer to a petition.

Section 5. 1. Any owner of real property within the proposed district and any legal voter who is a resident within the proposed district may join in or file a petition supporting or answer opposing the creation of the district and seeking a judgment respecting these same issues.

2. The court shall hear the case without a jury. If the court determines the petition is defective or the proposed district or its plan of operation is unconstitutional, it shall enter its judgment to that effect and shall refuse to

incorporate the district as requested in the pleadings. If the court determines the petition is not legally defective and the proposed district and plan of operation are not unconstitutional, the court shall determine and declare the district organized and incorporated and shall approve the plan of operation stated in the petition.

3. Any party having filed a petition or answer to a petition may appeal the circuit court's order or judgment in the same manner as provided for other appeals. Any order either refusing to incorporate the district or incorporating the district shall be a final judgment for purposes of appeal.

Section 6. The costs of filing and defending the petition and all publication and incidental costs incurred in obtaining circuit court certification of the petition for voter approval shall be paid by the petitioners. If a district is organized pursuant to sections 1 to 20 of this act, the petitioners may be reimbursed for such costs out of the revenues received by the district.

Section 7. A district created pursuant to sections 1 to 20 of this act shall be governed by a board of directors consisting of five members to be elected as provided in section 8 of this act.

Section 8. 1. Within thirty days after the order declaring the district organized has become final, the circuit clerk of the county in which the petition was filed shall give notice by causing publication to be made once a week for two consecutive weeks in a newspaper of general circulation in the county, the last publication of which shall be at least ten days before the day of the meeting required by this section, to call a meeting of the owners of real property and registered voters resident within the district at a day and hour specified in a public place in the county in which the petition was filed for the purpose of electing a board of five directors, two to serve one year, two to serve two years, and one to serve three years, to be composed of residents of the district.

2. The attendees, when assembled, shall organize by the election of a chairman and secretary of the meeting who shall conduct the election.

3. Each director shall serve for a term of three years and until such director's successor is duly elected and qualified. Successor directors shall be elected in the same manner as the initial directors at a meeting of the residents called by the board. Each successor director shall serve a three-year term. The remaining directors shall have the authority to elect an interim director to complete any unexpired term of a director caused by resignation or disqualification.

4. Directors shall be at least twenty-one years of age.

Section 9. 1. The board shall possess and exercise all of the district's legislative and executive powers.

2. Within thirty days after the election of the initial directors, the board shall meet. At its first meeting and after each election of new board members the board shall elect a chairman, a secretary, a treasurer and such other officers as it deems necessary from its members. A director may fill more than one office, except that a director may not fill both the office of chairman and secretary.

3. The board may employ such employees as it deems necessary; provided, however, that the board shall not employ any employee who is related within the third degree by blood or marriage to a member of the board.

4. At the first meeting, the board, by resolution, shall define the first and subsequent fiscal years of the district, and shall adopt a corporate seal.

5. A simple majority of the board shall constitute a quorum. If a quorum exists, a majority of those voting shall have the authority to act in the name of the board, and approve any board resolution.

6. Each director shall devote such time to the duties of the office as their faithful discharge may require and may be reimbursed for such director's actual expenditures in the performance of such director's duties on behalf of the district.

Section 10. A district may receive and use funds for the purposes of planning, designing,

constructing, reconstructing, maintaining and operating one or more projects relating to law enforcement. Such funds may be derived from any funding method which is authorized by sections 1 to 20 of this act and from any other source, including but not limited to funds from federal sources, the state of Missouri or an agency of the state, a political subdivision of the state or private sources.

Section 11. 1. If approved by at least four-sevenths of the qualified voters voting on the question in the district, the district may impose a property tax in an amount not to exceed the annual rate of thirty cents on the hundred dollars assessed valuation. The district board may levy a property tax rate lower than its approved tax rate ceiling and may increase that lowered tax rate to a level not exceeding the tax rate ceiling without voter approval. The property tax shall be uniform throughout the district.

2. The ballot of submission shall be substantially in the following form:

Shall the Law Enforcement District impose a property tax upon all real and tangible personal property within the district at a rate of not more than (insert amount) cents per hundred dollars assessed valuation for the purpose of providing revenue for the development of a project (or projects) in the district (insert general description of the project or projects, if necessary)?

YES NO

If you are in favor of the question, place an "X" in the box opposite "YES". If you are opposed to the question, place an "X" in the box opposite "NO".

3. The county collector of each county in which the district is partially or entirely located shall collect the property taxes and special benefit assessments made upon all real property and tangible personal property within that county and the district, in the same manner as other property taxes are collected.

4. Every county collector having collected or received district property taxes shall, on or before the fifteenth day of each month and after deducting his or her commissions, remit to the treasurer of that district the amount collected or received by him or her prior to the first day of the month. Upon receipt of such money, the district treasurer shall execute a receipt therefor, which he or she shall forward or deliver to the collector. The district treasurer shall deposit such sums into the district treasury, credited to the appropriate project or purpose. The collector and district treasurer shall make final settlement of the district account and commissions owing, not less than once each year, if necessary.

Section 12. 1. A district may contract and incur obligations appropriate to accomplish its purposes.

2. A district may enter into any lease or lease-purchase agreement for or with respect to any real or personal property necessary or convenient for its purposes.

3. A district may borrow money for its purposes at such rates of interest as the district may determine.

4. A district may enter into labor agreements, establish all bid conditions, decide all contract awards, pay all contractors and generally supervise the operation of the district.

Section 13. The district may contract with a federal agency, a state or its agencies and political subdivisions, a corporation, partnership or individual regarding funding, promotion, planning, designing, constructing, improving, maintaining, or operating a project or to assist in such activity; provided, however, that any contract providing for the overall management and operation of the district shall only be with a governmental entity or a not for profit corporation.

Section 14. In addition to all other powers granted by sections 1 to 20 of this act the district shall have the following general powers:

(1) To contract with the local sheriff's department for the provision of services;

(2) To sue and be sued in its own name, and to receive service of process, which shall be served upon the district secretary;

(3) To fix compensation of its employees and contractors;

(4) To purchase any personal property necessary or convenient for its activities;

(5) To collect and disburse funds for its activities; and

(6) To exercise such other implied powers necessary or convenient for the district to accomplish its purposes which are not inconsistent with its express powers.

Section 15. 1. The district may obtain such insurance as it deems appropriate, considering its legal limits of liability, to protect itself, its officers and its employees from any potential liability and may also obtain such other types of insurance as it deems necessary to protect against loss of its real or personal property of any kind. The cost of this insurance shall be charged against the project.

2. The district may also require contractors performing construction or maintenance work on the project and companies providing operational and management services to obtain liability insurance having the district, its directors and employees as additional named insureds.

3. The district shall not attempt to self-insure for its potential liabilities unless it finds that it has sufficient funds available to cover any anticipated judgments or settlements and still complete its project without interruption. The district may self-insure if it is unable to obtain liability insurance coverage at a rate which is economically feasible to the district, considering its resources.

Section 16. 1. The boundaries of any district organized pursuant to sections 1 to 20 of this act may be changed in the manner prescribed in this section; but any change of boundaries of the district shall not impair or affect its organization or its rights in or to property, or any of its rights or privileges whatsoever; nor shall it affect or impair or discharge any

contract, obligation, lien or charge for or upon which it might be liable or chargeable had any change of boundaries not been made.

2. The boundaries may be changed as follows:

(1) Twenty-five percent of the number of voters who voted in the most recent gubernatorial election in the area to be annexed or deannexed may file with the board a petition in writing praying that such real property be included within, or removed from, the district. The petition shall describe the property to be included in, or removed from, the district and shall describe the property owned by the petitioners and shall be deemed to give assent of the petitioners to the inclusion in, or removal from, the district of the property described in the petition. Such petition shall be in substantially the form set forth for petitions in chapter 116, RSMo; provided that, in the event that there are more than twenty-five property owners or taxpaying electors signing the petition, it shall be deemed sufficient description of their property in the petition as required in this section to list the addresses of such property; or

(2) All of the owners of any territory or tract of land near or adjacent to a district in the case of annexation, or all of the owners of any territory or tract of land within a district in the case of deannexation, who own all of the real estate in such territory or tract of land may file a petition with the board praying that such real property be included in, or removed from, the district. The petition shall describe the property owned by the petitioners and shall be deemed to give assent of the petitioners to the inclusion in, or removal from, the district of the property described in the petition.

3. The secretary of the board shall cause notice of the filing of any petition filed pursuant to this section to be given and published in the county in which the property is located, which notice shall recite the filing of such petition, the number of petitioners, a general description of the boundaries of the area proposed to be included or removed and the prayer of the petitioners; giving notice to all persons

interested to appear at the office of the board at the time named in the notice and show cause in writing, if any they have, why the petition should not be granted. The board shall at the time and place mentioned, or at such time or times to which the hearing may be adjourned, proceed to hear the petition and all objections thereto presented in writing by any person showing cause why the petition should not be granted. The failure of any person interested to show cause in writing why such petition shall not be granted shall be deemed as an assent on his part to the inclusion of such lands in, or removal of such lands from, the district as prayed for in the petition.

4. If the board deems it for the best interest of the district, it shall grant the petition, but if the board determines in the case of annexation that some portion of the property mentioned in the petition cannot as a practical matter be served by the district, or if it deems in the case of annexation that it is in the best interest of the district that some portion of the property in the petition not be included in the district, or if in the case of deannexation it deems that it is impracticable for any portion of the property to be deannexed from the district, then the board shall grant the petition in part only. If the petition is granted, the board shall make an order to that effect and file the petition with the circuit clerk. Upon the order of the court having jurisdiction over the district, the property shall be included in, or removed from, the district. If the petition contains the signatures of all the owners of the property pursuant to the provisions of subdivision (2) of subsection 2 of this section, the property shall be included in, or removed from, the district upon the order of the court. If the petition contains the signatures of twenty-five percent of the number of voters who voted in the most recent gubernatorial election in the area to be annexed or deannexed pursuant to subdivision (1) of subsection 2 of this section, the property shall be included in, or removed from, the district subject to the election provided in section 17 of this act. The circuit court having jurisdiction over the district shall proceed to make any such order including such additional property within the district, or

removing such property from the district, as is provided in the order of the board, unless the court shall find that such order of the board was not authorized by law or that such order of the board was not supported by competent and substantial evidence.

5. Any person aggrieved by any decision of the board made pursuant to the provisions of this section may appeal that decision to the circuit court of the county in which the property is located within thirty days of the decision by the board.

Section 17. 1. If the petition to add or remove any territory or tract of land to the district contained fewer than all of the signatures required pursuant to subdivision (2) of subsection 2 of section 16 of this act, the decree of extension or retraction of boundaries shall not become final and conclusive until it has been submitted to an election of the voters residing within the boundaries described in such decree and until it has been assented to by a majority vote of the voters in the newly included area, or the area to be removed, voting on the question. The decree shall also provide for the holding of the election to vote on the proposition of extending or retracting the boundaries of the district, and shall fix the date for holding the election.

2. The question shall be submitted in substantially the following form:

Shall the boundaries of the Law Enforcement District be (extended to include/retracted to remove) the following described property? (Describe property)

YES NO

3. If a majority of the voters voting on the proposition vote in favor of the extension or retraction of the boundaries of the district, then the court shall enter its further order declaring the decree of extension or retraction of the boundaries to be final and conclusive. In the event, however, that the court finds that a majority of the voters voting thereon voted against the proposition to extend or retract the boundaries of the district, then the court shall

enter its further order declaring the decree of extension or retraction of boundaries to be void and of no effect.

Section 18. 1. The authority of the district to levy any property tax levied pursuant to section 11 of this act may be terminated by a petition of the voters in the district in the manner prescribed in this section.

2. The petition for termination of authority to tax may be changed as follows:

(1) Twenty-five percent of the number of voters who voted in the most recent gubernatorial election in the district may file with the board a petition in writing praying that the district's authority to impose a property tax be terminated. The petition shall specifically state that the district's authority to impose any property tax, whether or not such a tax is being imposed at the time such petition is filed, shall be terminated. Such petition shall be in substantially the form set forth for petitions in chapter 116, RSMo; or

(2) All of the owners of real estate in the district may file a petition with the board praying that the district's authority to impose a property tax be terminated. The petition shall specifically state that the district's authority to impose any property tax, whether or not such a tax is being imposed at the time such petition is filed, shall be terminated. Such petition shall be in substantially the form set forth for petitions in chapter 116, RSMo. The petition shall describe the property owned by the petitioners and shall be deemed to give assent of the petitioners to the petition.

3. The secretary of the board shall cause notice of the filing of any petition filed pursuant to this section to be given and published in the county in which the property is located, which notice shall recite the filing of such petition, the number of petitioners and the prayer of the petitioners; giving notice to all persons interested to appear at the office of the board at the time named in the notice and show cause in writing, if any they have, why the petition should not be granted. The board shall at the time and place mentioned, or at such time or times to which the hearing may be adjourned,

proceed to hear the petition and all objections thereto presented in writing by any person showing cause why the petition should not be granted.

4. If the board deems it for the best interest of the district, it shall grant the petition. If the petition is granted, the board shall make an order to that effect and file the petition with the circuit clerk. If the petition contains the signatures of all the owners of the property pursuant to the provisions of subdivision (2) of subsection 2 of this section, the authority to tax shall be terminated upon the order of the court. If the petition contains the signatures of twenty-five percent of the number of voters who voted in the most recent gubernatorial election in the district pursuant to subdivision (1) of subsection 2 of this section, the authority to tax shall be terminated subject to the election provided in section 19 of this act. The circuit court having jurisdiction over the district shall proceed to make any such order terminating such taxation authority as is provided in the order of the board, unless the court shall find that such order of the board was not authorized by law or that such order of the board was not supported by competent and substantial evidence.

5. Any person aggrieved by any decision of the board made pursuant to the provisions of this section may appeal that decision to the circuit court of the county in which the property is located within thirty days of the decision by the board.

Section 19. 1. If the petition filed pursuant to section 18 of this act contained fewer than all of the signatures required pursuant to subdivision (2) of subsection 2 of section 18 of this act, the termination of taxation authority shall not become final and conclusive until it has been submitted to an election of the voters residing within the district and until it has been assented to by at least four-sevenths of the voters in the district voting on the question. The decree shall also provide for the holding of the election to vote on the proposition, and shall fix the date for holding the election.

2. The question shall be submitted in

substantially the following form:

Shall the authority of the Law Enforcement District to adopt property taxes be terminated?

YES NO

3. If four-sevenths of the voters voting on the proposition vote in favor of such termination, then the court shall enter its further order declaring the termination of such authority, and all such taxes that are being assessed in the current calendar year pursuant to such authority, to be final and conclusive. In the event, however, that the court finds that less than four-sevenths of the voters voting thereon voted against the proposition to terminate such authority, then the court shall enter its further order declaring the decree of termination of such district's taxing authority to be void and of no effect.

Section 20. 1. Whenever a petition signed by not less than ten percent of the registered voters in any district organized pursuant to sections 1 to 20 of this act is filed with the circuit court having jurisdiction over the district, setting forth all the relevant facts pertaining to the district, and alleging that the further operation of the district is not in the best interests of the inhabitants of the district, and that the district should, in the interest of the public welfare and safety, be dissolved, the circuit court shall have authority, after hearing evidence submitted on such question, to order a submission of the question, after having caused publication of notice of a hearing on such petition in the same manner as the notice required in section 8 of this act, in substantially the following form:

Shall (Insert the name of the law enforcement district) Law Enforcement District be dissolved?

YES NO

2. If the court shall find that it is to the best interest of the inhabitants of the district that such district be dissolved, it shall make an order reciting such finding and providing for the

submission of the proposition to dissolve such district to a vote of the voters of the district, setting forth such further details in its order as may be necessary to an orderly conduct of such election. Such election shall be held at the municipal election. Returns of the election shall be certified to the court. If the court finds that a majority of the voters voting thereon shall have voted in favor of the proposition to dissolve the district, the court shall make a final order dissolving the district, and the decree shall contain a proviso that the district shall continue in full force for the purpose of paying all outstanding and lawful obligations and disposing of property of the district; but no additional costs or obligations shall be created except such as are necessary to pay such costs, obligations and liabilities previously incurred, or necessary to the winding up of the district. If the court shall find that a majority of the voters of the district voting thereon shall not have voted favorably on the proposition to dissolve such district, then the court shall make a final order declaring such result dismissing the petition praying for the dissolution of said district; and the district shall continue to operate in the same manner as though the petition asking for such dissolution has not been filed.

3. The dissolution of a district shall not invalidate or affect any right accruing to such district, or to any person, or invalidate or affect any contract or indebtedness entered into or imposed upon such district or person; and whenever the circuit court shall, pursuant to this section, dissolve a district, the court shall appoint some competent person to act as trustee for the district so dissolved and such trustee before entering upon the discharge of his or her duties shall take and subscribe an oath that he or she will faithfully discharge the duties of the office, and shall give bond with sufficient security, to be approved by the court to the use of such dissolved district, for the faithful discharge of his or her duties, and shall proceed to liquidate the district under orders of the court, including the levying of any taxes provided for in sections 1 to 20 of this act.

Section C. Because immediate action is

necessary to protect the public safety, section B of this act is deemed necessary for the immediate preservation of the public health, welfare, peace and safety, and is hereby declared to be an emergency act within the meaning of the constitution, and section B of this act shall be in full force and effect upon its passage and approval.”; and

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

**HOUSE SUBSTITUTE AMENDMENT NO. 2
FOR HOUSE AMENDMENT NO. 8**

Amend House Committee Substitute for Senate Substitute for Senate Bill No. 813, Page 2, Section 85.011, Lines 16-18, by deleting all of said lines and inserting in lieu thereof the following:

“[has substantially similar or greater procedures] **has adopted a personnel system with an appeals procedure providing for a hearing with a right to subpoena witnesses and evidence, either by ordinance or charter provision,** shall be deemed to be in compliance with this section. This”.

HOUSE AMENDMENT NO. 9

Amend House Committee Substitute for Senate Substitute for Senate Bill No. 813, Page 2, Section 85.011, Line 24, by inserting the following at the end of said section:

“221.407. 1. The commission of any regional jail district may impose, by order, a sales tax in the amount of one-eighth of one percent, one-fourth of one percent, three-eighths of one percent or one-half of one percent on all retail sales made in such region which are subject to taxation pursuant to the provisions of sections 144.010 to 144.525, RSMo, for the purpose of providing jail services and court facilities and equipment for such region. The tax authorized by this section shall be in addition to any and all other sales taxes allowed by law, except that no order imposing a sales tax pursuant to the provisions of this section shall be effective unless the commission submits to the voters of the district, at a county or state general, primary or special election, a proposal to authorize the commission to impose a tax.

2. The ballot of submission shall contain,

but need not be limited to, the following language:

Shall the regional jail district of (counties' names) impose a regionwide sales tax of (insert amount) for the purpose of providing jail services and court facilities and equipment for the region?

9 Yes 9 No

If you are in favor of the question, place an "X" in the box opposite "Yes". If you are opposed to the question, place an "X" in the box opposite "No".

If a majority of the votes cast on the proposal by the qualified voters of the district voting thereon are in favor of the proposal, then the ordinance or order and any amendments to such ordinance or order shall be in effect on the first day of the second quarter immediately following the election approving the proposal. If the proposal receives less than the required majority, then the commission shall have no power to impose the sales tax authorized pursuant to this section unless and until the commission shall again have submitted another proposal to authorize the commission to impose the sales tax authorized by this section and such proposal is approved by the required majority of the qualified voters of the district voting on such proposal. However, in no event shall a proposal pursuant to this section be submitted to the voters sooner than twelve months from the date of the last submission of a proposal pursuant to this section.

3. All revenue received by a district from the tax authorized pursuant to the provisions of this section shall be deposited in a special trust fund and shall be used solely for providing jail services and court facilities and equipment for such district for so long as the tax shall remain in effect.

4. Once the tax authorized by this section is abolished or is terminated by any means, all funds remaining in the special trust fund shall be used solely for providing jail services and court facilities and equipment for the district. Any funds in such special trust fund which are not needed for current expenditures may be

invested by the commission in accordance with applicable laws relating to the investment of other county funds.

5. All sales taxes collected by the director of revenue pursuant to this section on behalf of any district, less one percent for cost of collection which shall be deposited in the state's general revenue fund after payment of premiums for surety bonds as provided in section 32.087, RSMo, shall be deposited in a special trust fund, which is hereby created, to be known as the "Regional Jail District Sales Tax Trust Fund". The moneys in the regional jail district sales tax trust fund shall not be deemed to be state funds and shall not be commingled with any funds of the state. The director of revenue shall keep accurate records of the amount of money in the trust and which was collected in each district imposing a sales tax pursuant to this section, and the records shall be open to the inspection of officers of each member county and the public. Not later than the tenth day of each month the director of revenue shall distribute all moneys deposited in the trust fund during the preceding month to the district which levied the tax; such funds shall be deposited with the treasurer of each such district, and all expenditures of funds arising from the regional jail district sales tax trust fund shall be by an appropriation act to be enacted by the commission of each such district. Expenditures may be made from the fund for any functions authorized in the order adopted by the commission submitting the regional jail district tax to the voters.

6. The director of revenue may authorize the state treasurer to make refunds from the amounts in the trust fund and credited to any district for erroneous payments and overpayments made, and may redeem dishonored checks and drafts deposited to the credit of such districts. If any district abolishes the tax, the commission shall notify the director of revenue of the action at least ninety days prior to the effective date of the repeal and the director of revenue may order retention in the trust fund, for a period of one year, of two percent of the amount collected after receipt of such notice to cover possible refunds or

overpayment of the tax and to redeem dishonored checks and drafts deposited to the credit of such accounts. After one year has elapsed after the effective date of abolition of the tax in such district, the director of revenue shall remit the balance in the account to the district and close the account of that district. The director of revenue shall notify each district in each instance of any amount refunded or any check redeemed from receipts due the district.

7. Except as modified in this section, all provisions of sections 32.085 and 32.087, RSMo, shall apply to the tax imposed pursuant to this section.

8. The provisions of this section shall expire August 28, 2015.”; and

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

**HOUSE AMENDMENT NO. 1 TO
HOUSE AMENDMENT NO. 10**

Amend House Amendment No. 10 to House Committee Substitute for Senate Substitute for Senate Bill No. 813, Page 2, Section 50.555, Line 11, by deleting said lines.

HOUSE AMENDMENT NO. 10

Amend House Committee Substitute for Senate Substitute for Senate Bill No. 813, Page 1, Section 85.011, Line 1, by inserting immediately before said line the following:

50.550.1 The annual budget shall present a complete financial plan for the ensuing budget year. It shall set forth all proposed expenditures for the administration, operation and maintenance of all offices, departments, commissions, courts and institutions; the actual or estimated operating deficits or surpluses from prior years; all interest and debt redemption charges during the year and expenditures for capital projects.

2. The budget shall contain adequate provisions for the expenditures necessary for the care of insane pauper patients in state hospitals, for the cost of holding elections and for the costs of holding circuit court in the county that are chargeable against the county, for the repair and upkeep of bridges other than on state highways and not in any special road district, and for the salaries, office

expenses and deputy and clerical hire of all county officers and agencies.

3. In addition, the budget shall set forth in detail the anticipated income and other means of financing the proposed expenditures.

4. All receipts of the county for operation and maintenance shall be credited to the general fund, and all expenditures for these purposes shall be charged to this fund; except, that receipts from the special tax levy for roads and bridges shall be kept in a special fund and expenditures for roads and bridges may be charged to the special fund.

5. All receipts from the sale of bonds for any purpose shall be credited to the bond fund created for the purpose, and all expenditures for this purpose shall be charged to the fund. All receipts for the retirement of any bond issue shall be credited to a retirement fund for the issue, and all payments to retire the issue shall be charged to the fund. All receipts for interest on outstanding bonds and all premiums and accrued interest on bonds sold shall be credited to the interest fund, and all payments of interest on the bonds shall be charged to the interest fund.

6. Subject to the provisions of Section 50.555 the county commission may create a fund to be known as “The County Crime Reduction Fund.

7. [6.] The county commission may create other funds as are necessary from time to time.

50.555.1 A county commission may establish by resolution a fund whose proceeds may be expended only for the purposes provided for in subsection 3 of this section. The fund shall be designated as a county crime reduction fund and shall be under the supervision of a board of trustees consisting of one citizen of the county appointed by the presiding commissioner of the county, one citizen of the county appointed by the sheriff of the county, and one citizen of the county appointed by the county prosecuting attorney.

2. Money from the county crime reduction fund shall only be expended upon the approval of a majority of the members of the county crime reduction fund's board of trustees and only for the purposes provided for by subsection 3 of this section.

3. Money from the county crime reduction fund shall only be expended for the following purposes:

- (1) narcotics investigation, prevention and intervention;**
- (2) payment of rewards through the sheriff's employees;**
- (3) purchase of law enforcement related equipment and supplies for the sheriff's office;**
- (4) matching funds for federal or state law enforcement grants;**
- (5) funding for the reporting of all state and federal crime statistics or information; and**
- (6) any law enforcement related expense, including those of the prosecuting attorney, approved by the board of trustees for the county crime fund that is reasonably related to investigation, preparation, trial and disposition of criminal cases before the courts of the State of Missouri.**

4. The county commission may not reduce any law enforcement agency's budget as a result of funds the law enforcement agency receives from the county crime reduction fund. The crime reduction fund is to be used only as a supplement to the law enforcement agency's funding received from other county, state or federal funds.

5. County crime reduction funds shall be audited as are all other county funds.

558.019.1. This section shall not be construed to affect the powers of the governor under article IV, section 7, of the Missouri Constitution. This statute shall not affect those provisions of section 565.020, RSMo, section 558.018 or section 571.015, RSMo, which set minimum terms of sentences, or the provisions of subsections 2 through 5 of section 559.115, RSMo, relating to probation.

2. The provisions of this section shall be applicable to all classes of felonies except those set forth in chapter 195, RSMo, and those otherwise excluded in subsection 1 of this section. For the purposes of this section, "prison commitment" means and is the receipt by the department of corrections of a defendant after sentencing. For purposes of this

section, prior prison commitments to the department of corrections shall not include commitment to a regimented discipline program established pursuant to section 217.378, RSMo.. Other provisions of the law to the contrary notwithstanding, any defendant who has pleaded guilty to or has been found guilty of a felony other than a dangerous felony as defined in section 556.061, RSMo, and is committed to the department of corrections shall be required to serve the following minimum prison terms:

(1) If the defendant has one previous prison commitment to the department of corrections for a felony offense, the minimum prison term which the defendant must serve shall be forty percent of his sentence or until the defendant attains seventy years of age, and has served at least forty percent of the sentence imposed, whichever occurs first;

(2) If the defendant has two previous prison commitments to the department of corrections for felonies unrelated to the present offense, the minimum prison term which the defendant must serve shall be fifty percent of his sentence or until the defendant attains seventy years of age, and has served at least forty percent of the sentence imposed, whichever occurs first;

(3) If the defendant has three or more previous prison commitments to the department of corrections for felonies unrelated to the present offense, the minimum prison term which the defendant must serve shall be eighty percent of his sentence or until the defendant attains seventy years of age, and has served at least forty percent of the sentence imposed, whichever occurs first.

3. Other provisions of the law to the contrary notwithstanding, any defendant who has pleaded guilty to or has been found guilty of a dangerous felony as defined in section 556.061, RSMo, and is committed to the department of corrections shall be required to serve a minimum prison term of eighty-five percent of the sentence imposed by the court or until the defendant attains seventy years of age, and has served at least forty percent of the sentence imposed, whichever occurs first. For purposes of this section, the phrase "sentence imposed by the

court" means the total aggregate sentence actually imposed by the sentencing court.

4. For the purpose of determining the minimum prison term to be served, the following calculations shall apply:

(1) A sentence of life shall be calculated to be thirty years;

(2) Any sentence either alone or in the aggregate with other consecutive sentences for crimes committed at or near the same time which is over seventy-five years shall be calculated to be seventy-five years.

5. For purposes of this section, the term "minimum prison term" shall mean time required to be served by the defendant before he is eligible for parole, conditional release or other early release by the department of corrections. Except that the board of probation and parole, in the case of consecutive sentences imposed at the same time pursuant to a course of conduct constituting a common scheme or plan, shall be authorized to convert consecutive sentences to concurrent sentences, when the board finds, after hearing with notice to the prosecuting or circuit attorney, that the sum of the terms results in an unreasonably excessive total term, taking into consideration all factors related to the crime or crimes committed and the sentences received by others similarly situated.

6. (1) A sentencing advisory commission is hereby created to consist of eleven members. One member shall be appointed by the speaker of the house. One member shall be appointed by the president pro tem of the senate. One member shall be the director of the department of corrections. Six members shall be appointed by and serve at the pleasure of the governor from among the following: the public defender commission; private citizens; a private member of the Missouri Bar; the board of probation and parole; and a prosecutor. Two members shall be appointed by the supreme court, one from a metropolitan area and one from a rural area. All members of the sentencing commission appointed prior to August 28, 1994, shall continue to serve on the sentencing advisory commission at the pleasure of the governor.

(2) The commission shall study sentencing practices in the circuit courts throughout the

state for the purpose of determining whether and to what extent disparities exist among the various circuit courts with respect to the length of sentences imposed and the use of probation for defendants convicted of the same or similar crimes and with similar criminal histories. The commission shall also study and examine whether and to what extent sentencing disparity among economic and social classes exists in relation to the sentence of death and if so, the reasons therefor. It shall compile statistics, examine cases, draw conclusions, and perform other duties relevant to the research and investigation of disparities in death penalty sentencing among economic and social classes.

(3) The commission shall establish a system of recommended sentences, within the statutory minimum and maximum sentences provided by law for each felony committed under the laws of this state. This system of recommended sentences shall be distributed to all sentencing courts within the state of Missouri. The recommended sentence for each crime shall take into account, but not be limited to, the following factors:

(a) The nature and severity of each offense;

(b) The record of prior offenses by the offender;

(c) The data gathered by the commission showing the duration and nature of sentences imposed for each crime; and

(d) The resources of the department of corrections and other authorities to carry out the punishments that are imposed.

(4) The commission shall publish and distribute its system of recommended sentences on or before July 1, 1995. The commission shall study the implementation and use of the system of recommended sentences until July 1, 1998, and return a final report to the governor, the speaker of

the house of representatives, and the president pro tem of the senate . Following the July 1, 1998, report, the commission may revise the recommended sentences every three years.

(5) The governor shall select a chairperson who shall call meetings of the commission as required or permitted pursuant to the purpose of the sentencing commission.

(6) The members of the commission shall not receive compensation for their duties on the commission, but shall be reimbursed for actual and necessary expenses incurred in the performance of these duties and for which they are not reimbursed by reason of their other paid positions.

(7) The circuit and associate circuit courts of this state, the office of the state courts administrator, the department of public safety, and the department of corrections shall cooperate with the commission by providing information or access to information needed by the commission. The office of the state courts administrator will provide needed staffing resources.

7. If the imposition or execution of a sentence is suspended, the court may consider ordering restorative justice methods pursuant to section 217.777, RSMo, including any or all of the following, or any other method that the court finds just or appropriate:

- (1) Restitution to any victim for costs incurred as a result of the offender's actions;
- (2) Offender treatment programs;
- (3) Mandatory community services;
- (4) Work release programs in local facilities; and
- (5) Community based residential and nonresidential programs; and

8. If the imposition or execution of a sentence is suspended for a misdemeanor, in addition to the provisions of subsection 7 of this section, the court may order the assessment and payment of a designated amount of money to a county crime reduction fund established by the county

commission pursuant to §50.555, RSMo. Said contribution shall not exceed \$1,000 for any misdemeanor offense. Any money deposited into the county crime reduction fund pursuant to this section shall only be expended pursuant to the provisions of section 50.555 RSMo. An annual audit of the fund shall be conducted by the county auditor or the state auditor.

9.[8.] The provisions of this section shall apply only to offenses occurring on or after August 28, 1994.

559.021.1. The conditions of probation shall be such as the court in its discretion deems reasonably necessary to ensure that the defendant will not again violate the law. When a defendant is placed on probation he shall be given a certificate explicitly stating the conditions on which he is being released.

2. In addition to such other authority as exists to order conditions of probation, the court may order such conditions as the court believes will serve to compensate the victim, any dependent of the victim, or society. Such conditions may include, but shall not be limited to:

- (1) Restitution to the victim or any dependent of the victim, in an amount to be determined by the judge; and
- (2) The performance of a designated amount of free work for a public or charitable purpose, or purposes, as determined by the judge.

3. In addition to such other authority as exists to order conditions of probation, in the case of a plea of guilty in a misdemeanor case or finding of guilt in a misdemeanor case, the court may order the assessment and payment of a designated amount of money to a county crime reduction fund established by the county commission pursuant to §50.555, RSMo. Said contribution shall not exceed \$1,000 for any misdemeanor offense. Any money deposited into the county crime reduction fund pursuant to this section shall only be expended pursuant to the provisions of section 50.555 RSMo.

[3] 4. The defendant may refuse probation conditioned on the performance of free work. If he

does so, the court shall decide the extent or duration of sentence or other disposition to be imposed and render judgment accordingly. Any county, city, person, organization, or agency, or employee of a county, city, organization or agency charged with the supervision of such free work or who benefits from its performance shall be immune from any suit by the defendant or any person deriving a cause of action from him if such cause of action arises from such supervision of performance, except for an intentional tort or gross negligence. The services performed by the defendant shall not be deemed employment within the meaning of the provisions of chapter 288, RSMo. A defendant performing services pursuant to this section shall not be deemed an employee within the meaning of the provisions of chapter 287, RSMo.

[4] **5.** The court may modify or enlarge the conditions of probation at any time prior to the expiration or termination of the probation term.

6. The defendant may refuse probation conditioned on a payment to a county crime reduction fund. If he does so, the court shall decide the extent or duration of sentence or other disposition to be imposed and render judgment accordingly. A judge may order payment to a crime reduction fund only if such fund had been created prior to sentencing by ordinance or resolution of a county of the state of Missouri. A judge shall not have any direct supervisory authority or administrative control over any fund to which the judge is ordering the probationers to make payments. A defendant who fails to make a payment or payments to a crime reduction fund may not have his probation revoked solely for failing to make such payment unless the judge, after evidentiary hearing, makes a finding supported by a preponderance of the evidence that the defendant either willfully refused to make the payment or that the defendant willfully, intentionally and purposefully failed to make sufficient bona fide efforts to acquire the resources to pay.

HOUSE AMENDMENT NO. 11

House Committee Substitute for Senate Substitute for Senate Bill No. 813, Pages 2 to 3, Section 590.135, by deleting all of said section and

inserting in lieu thereof the following:

"590.100. As used in sections 590.100 to 590.180, the following terms mean:

(1) "Bailiff", an assigned officer of the court subject to control and supervision and responsible for preserving order and decorum, taking charge of the jury, guarding prisoners and other services which are reasonably necessary for the proper functioning of the court;

(2) "Certified training academy", any academy located within the state of Missouri which has been certified by the director to provide training programs for peace officers [in this state] or bailiffs;

[(2)] (3) "Chief executive officer", the chief of police, director of public safety, sheriff, department head or chief administrator of any law enforcement or public safety agency of the state or any political subdivision [thereof who is responsible for the prevention and detection of crime and the enforcement of the general criminal laws of the state or for violation of ordinances of a county or municipality] of the state;

[(3)] (4) "Commission", when used in relation to a peace officer, bailiff, or law enforcement agency: grant of authority to act as a peace officer or bailiff by appointment, employment, or any other means;

(5) "Director", the director of the Missouri department of public safety;

[(4)] (6) "Peace officer", [members of the state highway patrol, all] any state, county[, and] or municipal law enforcement [officers] officer possessing the duty and power of arrest for violation of [any criminal laws of the state] the criminal code or for violation of ordinances of counties or municipalities of the state [who serve full time, with pay];

[(5)] (7) "Primary enforcement activities", activities used to enforce the police powers of the state, including, but not limited to, a direct or indirect involvement in the activities of arrest, detention, vehicular pursuit, search or interrogations;

(8) "Reserve peace officer", [any person who

serves in a less than full-time law enforcement capacity, with or without pay, and who, without certification, has no power of arrest and who, without certification, must be under the direct and immediate accompaniment of a certified peace officer of the same agency at all times while on duty. In a county of the first class adjoining a city not within a county, reserve peace officers may engage in all nonprimary enforcement activities without being under direct or immediate accompaniment of a certified peace officer] **a peace officer regularly working less than thirty hours per week, with or without pay.**

[590.101. In any county of the first classification with a charter form of government with a population of nine hundred thousand or more inhabitants, the definitions contained in section 590.100 shall apply, except that as used in sections 590.100 to 590.180, the following terms shall mean:

(1) "Bailiff", an assigned officer of the court subject to control and supervision and responsible for preserving order and decorum, taking charge of the jury, guarding prisoners, and other services which are reasonably necessary for the proper functioning of the court;

(2) "Nonprimary enforcement activities", activities which include, but are not limited to, traffic control, crowd control, checking abandoned, vacated and temporarily vacated structures, conveyance of motor vehicles, public appearances, and public educational presentations;

(3) "Primary enforcement activities", activities used to enforce the police powers of the state, including, but not limited to, a direct or indirect involvement in the activities of arrest, detention, vehicular pursuit, search, interrogations or the administration of first aid; and

(4) "Reserve officer", any person who serves in a less than full-time law enforcement capacity, with or without pay, and who, without certification, has no power of arrest and who, without certification, must be under direct and

immediate accompaniment of a certified peace officer of the same agency in order to engage in primary enforcement activities.]

590.105. 1. A program of mandatory standards for the basic training and certification of peace officers [and a program of optional standards for the basic training and certification of reserve officers] in this state is hereby established. The peace officer standards and training commission shall establish the minimum number of hours [of training and], core curriculum, **and behavioral objectives for such basic training and may establish minimum physical fitness standards for successful completion of basic training.** In no event, however, shall the commission require more than one thousand hours of such training for [either] peace [or reserve] officers [employed] **commissioned** by any state law enforcement agency, or more than six hundred hours of such training for other peace [or reserve] officers; provided, however, that the minimum hours of training **for a peace officer** shall be no lower than **four hundred seventy, with** the following **exceptions:**

(1) [One hundred twenty hours as of August 28, 1993;

(2) Three hundred hours as of August 28, 1994; and

(3) Four hundred seventy hours as of August 28, 1996.

The higher standards provided in this section for certification after August 28, 1993, shall not apply to any peace or reserve officer certified prior to August 28, 1993, or to deputies of any sheriff's department in any city not within a county requiring no more or less than one hundred twenty hours of training. Certified peace and reserve officers between January 1, 1992, and August 28, 1995, shall only meet the hours of training applicable to the year in which the officer was employed or appointed.] **Persons certified as peace officers before August 28, 1993, may retain certification with one hundred twenty hours of basic training;**

(2) Persons certified as peace officers before August 28, 1994, may retain certification with three hundred hours of basic training;

(3) Persons certified as peace officers and commissioned in a county of the third classification before July 1, 2001, may retain certification with one hundred twenty hours of certification, but only if the commissioning political subdivision adopts an order or ordinance to that effect;

(4) The peace officer standards and training commission may establish a lesser basic training standard for a limited certification for commission as a reserve peace officer with police powers restricted to the commissioning political subdivision and may place additional restrictions on the powers and duties for which such persons are certified to be commissioned.

2. Beginning on August 28, 1996, peace officers shall be required to [complete the four hundred fifty hours of training as peace officers and] be certified to be eligible for employment. [Park rangers appointed pursuant to section 64.335, RSMo, who do not carry firearms shall be exempt from the training requirements of this section.]

3. Bailiffs who are not certified peace officers shall be required to complete a minimum of sixty hours of mandated training, except that any person who has [served] **been commissioned** as a bailiff prior to January 1, 1995, **or who has been commissioned as a peace officer at any time**, shall not be required to complete the training requirements mandated by this subsection, provided such person's training or experience is deemed adequate by the peace officer standards and training commission in accordance with current standards.

4. All political subdivisions within this state may adopt standards which are higher than the minimum standards implemented pursuant to sections 590.100 to 590.180, and such minimum standards shall in no way be deemed adequate in those cases in which higher standards have been adopted.

5. [Any federal officer who has the duty and power of arrest on any federal military installation in this state may, at the option of the federal military installation in which the officer is employed, participate in the training program required under the provisions of sections 590.100 to 590.180 and, upon satisfactory completion of

such training program, shall be certified by the director in the same manner provided for peace officers, as defined in section 590.100, except that the duty and power of arrest of military officers for violation of the general criminal laws of the state or for violation of ordinances of counties or municipalities of the state shall extend only to the geographical boundaries within which the federal military installation is located. Any costs involved in the training of a federal officer shall be borne by the participating federal military installation.

6. Notwithstanding any provision of this chapter to the contrary, any peace officer who is employed by a law enforcement agency located within a county of the third classification shall be required to have no more or less than one hundred twenty hours of training for certification if the respective city or county adopts an order or ordinance to that effect.

7.] The peace officers standards and training commission with input from the department of health and the division of family services shall [provide a minimum of thirty hours of initial education to all prospective law enforcement officers] **include within the required basic training for peace officers**, except for agents of the conservation commission, **a minimum of thirty hours of education** concerning domestic and family violence.

[8.] **6.** The course of instruction and the objectives in learning and performance for the education of law enforcement officers required pursuant to subsection [6] **5** of this section shall be developed and presented in consultation with public and private providers of programs for victims of domestic and family violence, persons who have demonstrated expertise in training and education concerning domestic and family violence, and the Missouri coalition against domestic violence. The peace officers standards and training commission shall consider the expertise and grant money of the national council of juvenile and family court judges, with their domestic and family violence project, as well as other federal funds and grant moneys available for training.

[9.] **7.** The course of instruction shall include, but is not limited to:

(1) The investigation and management of cases involving domestic and family violence and writing of reports in such cases, including:

- (a) Physical abuse;
- (b) Sexual abuse;
- (c) Child fatalities;
- (d) Child neglect;
- (e) Interviewing children and alleged perpetrators;

(2) The nature, extent and causes of domestic and family violence;

(3) The safety of officers investigating incidents of domestic and family violence;

(4) The safety of the victims of domestic and family violence and other family and household members;

(5) The legal rights and remedies available to victims of domestic and family violence, including but not limited to rights and compensation of victims of crime, and enforcement of civil and criminal remedies;

(6) The services available to victims of domestic and family violence and their children;

(7) Sensitivity to cultural, racial and sexual issues and the effect of cultural, racial, and gender bias on the response of law enforcement officers and the enforcement of laws relating to domestic and family violence; and

(8) The provisions of applicable state statutes concerning domestic and family violence.

8. The peace officer standards and training commission may provide by rule for the reciprocal recognition of equivalent entry level core basic training at a training center by law enforcement officers of the federal government or other states or territories of the United States, and may require such additional training prior to certification as the commission deems necessary.

590.110. 1. No person shall be [appointed] **commissioned or hold a commission** as a peace officer [by any public law enforcement agency, which is possessed of the duty and power to enforce the general criminal laws of the state or the

ordinances of any political subdivision of] **or bailiff in** this state, unless he **or she** has **first** been certified by the director as [provided in] **qualified pursuant to the program of minimum standards established pursuant to** sections 590.100 to 590.180, [unless he is appointed on a probationary basis, and the hiring agency, within one year after his initial appointment, takes all necessary steps to qualify him for certification by the director. Unless a peace officer is certified within the one-year period after appointment, his appointment shall be terminated and he shall not be eligible for appointment by any other law enforcement agency as a peace officer. Beginning on August 28, 1995, peace officers shall be required to complete the four hundred fifty hours of training as peace officers and be certified to be eligible for employment.] **with the following exceptions:**

(1) **No certification shall be required to seek or hold an elected county office;**

(2) **No certification shall be required to be commissioned pursuant to section 64.335, RSMo, as a park ranger not carrying a firearm;**

(3) **Certification shall not be required for any person continually commissioned as a peace officer since the effective date of this section by a political subdivision having either less than four full-time paid peace officers or a population less than two thousand, except that this exception shall not apply to any person commissioned in a county of the first class having a charter form of government;**

(4) **Certification is recommended but shall not be required for any person commissioned as a peace officer before December 31, 1978, and consistently commissioned as a full-time peace officer since that date;**

(5) **Certification is recommended but shall not be required for any reserve peace officer commissioned as a reserve peace officer before August 15, 1988, and such persons may transfer, as reserve peace officers, among similar jurisdictions without losing the benefit of this exception; provided, however, that the peace officer standards and training commission may establish training and certification requirements for such persons and may limit the powers and duties for which such persons may be**

commissioned;

(6) No certification shall be required to serve in a law enforcement capacity without the power of arrest.

2. The chief executive officer of each law enforcement agency shall notify the director of the appointment of any peace [or reserve] officer not later than thirty days after the date of the appointment and include with such notification a copy of a fingerprint card verified by the Missouri state highway patrol pertaining to the results of a criminal background check of the officer appointed and evidence of the completion of the standards necessary for employment as provided in sections 590.100 to 590.180.

3. [Training and certification requirements specified in sections 590.100 to 590.180 are recommended but not required of a reserve officer; however, any person who serves as a reserve officer in any public law enforcement agency which is possessed of the duty and power to enforce the general criminal laws of this state or the ordinances of any political subdivision of this state may, at the option of the political subdivision in which the reserve officer is appointed, participate in the basic training program required under the provisions of sections 590.100 to 590.180, and, upon completion of such training program, shall be certified by the director in the same manner as provided for peace officers.] **Any applicant to a certified training academy shall submit a fingerprint card to the training center, along with an authorization allowing the director to conduct a criminal history background check to include the records of the Federal Bureau of Investigation. The certified training academy shall forward the fingerprint card and authorization to the director, who shall conduct a criminal history background. The certified training academy and the director may charge the applicant a fee for the cost of the criminal history check. The director may refuse to allow an applicant to complete a certified training course for conduct in violation of section 590.135.**

4. In addition to the satisfactory completion of a basic training course at a certified training academy, the director may require all persons

applying for peace officer certification to pass a certification examination. The peace officer standards and training commission may promulgate rules to govern the content and administration of any such examination.

5. The director shall have the authority to issue certification to peace officers, federal law enforcement officers, or military police officers from other states or jurisdictions who are seeking certification as peace officers in this state pursuant to the rules promulgated by the peace officer standards and training commission.

[590.115. 1. Training and certification requirements specified in sections 590.100 to 590.180 are recommended but not required of a peace officer who has been consistently employed as a full-time peace officer and was appointed before December 31, 1978, whether or not such officer changes his place of employment.

2. Training and certification requirements specified in sections 590.100 to 590.180 are recommended but not required of a reserve officer who was appointed as a reserve officer prior to August 15, 1988. Requirements for certification of such reserve officers may be determined by the commission. A certified reserve officer may transfer from one similar jurisdiction to another as a certified reserve officer without any additional training requirements unless or until the certified reserve officer becomes or attempts to become a full-time peace officer, at which time the individual must satisfy the requirements of this chapter to become a certified full-time police officer, or unless or until the certified reserve officer attempts to become a certified reserve officer in a jurisdiction wherein the basic training requirement is higher than the previous jurisdiction's basic training requirement, at which time the individual must satisfy the higher basic training requirements of the new jurisdiction to become a certified reserve officer.

3. Except as provided in subsections 1,

2 and 4 of this section, in the event that a peace officer claims to have had prior basic training, the chief executive officer shall furnish to the director evidence that the noncertified officer has satisfactorily completed instruction in a course of basic training for peace officers conducted by a law enforcement training academy or institute which is approved by the director as providing basic training equivalent to standards set for jurisdictions within this state. The basic training course satisfactorily completed by the noncertified officer shall meet the minimum basic training requirements of the jurisdiction in which he is appointed or is to be appointed as required under the provisions of sections 590.100 to 590.180.

4. The director may certify a chief executive officer as qualified under sections 590.100 to 590.180, if the person's employer furnishes the director with evidence that the chief executive officer has training or experience equivalent to the standards set forth in subsection 1, 2, or 3 of this section or is a graduate of the FBI National Academy or its equivalent as determined by the director, or holds a bachelor of science degree in criminal justice or a related field received from an accredited college or university or a doctor of jurisprudence degree received from a college or university approved by the American Bar Association.

5. Peace officers and reserve officers meeting the basic training requirements under sections 590.100 to 590.180 shall be eligible to be certified by the director.

6. Beginning August 28, 1996, the peace officer standards and training commission shall establish a program of continuing law enforcement education and training. Each peace officer or reserve officer subject to the training provisions of sections 590.100 to 590.180 shall

participate in continuing law enforcement education to maintain certification. The providers of continuing law enforcement education and training, as well as the contents and subject matter thereof, shall be subject to the approval of the peace officer standards and training commission. The costs of the continuing law enforcement education and training offered by certified providers to persons entitled to receive such education and training shall be reimbursed by moneys from the peace officer standards and training commission fund created in section 590.178. The peace officer standards and training commission shall require by rule that all peace officers or reserve officers, subject to the training provisions herein, contribute, based on standards set by the commission, to the cost of said training.

7. The peace officer standards and training commission may provide by rule for the reciprocal recognition of equivalent entry level core basic training at a training center by law enforcement officers of the federal government or other states or territories of the United States, and may require such additional training prior to certification as the commission deems necessary.]

[590.116. 1. Within one year from the date of probationary appointment, the chief executive officer of a law enforcement agency shall furnish to the director evidence that the noncertified officer satisfactorily completed instruction in a course of training for peace officers in a certified training academy or is currently enrolled in a certified training program to be completed with the first year of employment.

2. This section shall expire on August 28, 1995.]

590.117. 1. The peace officer standards and training commission shall establish a program of continuing law enforcement education and training. Each certified peace officer shall participate in continuing law enforcement

education to maintain certification. The providers of continuing law enforcement education and training, as well as the contents and subject matter thereof, shall be subject to the approval of the peace officer standards and training commission. The costs of the continuing law enforcement education and training offered by certified providers to persons entitled to receive such education and training shall be reimbursed by moneys from the peace officer standards and training commission fund created in section 590.178.

2. The department shall provide by administrative rule for the requirements for continuing certification of an inactive or unemployed peace officer during the term of such inactivity or unemployment, provided that the certification of such peace officers shall expire after five consecutive years of such inactivity or unemployment. **Notwithstanding subsection 1 of this section**, the cost of any continuing law enforcement education and training required to maintain such certification shall be paid by the inactive or unemployed peace officer.

590.130. [No] **1. Notwithstanding the provisions of subsection 2 of section 590.105 and subsection 1 of section 590.110 to the contrary**, the elected county peace officer or official shall be required, **within one year after taking office**, to be certified [under] **pursuant to** sections 590.100 to 590.180 to [seek or] hold such office, [but] **and must upon completion, file evidence with the director of the department of public safety and all appointive deputies or assistants of such officer or official who are employed as peace officers**[, provided that such county has five or more full-time peace officers,] shall be certified as a condition of appointment in the same manner as other peace officers are required to be certified. No arrest shall be deemed unlawful in any criminal or civil proceeding solely because the peace officer is not certified [under the terms of] **pursuant to** sections 590.100 to 590.180. Evidence on the question cannot be received in any civil or criminal case.

2. **Beginning January 1, 2001, any elected county peace officer or official who does not comply with the provisions of subsection 1 of**

this section may continue to hold such office but is not authorized to participate in any primary enforcement activities as defined in section 590.100. The provisions of section 57.010, RSMo, and this section shall not apply to the sheriff of any county of the first classification with a charter form of government and a population of at least nine hundred thousand inhabitants.

590.131. **1. The chief executive officer of each law enforcement agency that commissions any peace officer shall notify the director [of a peace officer's separation from the agency, whether voluntary or involuntary, and shall set forth in detail the facts and reasons for the separation on a form to be provided by the director.] on a form adopted by the director, if a holder of any certificate issued pursuant to this chapter departs from employment or otherwise ceases to be commissioned by that agency. The departure form shall be submitted within thirty days following the departure or loss of commission.**

2. Any person or agency authorized to submit information pursuant to this section to the director shall be immune from liability arising from the submission of the information so long as the information was submitted in good faith and without negligence or malice.

3. The notice shall so state if the circumstances surrounding the departure from employment or loss of commission included any of the following:

(1) The officer was separated for his or her failure to meet the minimum qualifications for employment or appointment as a peace officer;

(2) The officer was dismissed for violation of municipal, state or federal law;

(3) The officer was dismissed for violation of the written and distributed regulations of the law enforcement agency.

4. All educational transcripts, test scores, complaints, investigatory reports, and other information retained by the department of public safety pertaining to any person who is certified pursuant to sections 590.100 to 590.180, or to an applicant for such certification are confidential and may not be disclosed to the

public or any member of the public, except with written consent of the person whose records are involved. The director shall disclose the records or information if the person whose records or information is involved has consented to the disclosure. The director is entitled to the attorney-client privilege and work-product privilege to the same extent as any other person. Provided, however, that the director may disclose confidential information without the consent of the person involved in the course of voluntary interstate exchange of information, or in the course of any litigation concerning that person, or pursuant to a lawful request, or to other administrative or law enforcement agencies acting within the scope of their statutory authority. The name, currency of certification, and commissioning agency, if any, of persons certified pursuant to sections 590.100 to 590.180 and the name of applicants for such certification are not confidential information.

590.135. 1. The director or any of [his] **the director's** designated representatives may:

(1) Visit and inspect any certified academy or training program requesting certification for the purpose of determining whether or not the minimum standards established pursuant to sections 590.100 to 590.180 are being complied with, and may issue, suspend or revoke certificates indicating such compliance;

(2) Issue, suspend or revoke certificates for instructors [under] **pursuant to** the provisions of sections 590.100 to 590.180;

(3) Issue or authorize the issuance of diplomas, certificates and other appropriate indicia of compliance and qualification to peace officers trained [under] **pursuant to** the provisions of sections 590.100 to 590.180.

2. The director may **singly, or in combination, warn, censure, probate,** refuse to issue, [or may] suspend or revoke [any diploma, certificate or other indicia of compliance and qualification to peace officers or bailiffs issued pursuant to subdivision (3) of subsection 1 of this section of any peace officer for the following:

(1) Conviction of a felony including the receiving of a suspended imposition of a sentence

following a plea or finding of guilty to a felony charge;

(2) Conviction of a misdemeanor involving moral turpitude;

(3) Falsification or a willful misrepresentation of information in an employment application, or records of evidence, or in testimony under oath;

(4) Dependence on or abuse of alcohol or drugs;

(5) Use or possession of, or trafficking in, any illegal substance;

(6) Gross misconduct indicating inability to function as a peace officer, **which shall include any illegal, unauthorized or unprofessional use or release of criminal history information, criminal intelligence, confidential reports or closed records;**

(7) Failure to comply with the continuing education requirements as promulgated by rule of the peace officer standards and training commission.] **the certification of any peace officer or bailiff or refuse to admit an initial applicant to a certified training academy for any of the following reasons:**

(1) **The person has been finally adjudicated and found guilty or has entered a plea of guilty or nolo contendere in a criminal prosecution, whether or not a sentence has been imposed, for any offense:**

(a) **Reasonably related to the functions or duties for which that person is certified or seeking to be trained;**

(b) **An essential element of which is fraud, dishonesty, an act of violence, intimidation, or harassment; or**

(c) **Involving moral turpitude;**

(2) **Falsification, fraud, deception, misrepresentation or bribery:**

(a) **In securing any certificates, diplomas, other indicia of compliance and qualification pursuant to the provisions of sections 590.100 to 590.180;**

(b) **On any employment application;**

(c) **In records of evidence; or**

(d) In testimony under oath;

(3) Use or possession of, or trafficking in, any illegal substance, or violation of the drug laws, rules or regulations of this state, or any other state or the federal government;

(4) Misconduct, fraud, misrepresentation, dishonesty, unethical conduct or unprofessional conduct, including illegal, unauthorized or unprofessional use or release of criminal history information, criminal intelligence, confidential reports or closed reports;

(5) Failure to comply with the continuing education requirements as promulgated by rule of the peace officer standards and training commission;

(6) Inability to serve as a certified peace officer or bailiff with reasonable safety and competency because of illness, abuse of alcohol, drugs, narcotics, chemicals, or as a result of any mental or physical condition;

(7) Violation of a probation agreement with the department;

(8) Final disciplinary action by any state or territory, whether agreed to voluntarily or not, including but not limited to any removal, suspension, limitation, or restriction of certificate for cause, or other final disciplinary action, if the action was in any way related to unprofessional conduct or any other act which would constitute a violation of any provision of this chapter.

3. Any person aggrieved by a decision of the director under this section may appeal as provided in chapter 536, RSMo.

4. Any person or agency authorized to submit information pursuant to this section to the director shall be immune from liability arising from the submission of the information so long as the information was submitted in good faith and without malice.

5. The director may refuse to certify any law enforcement school, academy, or training program, any law enforcement instructor or any peace officer **or bailiff** not meeting the requirements for certification [under] **pursuant to** the provisions of sections 590.100 to 590.180. **The director may**

establish minimum educational, age and residency requirements for certification and for entry into a certified training academy. The director shall notify the applicant in writing of the reasons for the refusal. The applicant shall have the right to appeal the refusal by filing a complaint with the administrative hearing commission as provided by chapter 621, RSMo, and the director shall advise the applicant of this right of appeal.

6. The director shall cause a complaint to be filed with the administrative hearing commission as provided by chapter 621, RSMo, against any law enforcement instructor or any peace officer not in compliance with the requirements for certification [under] **pursuant to** the provisions of sections 590.100 to 590.180.

7. After the filing of the complaint, the proceeding will be conducted in accordance with the provisions of chapter 621, RSMo. Upon a finding by the administrative hearing commission that the grounds, provided in subsection 5 of this section for disciplinary action are met, the director may revoke the certification of any such law enforcement school, academy, or training program, law enforcement instructor or any peace officer.

8. The department may, at its discretion, issue a certification subject to probation for any one or any combination of causes stated in subsection 2 of this section. If the department issues a probationary certification, the recipient may file a written petition with the administrative hearing commission within thirty days of the effective date of the probationary certification seeking review of whether cause exists to discipline the certification pursuant to subsection 2 of this section. The department's order of probation shall contain a statement of the conditions of probation imposed, the basis for such conditions of probation, the date such action shall become effective, and a statement that the applicant has thirty days to request in writing a hearing before the administrative hearing commission.

9. If no written request for a hearing is received by the administrative hearing commission within the thirty-day period, the right to seek review of the department's determination shall be considered waived.

590.137. 1. Upon receipt of information that a certified peace officer or bailiff may present a clear and present danger to the public health or safety, the director may issue an order suspending or restricting, or suspending and restricting the certification of the peace officer or bailiff if the director believes that the acts, conduct, or condition of the peace officer or bailiff:

(1) May have violated subsection 2 of section 590.135; and

(2) Constitute a clear and present danger to the public health and safety.

2. (1) The order of suspension or restriction:

(a) Shall be based on sworn testimony or affidavits presented to the department;

(b) May be issued without notice to the peace officer or bailiff and without a hearing;

(c) Shall include the facts that lead the department to conclude that the acts, conduct or condition of the peace officer or bailiff constitute a clear and present danger to the public health or safety.

(2) The department or the administrative hearing commission shall serve the certificate holder, in person or by certified mail, with a copy of the order of suspension or restriction and all sworn testimony or affidavits presented to the department, a copy of the complaint and the request for expedited hearing, and a notice of the place where and the date upon which the preliminary hearing will be held. When it is not practicable to give the notice of hearing to a certificate holder in person, it may be sent to the certificate holder by certified or registered mail, return receipt requested, at the last mailing address shown in the personnel records of the last known employer. Proof of refusal of the certificate holder to accept delivery or the inability of postal authorities to deliver such mail shall be accepted as evidence that the required notice of hearing has been given.

(3) The order of restriction shall be effective upon service of the documents required in subdivision (2) of this subsection.

(4) The order of suspension shall become

effective upon the entry of the preliminary order of the administrative hearing commission.

(5) The peace officer or bailiff may seek a stay order from the circuit court of Cole County from the preliminary order of suspension, pending the issuance of a final order by the administrative hearing commission.

3. The department shall file a complaint with the administrative hearing commission with a request for expedited preliminary hearing and shall certify the order of suspension or restriction and all sworn testimony or affidavits presented to the department. Immediately upon receipt of a complaint filed pursuant to this section, the administrative hearing commission shall set the place and date of the expedited preliminary hearing which shall be conducted as soon as possible, but not later than five days after the date of service upon the licensee. The administrative hearing commission shall grant the request of a peace officer for a continuance of the preliminary hearing; however, the department's order shall remain in full force and effect until the preliminary hearing, which shall be held not later than forty days after service of the documents required in subdivision (2) of subsection 2 of this section.

4. At the preliminary hearing, the administrative hearing commission shall receive into evidence all information certified by the department and shall only hear evidence on the issue of whether the department's order of suspension or restriction should be terminated or modified. Within one hour after the preliminary hearing, the administrative hearing commission shall issue its oral or written preliminary order, with or without findings of fact and conclusions of law, that either adopts, terminates or modifies the department's order. The administrative hearing commission shall reduce to writing any oral preliminary order within five business days, but the effective date of the order shall be the date orally issued.

5. The preliminary order of the administrative hearing commission shall become a final order and shall remain in effect for three years unless either party files a request for a full hearing on the merits of the complaint filed by

the department within thirty days from the date of the issuance of the preliminary order of the administrative hearing commission.

6. Upon receipt of a request for full hearing, the administrative hearing commission shall set a date for hearing and notify the parties in writing of the time and place of the hearing. If a request for full hearing is timely filed, the preliminary order of the administrative hearing commission shall remain in effect until the administrative hearing commission enters an order terminating, modifying or dismissing its preliminary order or until the department issues an order of discipline following its consideration of the decision of the administrative hearing commission pursuant to section 621.110, RSMo, and subsection 3 of section 590.137.

7. Notwithstanding the provisions of this chapter or chapter 610, RSMo, or chapter 621, RSMo, to the contrary, the proceedings pursuant to this section shall be closed and no order shall be made public until it is final, for purposes of appeal.

8. The burden of proving the elements listed in subsection 2 of this section shall be upon the department of public safety.

590.138. Upon application by the department, and the necessary burden having been met, a court of general jurisdiction may grant an injunction, restraining order or other order as may be appropriate to enjoin a person from engaging in any practice or business authorized by a certificate, permit or license issued pursuant to this chapter upon a showing that the holder presents a substantial probability of serious danger to the health, safety or welfare of any resident of the state.

590.139. 1. The director may administer oaths, subpoena witnesses, issue subpoenas duces tecum and require production of documents and records. Subpoenas, including subpoenas duces tecum, shall be served by a person authorized to serve subpoenas of courts of record. In lieu of requiring attendance of a person to produce original documents in response to a subpoena duces tecum, the department may require sworn copies of such documents to be filed with it or delivered to its

designated representative.

2. The department may enforce its subpoenas, including subpoenas duces tecum, by applying to a circuit court of the county of the investigation, hearing or proceeding, or any county where the person resides or may be found, for an order upon any person who shall fail to obey a subpoena to show cause why such subpoena should not be enforced. The show cause order and a copy of the application shall be served upon the person in the same manner as a summons in a civil action. If the circuit court after a hearing, determines that the subpoena should be sustained and enforced, the court shall proceed to enforce the subpoena in the same manner as though the subpoena had been issued in a civil case in the circuit court.

3. In any investigation, hearing or other proceeding to determine a peace officer's or applicant's fitness to serve as a peace officer, any record relating to any peace officer or applicant shall be discoverable by the department and admissible into evidence, regardless of any statutory or common law privilege which such peace officer, applicant, record custodian might otherwise invoke. In addition, no peace officer, applicant or record custodian may withhold records or testimony bearing upon the peace officer's or applicant's fitness to practice on the grounds of privilege between the peace officer, certified reserve officer, applicant or record custodian.

4. Any person who reports or provides information to the department, or any person who assists the department, including, but not limited to, applicants, peace officers who are the subject of an investigation or serving on competency panels, record custodians, consultants, attorneys, department members, agents, employees or expert witnesses, in the course of any investigation, hearing or other proceeding conducted by or before the department pursuant to the provisions of this chapter and who does so in good faith and without negligence or malice shall not be subject to an action of civil damages as a result, and no cause of action of any nature shall arise against such person.

590.140. 1. A surcharge of two dollars may be assessed as costs in each criminal case involving violations of any county ordinance or a violation of any criminal or traffic laws of the state, including infractions, or violations of municipal ordinances, provided that no such fee shall be collected in any proceeding in any court when the proceeding or defendant has been dismissed by the court or when costs are to be paid by the state, county or municipality. For violations of the general criminal laws of the state or county ordinances, no such surcharge shall be collected unless it is authorized by the county government where the violation occurred. For violations of municipal ordinances, no such surcharge shall be collected unless it is authorized by the municipal government where the violation occurred. Any such surcharge shall be authorized by the county or municipality and written notice given to the supreme court of such authorization prior to December first of the year preceding the state fiscal year during which such surcharge is to be collected and disbursed in the manner provided by sections 488.010 to 488.020, RSMo. If imposed by a municipality, such surcharges shall be collected by the clerk of the municipal court responsible for collecting court costs and fines and shall be transmitted monthly to the treasurer of the municipality where the violation occurred in cases of violations of municipal ordinances. If imposed by a county, such surcharges shall be collected and disbursed as provided in sections 488.010 to 488.020, RSMo. Such surcharges shall be payable to the treasurer of the county where the violation occurred in the case of violations of the general criminal laws of the state or county ordinances. An additional surcharge in the amount of one dollar shall be assessed as provided in this section, and shall be collected and disbursed as provided in sections 488.010 to 488.020, RSMo, and payable to the state treasury to the credit of the peace officer standards and training commission fund created in section 590.178. Such surcharges shall be in addition to the court costs and fees and limits on such court costs and fees established by section 66.110, RSMo, and section 479.260, RSMo.

2. Each county and municipality shall use all funds received [under] **pursuant to** this section only to pay for the training required as provided in

sections 590.100 to 590.180 or for the training of county coroners and their deputies **provided that any excess funds not allocated to pay for such training may be used to pay for additional training of peace officers or for training of other law enforcement personnel employed or appointed by the county or municipality.** No county or municipality shall retain more than one thousand five hundred dollars of such funds for each certified law enforcement officer, candidate for certification employed by that agency or a coroner and the coroner's deputies. Any excess funds shall be transmitted quarterly to the general revenue fund of the county or municipality treasury which assessed the costs.

[590.150. The provisions of sections 590.100 to 590.180 shall not apply to a political subdivision having a population of less than two thousand persons or which does not have at least four full-time paid peace officers unless such political subdivision is located in a county of the first class having a charter form of government; provided, however, the governing body of the political subdivision may by order or ordinance elect to come under the provisions of sections 590.100 to 590.180 or such election may be later rescinded and, provided further, that upon election to come under the provisions of sections 590.100 to 590.180 the political subdivision shall be entitled to authorize the fees allowed by section 590.140, otherwise, such fees shall not be collected.]

[590.170. 1. The director shall consult with Missouri sheriffs and their professional organizations and after such consultation shall formulate a training program for persons elected for the first time to the office of sheriff for the purpose of developing improved law enforcement procedures throughout the state.

2. The training program shall consist of at least one hundred twenty hours of instruction covering all major phases of law enforcement with emphasis on the duties and responsibilities of sheriffs.]

[590.175. 1. Any person who is elected

to his first term as sheriff in a general election or in a special election in any county of this state shall, within eighteen months of such election, cause to be filed with the presiding circuit judge of the county and director of the department of public safety proof that he has completed the training program formulated pursuant to sections 590.170 and 590.175 or some other comparable training program of not less than one hundred twenty hours instruction approved by the director of the department of public safety.

2. Whether any person elected to his first term as sheriff attends such a training program prior to or after assuming the duties of his office shall be left to the discretion of the governing body of the county from which he was elected. During the time that a sheriff-elect is enrolled in such a training program, he shall be hired as a county employee and receive as full compensation from the county from which he was elected, compensation at a rate equal to that of the sheriff of the county. Tuition and room and board for newly elected sheriffs and sheriffs-elect enrolled in such a training program shall be paid by the state.]

590.180. 1. Any person who purposely violates any of the provisions of section 590.110, 590.115 [or 590.175], **590.140 or 590.178** is guilty of a class B misdemeanor.

2. A person commits a class B misdemeanor if, in violation of sections 590.100 to 590.180, such person knowingly:

(1) Commissions or continues the commission of a peace officer or bailiff not certified as such by the director; or

(2) Accepts a commission as, or otherwise acts as, a peace officer or bailiff without being certified as such by the director.

3. Any law enforcement agency which employs a peace officer who is not certified as required by sections 590.100 to 590.180 or who is otherwise in

violation of any provision of sections 590.100 to 590.180 shall not be eligible to receive state or federal funds which would otherwise be paid to it for purposes of training and certifying peace officers or for other law enforcement, safety or criminal justice purposes."; and

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

HOUSE AMENDMENT NO. 12

Amend House Committee Substitute for Senate Substitute for Senate Bill No. 813, Page 4, Section 650.010, Line 33, by inserting the following at the end of said section:

"Section 1. No local law enforcement agency may adopt a rule requiring residency of its law enforcement officers"; and

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

HOUSE AMENDMENT NO. 13

Amend House Committee Substitute for Senate Substitute for Senate Bill No. 813, Page 4, Section 650.010, Line 33, by inserting at the end of said section the following:

"6. The state shall reimburse municipalities for any new or increased activities or service beyond that required by existing law as required by article X, Section 21, of the Missouri Constitution."

In which the concurrence of the Senate is respectfully requested.

HOUSE BILLS ON THIRD READING

Senator Maxwell moved that **HCS** for **HBs 1386 and 1086**, with **SCS** and **SA 2** (pending), be called from the Informal Calendar and again taken up for third reading and final passage, which motion prevailed.

SA 2 was again taken up.

Senator Steelman moved that the above amendment be adopted.

Senator Ehlmann offered **SA 1 to SA 2**, which was read:

**SENATE AMENDMENT NO. 1 TO
SENATE AMENDMENT NO. 2**

Amend Senate Amendment No. 2 to Senate Committee Substitute for House Committee Substitute for House Bills Nos. 1386 and 1086, Page 1, Section 660.300, Line 6 after the word "department", by adding: "If it is shown by a preponderance of the evidence that the in-home service provider knew or should have known of the abuse or neglect".

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

SA 2, as amended, was again taken up.

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

Senator Jacob offered SA 3:

SENATE AMENDMENT NO. 3

Amend Senate Committee Substitute for House Committee Substitute for House Bills Nos. 1386 and 1086, Page 1, Section A, Line 4, by inserting after all of said line the following:

"43.505. 1. The department of public safety is hereby designated as the central repository for the collection, maintenance, analysis and reporting of crime incident activity generated by law enforcement agencies in this state. The department shall develop and operate a uniform crime reporting system that is compatible with the national uniform crime reporting system operated by the Federal Bureau of Investigation.

2. The department of public safety shall:

(1) Develop, operate and maintain an information system for the collection, storage, maintenance, analysis and retrieval of crime incident and arrest reports from Missouri law enforcement agencies;

(2) Compile the statistical data and forward such data as required to the Federal Bureau of Investigation or the appropriate Department of Justice agency in accordance with the standards and procedures of the national system;

(3) Provide the forms, formats, procedures, standards and related training or training assistance to all law enforcement agencies in the state as necessary for such agencies to report incident and arrest activity for timely inclusion

into the statewide system;

(4) Annually publish a report on the nature and extent of crime and submit such report to the governor and the general assembly. Such report and other statistical reports shall be made available to state and local law enforcement agencies and the general public through an electronic or manual medium;

(5) Maintain the privacy and security of information in accordance with applicable state and federal laws, regulations and orders; and

(6) In accordance with the provisions of chapter 536, RSMo, establish such rules and regulations as are necessary for implementing the provisions of this section.

3. Every law enforcement agency in the state shall:

(1) Submit crime incident reports to the department of public safety on forms or in the format prescribed by the department; and

(2) Submit any other crime incident information which may be required by the department of public safety.

4. Any law enforcement agency that violates this section may be ineligible to receive state or federal funds which would otherwise be paid to such agency for law enforcement, safety or criminal justice purposes."; and

Further amend said bill, Page 3, Section 210.936, Line 4, by inserting after all of said line the following:

"375.1312. 1. As used in this section, the following terms mean:

(1) "Domestic violence", the occurrence of **stalking or** one or more of the following acts between family or household members:

(a) Attempting to cause or intentionally or knowingly causing bodily injury or physical harm;

(b) Knowingly engaging in a course of conduct or repeatedly committing acts toward another person under circumstances that place the person in reasonable fear of bodily injury or physical harm; or

(c) Knowingly committing forcible rape, sexual

assault or forcible sodomy, as defined in chapter 566, RSMo;

(2) "Family or household member", [a spouse, former spouse, person living with another person, whether or not as spouses, parent or other adult person related by consanguinity or affinity who is residing or has resided with the person committing the domestic violence and dependents of such persons] **spouses, former spouses, adults related by blood or marriage, adults who are presently residing together or have resided together in the past and adults who have a child in common regardless of whether they have been married or have resided together at any time;**

(3) "Innocent coinsured", **an insured who did not cooperate in or contribute to the creation of a property loss and the loss arose out of a pattern of domestic violence;**

(4) "Sole", **a single act or a pattern of domestic violence which may include multiple acts;**

(5) "Stalking", **when an adult purposely and repeatedly harasses or follows with the intent of harassing another adult. As used in this subdivision, "harasses" means to engage in a course of conduct directed at a specific adult that serves no legitimate purpose, that would cause a reasonable adult to suffer substantial emotional distress. As used in this subdivision, "course of conduct" means a pattern of conduct composed of a series of acts over a period of time, however short, evidencing a continuity of purpose. Constitutionally protected activity is not included within the meaning of "course of conduct".**

2. No insurer shall do any of the following on the sole basis of the status of an insured or prospective insured as a victim of domestic violence:

(1) Deny, cancel or refuse to issue or renew an insurance policy;

(2) Require a greater premium, deductible or any other payment;

(3) Exclude or limit coverage for losses or deny a claim;

(4) Designate domestic violence as a

preexisting condition for which coverage will be denied or reduced;

(5) Terminate group coverage solely because of claims relating to the fact that any individual in the group is or has been a victim of domestic violence; or

(6) Fix any lower rate or discriminate in the fees or commissions of an agent for writing or renewing a policy insuring an individual solely because an individual is or has been a victim of domestic violence.

3. The fact that an insured or prospective insured has been a victim of domestic violence shall not be considered a permitted underwriting or rating criterion.

4. Nothing in this section shall prohibit an insurer from taking an action described in subsection 2 of this section if the action is otherwise permissible by law and is taken in the same manner and to the same extent with respect to all insureds and prospective insureds without regard to whether the insured or prospective insured is a victim of domestic violence.

5. If an innocent coinsured files a police report and completes a sworn affidavit that indicates both the cause of the loss and a pledge to cooperate in any criminal prosecution of the person committing the act causing the loss, then no insurer shall deny payment to an innocent coinsured on a property loss claim due to any policy provision that excludes coverage for intentional acts. Payment to the innocent coinsured may be limited to such innocent coinsured's ownership interest in the property as reduced by any payment to a mortgagor or other secured interest; however, insurers shall not be required to make any subsequent payment to any other insured for the part of any loss for which the innocent coinsured has received payment.

6. A violation of this section shall be subject to the provisions of sections 375.930 to 375.948, relating to unfair trade practices.

455.010. As used in sections 455.010 to 455.085, unless the context clearly indicates otherwise, the following terms shall mean:

(1) "Abuse" includes but is not limited to the occurrence of any of the following acts, attempts, or threats against a person who may be protected [under] **pursuant to** sections 455.010 to 455.085:

(a) "Assault", purposely or knowingly placing or attempting to place another in fear of physical harm;

(b) "Battery", purposely or knowingly causing physical harm to another with or without a deadly weapon;

(c) "Coercion", compelling another by force or threat of force to engage in conduct from which the latter has a right to abstain or to abstain from conduct in which the person has a right to engage;

(d) "Harassment", engaging in a purposeful or knowing course of conduct involving more than one incident that alarms or causes distress to another adult and serves no legitimate purpose. The course of conduct must be such as would cause a reasonable adult to suffer substantial emotional distress and must actually cause substantial emotional distress to the petitioner. Such conduct might include, but is not limited to:

a. Following another about in a public place or places;

b. Peering in the window or lingering outside the residence of another; but does not include constitutionally protected activity;

(e) "Sexual assault", causing or attempting to cause another to engage involuntarily in any sexual act by force, threat of force, or duress;

(f) "Unlawful imprisonment", holding, confining, detaining or abducting another person against that person's will;

(2) "Adult", any person eighteen years of age or older or otherwise emancipated **pursuant to sections 454.1200 to 454.1209, RSMo**;

(3) "Court", the circuit or associate circuit judge or a family court commissioner;

(4) "Ex parte order of protection", an order of protection issued by the court before the respondent has received notice of the petition or an opportunity to be heard on it;

(5) "Family" or "household member", spouses, former spouses, adults related by blood or

marriage, adults who are presently residing together or have resided together in the past, **an adult who is or has been in a continuing social relationship of a romantic or intimate nature with the victim**, and adults who have a child in common regardless of whether they have been married or have resided together at any time;

(6) "Full order of protection", an order of protection issued after a hearing on the record where the respondent has received notice of the proceedings and has had an opportunity to be heard;

(7) "Order of protection", either an ex parte order of protection or a full order of protection;

(8) "Petitioner", a family or household member or an adult who has been the victim of stalking, who has filed a verified petition [under] **pursuant to** the provisions of section 455.020;

(9) "Respondent", the family or household member or adult alleged to have committed an act of stalking, against whom a verified petition has been filed;

(10) "Stalking" is when an adult purposely and repeatedly harasses or follows with the intent of harassing another adult. As used in this subdivision, "harasses" means to engage in a course of conduct directed at a specific adult that serves no legitimate purpose, that would cause a reasonable adult to suffer substantial emotional distress. As used in this subdivision, "course of conduct" means a pattern of conduct composed of a series of acts over a period of time, however short, evidencing a continuity of purpose. Constitutionally protected activity is not included within the meaning of "course of conduct".

455.045. **1.** Any ex parte order of protection granted pursuant to sections 455.010 to 455.085 shall be to protect the petitioner from abuse or stalking and may include:

(1) Restraining the respondent from abusing, threatening to abuse, molesting, stalking or disturbing the peace of the petitioner;

(2) Restraining the respondent from entering the premises of the dwelling unit of petitioner when the dwelling unit is:

(a) Jointly owned, leased or rented or jointly

occupied by both parties; or

(b) Owned, leased, rented or occupied by petitioner individually; or

(c) Jointly owned, leased or rented by petitioner and a person other than respondent; provided, however, no spouse shall be denied relief pursuant to this section by reason of the absence of a property interest in the dwelling unit; or

(d) Jointly occupied by the petitioner and a person other than the respondent; provided that the respondent has no property interest in the dwelling unit;

(3) Restraining the respondent from communicating with the petitioner in any manner or through any medium;

(4) A temporary order of custody of minor children where appropriate.

455.050. 1. Any full or ex parte order of protection granted pursuant to sections 455.010 to 455.085 shall be to protect the petitioner from abuse or stalking and may include:

(1) Temporarily enjoining the respondent from abusing, threatening to abuse, molesting, stalking or disturbing the peace of the petitioner;

(2) Temporarily enjoining the respondent from entering the premises of the dwelling unit of the petitioner when the dwelling unit is:

(a) Jointly owned, leased or rented or jointly occupied by both parties; or

(b) Owned, leased or rented by petitioner individually; or

(c) Jointly owned, leased or rented by petitioner and a person other than respondent; provided, however, no spouse shall be denied relief pursuant to this section by reason of the absence of a property interest in the dwelling unit; or

(d) Jointly occupied by the petitioner and a person other than respondent; provided that the respondent has no property interest in the dwelling unit[.]; or

(3) Temporarily enjoining the respondent from communicating with the petitioner in any manner or through any medium;

2. Mutual orders of protection are prohibited

unless both parties have properly filed written petitions and proper service has been made in accordance with sections 455.010 to 455.085.

3. When the court has, after a hearing for any full order of protection, issued an order of protection, it may, in addition:

(1) Award custody of any minor child born to or adopted by the parties when the court has jurisdiction over such child and no prior order regarding custody is pending or has been made, and the best interests of the child require such order be issued;

(2) Establish a visitation schedule that is in the best interests of the child;

(3) Award child support in accordance with supreme court rule 88.01 and chapter 452, RSMo;

(4) Award maintenance to petitioner when petitioner and respondent are lawfully married in accordance with chapter 452, RSMo;

(5) Order respondent to make or to continue to make rent or mortgage payments on a residence occupied by the petitioner if the respondent is found to have a duty to support the petitioner or other dependent household members;

(6) Order the respondent to pay the petitioner's rent at a residence other than the one previously shared by the parties if the respondent is found to have a duty to support the petitioner and the petitioner requests alternative housing;

(7) Order that the petitioner be given temporary possession of specified personal property, such as automobiles, checkbooks, keys, and other personal effects;

(8) Prohibit the respondent from transferring, encumbering, or otherwise disposing of specified property mutually owned or leased by the parties;

(9) Order the respondent to participate in a court-approved counseling program designed to help batterers stop violent behavior or to participate in a substance abuse treatment program;

(10) Order the respondent to pay a reasonable fee for housing and other services that have been provided or that are being provided to the petitioner by a shelter for victims of domestic violence;

(11) Order the respondent to pay court costs;

(12) Order the respondent to pay the cost of medical treatment and services that have been provided or that are being provided to the petitioner as a result of injuries sustained to the petitioner by an act of domestic violence committed by the respondent.

4. A verified petition seeking orders for maintenance, support, custody, visitation, payment of rent, payment of monetary compensation, possession of personal property, prohibiting the transfer, encumbrance, or disposal of property, or payment for services of a shelter for victims of domestic violence, shall contain allegations relating to those orders and shall pray for the orders desired.

5. In making an award of custody, the court shall consider all relevant factors including the presumption that the best interests of the child will be served by placing the child in the custody and care of the nonabusive parent, unless there is evidence that both parents have engaged in abusive behavior, in which case the court shall not consider this presumption but may appoint a guardian ad litem or a court-appointed special advocate to represent the children in accordance with chapter 452, RSMo, and shall consider all other factors in accordance with chapter 452, RSMo.

6. The court shall grant to the noncustodial parent rights to visitation with any minor child born to or adopted by the parties, unless the court finds, after hearing, that visitation would endanger the child's physical health, impair the child's emotional development or would otherwise conflict with the best interests of the child, or that no visitation can be arranged which would sufficiently protect the custodial parent from further abuse. The court may appoint a guardian ad litem or court-appointed special advocate to represent the minor child in accordance with chapter 452, RSMo, whenever the custodial parent alleges that visitation with the noncustodial parent will damage the minor child.

7. The court shall make an order requiring the noncustodial party to pay an amount reasonable and necessary for the support of any child to whom the party owes a duty of support when no prior order of support is outstanding and after all relevant factors have been considered, in accordance with Missouri supreme court rule 88.01 and chapter 452, RSMo.

8. The court may grant a maintenance order to

a party for a period of time, not to exceed one hundred eighty days. Any maintenance ordered by the court shall be in accordance with chapter 452, RSMo.

455.085. 1. When a law enforcement officer has probable cause to believe a party has committed a violation of law amounting to abuse or assault, as defined in section 455.010, against a family or household member, the officer may arrest the offending party whether or not the violation occurred in the presence of the arresting officer. When the officer declines to make arrest pursuant to this subsection, the officer shall make a written report of the incident completely describing the offending party, giving the victim's name, time, address, reason why no arrest was made and any other pertinent information. Any law enforcement officer subsequently called to the same address within a twelve-hour period, who shall find probable cause to believe the same offender has again committed a violation as stated in this subsection against the same or any other family or household member, shall arrest the offending party for this subsequent offense. The primary report of nonarrest in the preceding twelve-hour period may be considered as evidence of the defendant's intent in the violation for which arrest occurred. The refusal of the victim to sign an official complaint against the violator shall not prevent an arrest under this subsection.

2. When a law enforcement officer has probable cause to believe that a party, against whom a protective order has been entered and who has notice of such order entered, has committed an act of abuse in violation of such order, the officer shall arrest the offending party-respondent whether or not the violation occurred in the presence of the arresting officer. Refusal of the victim to sign an official complaint against the violator shall not prevent an arrest under this subsection.

3. When an officer makes an arrest he is not required to arrest two parties involved in an assault when both parties claim to have been assaulted. The arresting officer shall attempt to identify and shall arrest the party he believes is the primary physical aggressor. The term "primary physical aggressor" is defined as the most significant, rather than the first, aggressor. The law enforcement

officer shall consider any or all of the following in determining the primary physical aggressor:

- (1) The intent of the law to protect victims of domestic violence from continuing abuse;
- (2) The comparative extent of injuries inflicted or serious threats creating fear of physical injury;
- (3) The history of domestic violence between the persons involved.

No law enforcement officer investigating an incident of family violence shall threaten the arrest of all parties for the purpose of discouraging requests or law enforcement intervention by any party. Where complaints are received from two or more opposing parties, the officer shall evaluate each complaint separately to determine whether he should seek a warrant for an arrest.

4. In an arrest in which a law enforcement officer acted in good faith reliance on this section, the arresting and assisting law enforcement officers and their employing entities and superiors shall be immune from liability in any civil action alleging false arrest, false imprisonment or malicious prosecution.

5. When a person against whom an order of protection has been entered fails to surrender custody of minor children to the person to whom custody was awarded in an order of protection, the law enforcement officer shall arrest the respondent, and shall turn the minor children over to the care and custody of the party to whom such care and custody was awarded.

6. The same procedures, including those designed to protect constitutional rights, shall be applied to the respondent as those applied to any individual detained in police custody.

7. A violation of the terms and conditions, with regard to abuse, stalking, child custody, **communication initiated by the respondent** or entrance upon the premises of the petitioner's dwelling unit, of an ex parte order of protection of which the respondent has notice, shall be a class A misdemeanor unless the respondent has previously pleaded guilty to or has been found guilty of violating an ex parte order of protection or a full order of protection within five years of the date of the subsequent violation, in which case the

subsequent violation shall be a class D felony. Evidence of prior pleas of guilty or findings of guilt shall be heard by the court out of the presence of the jury prior to submission of the case to the jury. If the court finds the existence of such prior pleas of guilty or finding of guilt beyond a reasonable doubt, the court shall decide the extent or duration of sentence or other disposition and shall not instruct the jury as to the range of punishment or allow the jury to assess and declare the punishment as a part of its verdict.

8. A violation of the terms and conditions, with regard to abuse, stalking, child custody, **communication initiated by the respondent** or entrance upon the premises of the petitioner's dwelling unit, of a full order of protection shall be a class A misdemeanor, unless the respondent has previously pleaded guilty to or has been found guilty of violating an ex parte order of protection or a full order of protection within five years of the date of the subsequent violation, in which case the subsequent violation shall be a class D felony. Evidence of prior pleas of guilty or findings of guilt shall be heard by the court out of the presence of the jury prior to submission of the case to the jury. If the court finds the existence of such prior plea of guilty or finding of guilt beyond a reasonable doubt, the court shall decide the extent or duration of the sentence or other disposition and shall not instruct the jury as to the range of punishment or allow the jury to assess and declare the punishment as a part of its verdict. For the purposes of this subsection, in addition to the notice provided by actual service of the order, a party is deemed to have notice of an order of protection if the law enforcement officer responding to a call of a reported incident of abuse or violation of an order of protection presented a copy of the order of protection to the respondent.

9. Good faith attempts to effect a reconciliation of a marriage shall not be deemed tampering with a witness or victim tampering under section 575.270, RSMo.

10. Nothing in this section shall be interpreted as creating a private cause of action for damages to enforce the provisions set forth herein.

455.205. 1. The governing body of any county, or of any city not within a county, by order or

ordinance to be effective prior to January 1, [2000] **2001**, may impose a fee upon the issuance of a marriage license and may impose a surcharge upon any civil case filed in the circuit court [under the provisions of section 452.305, RSMo]. The surcharge shall not be charged when [no court costs are otherwise required, and shall not be charged when] costs are waived or are to be paid by the state, county or municipality.

2. The fee imposed upon the issuance of a marriage license shall be five dollars, shall be paid by the person applying for the license, and shall be collected by the recorder of deeds at the time the license is issued. The surcharge imposed upon the filing of a civil action shall be two dollars, shall be paid by the party who filed the petition, and shall be collected and disbursed by the clerk of the court in the manner provided by sections 488.010 to 488.020, RSMo. Such amounts shall be payable to the treasuries of the counties from which such surcharges were paid.

3. At the end of each month, the recorder of deeds shall file a verified report with the county commission of the fees collected pursuant to the provisions of subsection 2 of this section. The report may be consolidated with the monthly report of other fees collected by such officers. Upon the filing of the reports the recorder of deeds shall forthwith pay over to the county treasurer all fees collected pursuant to subsection 2 of this section. The county treasurer shall deposit all such fees upon receipt in a special fund to be expended only to provide financial assistance to shelters for victims of domestic violence as provided in sections 455.200 to 455.230.

455.220. 1. To qualify for funds allocated and distributed pursuant to section 455.215 a shelter shall meet all of the following requirements:

(1) Be incorporated in the state as a nonprofit corporation;

(2) Have trustees who represent the racial, ethnic and socioeconomic diversity of the community to be served, at least one of whom must possess personal experience in confronting or mitigating the problems of domestic violence;

(3) Receive at least twenty-five percent of its funds from sources other than funds distributed

pursuant to section 455.215. These other sources may be public or private and may include contributions of goods or services, including materials, commodities, transportation, office space or other types of facilities or personal services;

(4) Provide residential service or facilities for children when accompanied by a parent, guardian, or custodian who is a victim of domestic violence and who is receiving temporary residential service at the shelter;

(5) Require persons employed by or volunteering services to the shelter to maintain the confidentiality of any information that would identify individuals served by the shelter **and any information or records that are directly related to the advocacy services provided to such individuals;**

(6) Prior to providing any advocacy services, inform individuals served by the shelter of the nature and scope of the confidentiality requirement in subdivision (5) of this subsection.

2. Any person employed by or volunteering services to a shelter for victims of domestic violence shall be incompetent to testify concerning any confidential information described in subdivision (5) of subsection 1 of this section, unless the confidentiality requirement is waived in writing by the individual served by the shelter.

3. A shelter does not qualify for funds if it discriminates in its admissions or provision of services on the basis of race, religion, color, age, marital status, national origin, or ancestry.

455.230. 1. A shelter for victims of domestic violence that receives funds pursuant to sections 455.200 to 455.230 shall file an annual report with the designated authority of the county, or of the city not within a county, in which it is located, on or before the thirty-first day of March of the year following the year in which funds were received. The annual report shall include statistics on the number of persons served by the shelter, the relationship of the victim of domestic violence to the abuser, the number of referrals made for medical, psychological, financial, educational, vocational, child care services or legal services, and

shall include the results of an independent audit. No information contained in the report shall identify any person served by the shelter or enable any person to determine the identity of any such person. **Any information contained in the report that is directly related to advocacy services provided by the shelter shall not be construed as a violation of section 455.220. Any shelter for victims of domestic violence as defined in this chapter may apply to the department of public safety for a grant to provide funds for the renovation, construction and improvement of such shelter on a 75/25 state/local match rate, subject to appropriation.**

2. The designated authority shall compile the reports filed pursuant to subsection 1 of this section annually.

3. In addition to any shelter funded under said section, subject to appropriation, the department of social services shall fund a child assessment center to serve the needs of children from families in conflict and from domestic violence to be located in any county of the first classification without a charter form of government with a population of more than one hundred sixty thousand but less than two hundred thousand.

455.540. As used in sections 455.540 to 455.547, the following terms shall mean:

(1) "Adult", any person eighteen years of age or older;

(2) "Domestic violence", as provided in section 455.200[;

(3) "Homicide", any crime which may be charged as one of the following: first degree murder pursuant to section 565.020, RSMo; second degree murder pursuant to section 565.021, RSMo; voluntary manslaughter pursuant to section 565.023, RSMo; or involuntary manslaughter pursuant to section 565.024, RSMo].

455.543. 1. [In any case involving a homicide where the victim is an adult, the local law enforcement agency with jurisdiction shall make a determination as to whether there is reason to believe the homicide is related to domestic violence.] **In any incident investigated by a law enforcement agency involving a homicide or**

suicide, the law enforcement agency shall make a determination as to whether the homicide or suicide is related to domestic violence, as defined in section 455.200.

2. In making such determination, the local law enforcement agency may consider a number of factors including, but not limited to, the following:

(1) **If the relationship between the perpetrator and the victim is or was that of a family or household member, as defined in section 455.010;**

(2) Whether the victim **or perpetrator** had previously filed for an order of protection [pursuant to this chapter];

(3) Whether [such agency has previously investigated or received reports of alleged incidents of domestic violence against the victim] **any of the subjects involved in the incident had previously been investigated for incidents of domestic violence;** and

(4) Any other evidence regarding the homicide **or suicide** that assists the agency in making its determination.

3. After making a determination as to whether the homicide **or suicide** is related to domestic violence, the [chief local] law enforcement [officer or his designee shall complete an appropriate form stating whether the homicide was related to domestic violence and which] **agency shall forward the information required within fifteen days to the Missouri state highway patrol on a form or format approved by the patrol. The required information shall include the [name,] gender and age of the victim, the type of incident investigated, the disposition of the incident and the relationship of the victim to the perpetrator.** The state highway patrol shall develop a form for this purpose which shall be distributed by the department of public safety to all [local] law enforcement agencies by October 1, [1998] **2000.** Completed forms shall be forwarded to the highway patrol [no later than seven days after a suspect is arrested for the homicide] **without undue delay as required by section 43.500, RSMo; except that all such reports shall be forwarded no later than seven days after an incident is determined or identified as a**

homicide or suicide involving domestic violence.

455.545. The highway patrol shall compile an annual report of homicides **and suicides** related to domestic violence. Such report shall be presented by February first of the subsequent year to the governor, speaker of the house of representatives, and president pro tempore of the senate.

455.550. All full orders of protection issued pursuant to this chapter shall include the Social Security number of the respondent, if known.

565.063. 1. As used in this section, the following terms mean:

(1) "Domestic assault offense"[,]:

(a) The commission of the crime of domestic assault in the first degree pursuant to section 565.072 or domestic assault in the second degree pursuant to section 565.073; or

(b) The commission of the crime of assault in the first degree[,] pursuant to the provisions of section 565.050[,]

or assault in the second degree pursuant to the provisions of section 565.060, if the victim of the assault was a family or household member;

(2) "Family" or "household member", spouses, former spouses, adults related by blood or marriage, adults who are presently residing together or have resided together in the past, **an adult who is or has been in a continuing social relationship of a romantic or intimate nature with the victim**, and adults who have a child in common regardless of whether they have been married or have resided together at any time;

(3) "Persistent domestic violence offender", a person who has pleaded guilty to or has been found guilty of two or more domestic assault offenses, where such two or more offenses occurred within ten years of the occurrence of the domestic assault offense for which the person is charged; and

(4) "Prior domestic violence offender", a person who has pleaded guilty to or has been found guilty of one domestic assault offense, where such prior offense occurred within five years of the occurrence of the domestic assault offense for which the person is charged.

2. No court shall suspend the imposition of sentence as to a prior or persistent domestic

violence offender pursuant to this section nor sentence such person to pay a fine in lieu of a term of imprisonment, section 557.011, RSMo, to the contrary notwithstanding, nor shall such person be eligible for parole or probation until such person has served a minimum of six months imprisonment.

3. The court shall find the defendant to be a prior domestic violence offender or persistent domestic violence offender, if:

(1) The indictment or information, original or amended, or the information in lieu of an indictment pleads all essential facts warranting a finding that the defendant is a prior domestic violence offender or persistent domestic violence offender; and

(2) Evidence is introduced that establishes sufficient facts pleaded to warrant a finding beyond a reasonable doubt the defendant is a prior domestic violence offender or persistent domestic violence offender; and

(3) The court makes findings of fact that warrant a finding beyond a reasonable doubt by the court that the defendant is a prior domestic violence offender or persistent domestic violence offender.

4. In a jury trial, such facts shall be pleaded, established and found prior to submission to the jury outside of its hearing.

5. In a trial without a jury or upon a plea of guilty, the court may defer the proof in findings of such facts to a later time, but prior to sentencing.

6. The defendant shall be accorded full rights of confrontation and cross-examination, with the opportunity to present evidence, at such hearings.

7. The defendant may waive proof of the facts alleged.

8. Nothing in this section shall prevent the use of presentence investigations or commitments.

9. At the sentencing hearing both the state and the defendant shall be permitted to present additional information bearing on the issue of sentence.

10. The pleas or findings of guilty shall be prior to the date of commission of the present offense.

11. The court shall not instruct the jury as to the range of punishment or allow the jury, upon a finding of guilty, to assess and declare the punishment as part of its verdict in cases of prior domestic violence offenders or persistent domestic violence offenders.

12. Evidence of prior convictions shall be heard and determined by the trial court out of the hearing of the jury prior to the submission of the case to the jury, and shall include but not be limited to evidence of convictions received by a search of the records of the Missouri uniform law enforcement system maintained by the Missouri state highway patrol. After hearing the evidence, the court shall enter its findings thereon.

13. Evidence of similar criminal convictions of domestic violence pursuant to this chapter, chapter 566, RSMo, or chapter 568, RSMo, within five years of the offense at issue, shall be admissible for the purposes of showing a past history of domestic violence.

14. **Any person who has pleaded guilty to or been found guilty of a violation of section 565.072 shall be sentenced to the authorized term of imprisonment for a class A felony if the court finds the offender is a prior domestic violence offender. The offender shall be sentenced to the authorized term of imprisonment for a class A felony which term shall be served without probation or parole if the court finds the offender is a persistent domestic violence offender or the prior domestic violence offender inflicts serious physical injury on the victim.**

15. **Any person who has pleaded guilty to or been found guilty of a violation of section 565.073 shall be sentenced:**

(a) To the authorized term of imprisonment for a class B felony if the court finds the offender is a prior domestic violence offender; or

(b) To the authorized term of imprisonment for a class A felony if the court finds the offender is a persistent domestic violence offender.

[The provisions of section 375.1312, RSMo, shall become effective on January 1, 1999.]

565.072. 1. A person commits the crime of domestic assault in the first degree if he or she attempts to kill or knowingly causes or attempts to cause serious physical injury to a family or household member, as defined in section 455.010, RSMo.

2. Domestic assault in the first degree is a class B felony unless in the course thereof the actor inflicts serious physical injury on the victim in which case it is a class A felony.

565.073. 1. A person commits the crime of domestic assault in the second degree if the act involves a family or household member, as defined in section 455.010, RSMo, and he or she:

(1) Attempts to cause or knowingly causes physical injury to such family or household member by any means, including but not limited to, by use of a deadly weapon or dangerous instrument, or by choking or strangulation; or

(2) Recklessly causes serious physical injury to such family or household member; or

(3) Recklessly causes physical injury to such family or household member by means of any deadly weapon.

2. Domestic assault in the second degree is a class C felony.

565.074. 1. A person commits the crime of domestic assault in the third degree if the act involves a family or household member, as defined in section 455.010, RSMo, and:

(1) The person attempts to cause or recklessly causes physical injury to such family or household member; or

(2) With criminal negligence the person causes physical injury to such family or household member by means of a deadly weapon or dangerous instrument; or

(3) The person purposely places such family or household member in apprehension of immediate physical injury by any means; or

(4) The person recklessly engages in conduct which creates a grave risk of death or serious physical injury to such family or household member; or

(5) The person knowingly causes physical

contact with such family or household member knowing the other person will regard the contact as offensive; or

(6) The person knowingly attempts to cause or causes the isolation of such family or household member by unreasonably and substantially restricting or limiting such family or household member's access to other persons, telecommunication devices or transportation for the purpose of isolation.

2. Except as provided in subsection 3 of this section, domestic assault in the third degree is a class A misdemeanor.

3. A person who has pleaded guilty to or been found guilty of the crime of domestic assault in the third degree more than two times against any family or household member as defined in section 455.010, RSMo, is guilty of a class D felony for the third or any subsequent commission of the crime of domestic assault. The offenses described in this subsection may be against the same family or household member or against different family or household members."; and

Further amend page 1, in the title, lines 3-4, by deleting "relating to care for the elderly and disabled" and insert in lieu thereof, the following: "relating to the protection of certain persons"; and

Further amend the title and enacting clause accordingly.

Senator Jacob moved that the above amendment be adopted.

Senator Kenney offered SA 1 to SA 3:

SENATE AMENDMENT NO. 1 TO
SENATE AMENDMENT NO. 3

Amend Senate Amendment No. 3 to Senate Committee Substitute for House Committee Substitute for House Bills Nos. 1386 and 1086, Page 21, Section 455.230, Line 15, 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, five of whom shall represent domestic violence providers and one of whom shall represent a state-wide coalition against domestic violence. 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, which motion prevailed.

SA 3, as amended, was again taken up.

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

Senator Sims offered SA 4:

SENATE AMENDMENT NO. 4

Amend Senate Committee Substitute for House Committee Substitute for House Bills Nos. 1386 and 1086, Page 1, Section A, Line 4, by inserting after all of said line the following:

"197.400. As used in sections 197.400 to [197.475] **197.477**, unless the context otherwise requires, the following terms mean:

(1) "Branch office", a location or site from which an organization provides services within a portion of the total geographic area served by the parent company. A branch office is part of a company and is located sufficiently close to it to share administration, supervision and services in a manner that renders it unnecessary for the branch to independently meet the requirements of a home care company;

(2) "Client residence", a temporary or permanent domicile of a person receiving home health services, professional services or paraprofessional services;

(3) "Council", the home [health services] care

advisory council created by sections 197.400 to [197.475] **197.477**;

[(2)] (4) **“Deficiency”**, a statement of a deficit practice;

(5) **“Department”**, the department of health;

(6) **“Home care company”**, any public or private organization or part of an organization that is staffed or equipped to provide home health services, professional services or paraprofessional services;

[(3)] (7) **“Home health [agency] category”**, a category of home care company which is a public [agency] or private organization or [a subdivision or subunit of an agency or organization that provides two or more home health services at the residence of a patient according to a physician's written and signed plan of treatment] **part of an organization that provides home health services and is eligible to be certified as a Medicare provider of home health services, as defined in Title XVIII of the Social Security Act**;

[(4)] (8) **“Home health services”**, any [of the following items and services provided at the residence of the patient on a part-time or intermittent basis: nursing, physical therapy, speech therapy, occupational therapy, home health aid, or medical social service] **services provided at the residence of a client which, at a minimum, meet the standards established pursuant to 42 C.F.R. 484, Medicare Conditions of Participation: Home Health Agencies**;

[(5)] **“Part-time or intermittent basis”**, the providing of home health services in an interrupted interval sequence on the average of not to exceed three hours in any twenty-four-hour period;

(6) **“Patient's residence”**, the actual place of residence of the person receiving home health services, including institutional residences as well as individual dwelling units;

(7)] (9) **“Local public health agency”**, an organization that promotes preventative health services for all of its citizens and is established by a city or county by appropriating funds from their general revenue taxing authority or pursuant to chapter 70, RSMo, or chapter 205, RSMo;

(10) **“Paraprofessional home care category”**, a category of home care company which is any public or private organization or part of an organization that provides paraprofessional services;

(11) **“Paraprofessional services”**, personal care-related services provided at the residence of a client by an unlicensed caregiver that are unskilled in nature, may require a physician order, plan of care or service plan, and may include certain limited nursing services as described in state regulation;

(12) **“Physician”**, a person licensed by the state board of registration for the healing arts pursuant to the provisions of chapter 334, RSMo, to practice in this state as a physician and surgeon;

[(8)] (13) **“Plan of [treatment] care”**, a [plan reviewed and signed as often as medically necessary by a physician or podiatrist, not to exceed sixty days in duration, prescribing items and services for an individual patient's condition] **written plan for home health services and professional services based on a client's diagnosis and an assessment of his or her immediate and long-range needs and resources. A plan of care is established in consultation with a home care team that may include a physician, podiatrist, staff members of the company, a client and members of the client's family**;

[(9)] (14) **“Podiatrist”**, a person licensed by the state board of podiatry pursuant to the provisions of chapter 330, RSMo, to practice in this state as a podiatrist;

[(10)] **“Subunit” or “subdivision”**, any organizational unit of a larger organization which can be clearly defined as a separate entity within the larger structure, which can meet all of the requirements of sections 197.400 to 197.475 independent of the larger organization, which can be held accountable for the care of patients it is serving, and which provides to all patients care and services meeting the standards and requirements of sections 197.400 to 197.475]

(15) **“Professional home care category”**, a category of home care company which is any public or private organization or part of an organization that provides professional services;

(16) “Professional services”, services, other than home health services, provided at the residence of a client by a health care professional who is considered by the state as being qualified to provide such services. Such services are provided on a per visit, hourly or shift basis and may require a plan of care, service plan or an order signed by a physician, podiatrist or other practitioner as allowed by state law;

(17) “Sanction”, actions to be determined by the department and assessed against individuals who have been proven to have violated the provisions of sections 197.400 to 197.477 and which may include, but are not limited to, suspension or revocation of licensure;

(18) “Service plan”, a written plan for paraprofessional services developed and agreed upon by a client and provider that includes a description of services to be provided and a schedule or frequency of such services;

(19) “Supervision”, authoritative guidance given by a qualified person, including initial direction and periodic direction or indirect monitoring of services;

(20) “Survey inspection”, monitoring by the department for compliance with state regulations related to sections 197.400 to 197.477, including investigation of complaints.

197.405. 1. [No home health agency, including Medicare and Medicaid providers, shall provide two or more of the home health services covered by subdivision (4) of section 197.400 or shall hold itself out as providing such home health services or as a home health agency] **No public or private organization or part of an organization shall hold itself out as a home care company or as providing home health services, professional services or paraprofessional services unless it is licensed and registered in accordance with the provisions of sections 197.400 to [197.475] 197.477.**

2. No person shall establish, conduct or maintain a home care company in this state without maintaining a business location within the state and a valid license issued by the department. A branch office of a licensed home

care company shall not require separate licensing.

3. The paraprofessional category of a home care company that provides services licensed, certified, regulated or contracted with the division of aging in the department of social services may elect to be regulated by the division of aging and shall be exempt from licensure by the department of health. Any home care company that elects to be exempt from the home care paraprofessional category pursuant to this subsection shall be monitored, regulated and overseen by the division of aging to assure that, regardless of payer source, all individuals receiving paraprofessional services by such company, including individuals who are not clients of the division of aging, are included as a responsibility of the division of aging.

4. No person shall interfere with or prevent any authorized representative of the department or the attorney general from enforcing the provisions of sections 197.400 to 197.477.

197.410. [1. Persons desiring to receive a license to operate a home health agency in the state of Missouri shall file a written application with the department of health on a form prescribed by the director of the department.

2. The application shall be accompanied by a six hundred-dollar license fee] **A license shall be renewed annually upon approval by the department if the following conditions are met:**

(1) **An application for renewal is completed on forms provided by the department, filed with the department and accompanied by the required nonrefundable license fee;**

(2) **The company is in compliance with the requirements in sections 197.400 to 197.477, as evidenced by a survey inspection by the department which shall occur prior to initial licensure, once a year for the first three years and at least once every thirty-six months thereafter. Except for the inspection prior to initial licensure, such inspections shall be conducted:**

(a) **Without the prior notification of the company; and**

(b) At times of the day, on dates and at intervals which do not permit companies to anticipate such inspections;

(3) Each initial application for a home care company shall be filed on forms provided by the department and accompanied by the required nonrefundable license fee. Such application must be approved by the department prior to initiating client care.

The department of health shall coordinate initial and annual inspections of all home care categories and other inspections when possible.

197.415. 1. [The department shall review the applications and shall issue a license to applicants who have complied with the requirements of sections 197.400 to 197.475 and have received approval of the department.

2. A license shall be renewed annually upon approval of the department when the following conditions have been met:

(1) The application for renewal is accompanied by a six-hundred-dollar license fee;

(2) The home health agency is in compliance with the requirements established pursuant to the provisions of sections 197.400 to 197.475 as evidenced by a survey inspection by the department which shall occur at least every thirty-six months for agencies that have been in operation thirty-six consecutive months from initial inspection. The frequency of inspections for agencies in operation at least thirty-six consecutive months from the initial inspection shall be determined by such factors as number of complaints received and changes in management, supervision or ownership. The frequency of each survey inspection for any agency in operation less than thirty-six consecutive months from the initial inspection shall occur and be conducted at least every twelve months;

(3) The application is accompanied by a statement of any changes in the information previously filed with the department pursuant to section 197.410.

3. Each license shall be issued only for the home health agency listed in the application. Licenses shall be posted in a conspicuous place in

the main offices of the licensed home health agency.

4.] If the application review is not completed prior to the expiration of a license and the company is not at fault for the failure to complete the application review process, the department may issue a temporary operating permit of sufficient duration to allow for state review of the home care company's relicensure application.

2. Each license shall be issued only for the home care company listed on the application. Such license shall be:

(1) Posted in a conspicuous place in the office of the licensed home care company; or

(2) Made available for review upon request.

3. Any license issued shall state the licensure category or categories for which the license is issued, the name of the home care company to whom it is issued, the expiration date, and any additional information or special limitations that the department may require by rule.

4. If a home care company is relocating, the company shall notify the department in writing thirty days prior to the intended relocation. The department may provide written notification to the home care company amending the current license to reflect the new location.

5. In lieu of any survey required by sections 197.400 to [197.475] 197.477, the department may accept in whole or in part written reports of the survey of any state or federal agency, or of any professional accrediting agency, such as the joint commission on accreditation of health care organizations and the community health accreditation program, if such survey:

(1) Is comparable in scope and method to the department's surveys; and

(2) [Is conducted within one year of initial application or within thirty-six months for the renewal of the home health license as required by subdivision (2) of subsection 2 of this section] Meets all required time frames; and

(3) Is provided to the department with sufficient documentation to assure that the home care company is in compliance with the

requirements in sections 197.400 to 197.477.

6. Services provided pursuant to chapter 338, RSMo, shall be excluded from survey inspection.

197.420. **1.** A license shall not be transferable or assignable. When a home [health agency] **care company** is sold or ownership or management is transferred, or the corporate legal organization status is [substantially] changed, the license of the [agency] **company** shall be voided and a new license obtained. Application for a new license shall be made to the department in writing[, at least ninety days] prior to the effective date of the sale, transfer, or change in corporate status. The application for a new license shall be on the same form, containing the same information required for an original license, and shall be accompanied by [a license fee of six hundred dollars. The department may issue a temporary operating permit for the continuation of the operation of the home health agency for a period of not more than ninety days pending the survey inspection and the final disposition of the application. The department shall require all licensed home health agencies to submit statistical reports. The content, format, and frequency of such reports shall be determined by the department with council approval] **the required nonrefundable license fee.**

2. The department may issue a temporary operating permit of sufficient duration to allow the department to evaluate an application for a license submitted as a result of a change in ownership.

197.422. The department shall require all licensed home care companies to submit statistical reports. The content, format and frequency of such reports shall be established by the department in conjunction with the home care advisory council and shall not include financial information.

197.425. In addition to the survey inspection required for licensing or license renewal, the department may [make other survey inspections] **conduct survey inspections** during normal business hours. Each home [health agency] **care company** shall allow the department or its authorized representatives to enter upon its premises during normal business hours for the

purpose of conducting the survey [inspection] **inspections.**

197.430. After completion of each department [survey] **inspection**, a written [report] **statement** of the findings with respect to compliance or noncompliance with the provisions of sections 197.400 to [197.475] **197.477** and the standards established hereunder as well as a list of deficiencies found shall be prepared. A copy of the [report] **statement** and the list of deficiencies found shall be served upon the home [health agency] **care company** within fifteen business days following the [survey] inspection. The list of deficiencies shall specifically state the statute or rule which the home [health agency] **care company** is alleged to have violated. If the home [health agency] **care company** acknowledges the deficiencies found by the [survey] inspection, the home [health agency] shall inform the department of the time necessary for compliance and] **care company** shall file a plan of correction with the department **within thirty days of the inspection completion date.** If the [home health agency] **company** does not acknowledge the deficiencies, it [may request a resurvey] **shall request a reinspection** by the department. If, after the [resurvey] **reinspection**, the home [health agency] **care company** still does not agree with the findings of the department, it may seek a review of the findings of the department by the administrative hearing commission **in accordance with chapter 621, RSMo. In case of immediate client jeopardy, immediate sanctions may be imposed.**

197.435. **1.** Any person wishing to make a complaint against a home [health agency licensed under] **care company licensed pursuant to** the provisions of sections 197.400 to [197.475] **197.477** may file the complaint **orally or** in writing with the department setting forth the details and facts supporting the complaint. [If the department determines the charges are sufficient to warrant a hearing to determine whether the license of the home health agency should be suspended or revoked, the department shall fix a time and place for a hearing and require the home health agency to appear and defend against the complaint. A copy of the complaint shall be given to the home health agency at the time it is notified of the hearing. The notice of the hearing shall be given at least twenty

days prior to the date of the hearing. The hearing shall be conducted by the administrative hearing commission in accordance with the provisions of chapter 621, RSMo.] **The department shall investigate all complaints and prepare a written statement of the investigative findings with respect to compliance or noncompliance with sections 197.400 to 197.477 and the standards established hereunder, as well as a list of deficiencies found which shall be served upon the home care company within fifteen business days following such investigation. The list of deficiencies shall specifically state the statute or rule which the home care company is alleged to have violated. If the company acknowledges the deficiencies found by the inspection, the company shall file a plan of correction with the department within thirty days of the inspection completion date. If the company does not agree with the findings of the investigation the company may seek a review of such findings by the administrative hearing commission in accordance with chapter 621, RSMo. In cases of immediate client jeopardy, immediate sanctions may be imposed.**

2. Each employee of a home care company shall be responsible for reporting any evidence of abuse, neglect or exploitation of any client served by the home care company in accordance with state law.

197.440. 1. The department shall refuse to issue or shall suspend or shall revoke the license of any home [health agency] **care company** for failure to comply with any provision of sections 197.400 to [197.475] **197.477** or with any rule or standard of the department adopted [under] **pursuant to** the provisions of sections 197.400 to [197.475] **197.477** or for obtaining the license by means of fraud, misrepresentation[,] or concealment of material facts.

2. Any home [health agency] **care company** which has **had sanctions imposed**, been refused a license or which has had its license revoked or suspended by the department may seek a review of the department's action by the administrative hearing commission **in accordance with chapter 621, RSMo. A sanction shall be designed to minimize the time between identification of a**

problem and imposition of such sanction and shall provide for the imposition of incrementally more severe sanctions for repeated or uncorrected problems.

3. A home care company shall not reapply for licensure for a six-month period following a final action by the department pursuant to this section.

4. A license shall not be issued or renewed if the operator, owner or any principle in the operation of the home care company has been convicted of any offense concerning the operation of a home care company or any offense that is reasonably related to the qualifications, functions or duties of a home care company. Notwithstanding any other provision of law to the contrary, the department shall have access to records involving an operator, owner or any principle in the operation of a home care company applying for or renewing a license pursuant to this chapter, where the applicant has been adjudicated and found guilty or entered a plea of guilty or nolo contendere in a prosecution pursuant to the laws of any state or of the United States for any offense reasonably related to the qualifications, functions or duties of any person who operates or owns a home care company licensed pursuant to sections 197.400 to 197.477. The department may deny, suspend or revoke the license of any home care company whose operators, owners or any principles in the operation of the company have been convicted of such an offense.

5. The department shall promulgate rules to waive the restrictions pursuant to subsection 4 of this section for good cause. For purposes of this section, "good cause" means a determination by the department after examining the prior work history and other relevant factors that such operators, owners or principles do not present a risk to the health or safety of clients.

197.445. 1. **The department shall administer the provisions of sections 197.400 to 197.477.** The department may adopt reasonable rules and standards necessary to carry out the provisions of sections 197.400 to 197.477. [The rules and standards adopted shall not be less than the

standards established by the federal government for home health agencies under Title XVIII of the Federal Social Security Act. The reasonable rules and standards shall be initially promulgated within one year of September 28, 1983.] **In promulgating regulations for the licensure of home care companies, the department shall establish licensure procedures for a home care category, professional home care category and paraprofessional home care category, with separate and distinct regulations for each of the three licensure categories. All rules shall be initially promulgated within one year of the effective date of this section. The regulations for the professional home care category shall not exceed the Medicaid private duty nursing regulations and the regulations for the paraprofessional category shall not exceed the Medicaid personal care regulations.**

2. The rules and standards adopted by the department pursuant to the provisions of sections 197.400 to 197.477 shall apply to all health services covered by sections 197.400 to 197.477 rendered to any patient being served by a home [health agency] **care company** regardless of source of payment for the service, patient's condition, or place of residence[, at which the home health services are ordered by the physician or podiatrist]. No rule or portion of a rule promulgated pursuant to the authority of sections 197.400 to 197.477 shall become effective unless it has been promulgated pursuant to the provisions of section 536.024, RSMo.

3. All agencies of the state or any of its political subdivisions shall assist and cooperate with the department as necessary to carry out the department's responsibility pursuant to sections 197.400 to 197.477.

197.450. 1. There is hereby created the "Home [Health Services] **Care Advisory Council**", which shall guide, advise and make recommendations to the department relating to the rules and standards adopted and the implementation and administration of sections 197.400 to [197.475] **197.477.**

2. Members of the council shall be residents of this state. The council shall consist of members who shall serve for a term of three years. No member may serve more than two successive full

terms. [One member] **Two members** of the council shall be [a representative] **representatives** of the department, and **one** such member shall serve as chairman of the council. [Three members] **One member** shall be [citizens] **a citizen** selected from the state at large and shall have no connection with any home [health agency. Five] **care company. Six** members shall be representatives of [home health agencies and one of these five members shall be selected from each of the following types of home health agencies:

- (1) Public sponsored home health agencies;
- (2) Institutional sponsored home health agencies;
- (3) Voluntary nonprofit home health agencies;
- (4) Private nonprofit home health agencies; and
- (5) For profit home health agencies] **each of the three home care licensure categories. Each category shall have at least one representative on the council.**

3. All members of the council shall be appointed by the director of the department. The term of office of each member shall be for three years or until his **or her** successor is appointed; except that, of the members first appointed, three shall be selected for one year, three shall be selected for two years, and three shall be selected for three years. Before a member's term expires, the director of the department shall appoint a successor to assume his **or her** duties on the expiration of his **or her** predecessor's term. A vacancy in the office of a member shall be filled by appointment for the unexpired term.

4. The council shall meet not less than [quarterly] **twice** each year, **in person or by telecommunication**, at a place, day and hour determined by the [council] **department**. The council may also meet at such other times and places as may be designated by the chairman, or upon the request of the majority of the other members of the council.

5. Members of the council shall receive no compensation for their services, but shall be reimbursed, out of funds appropriated to the department for that purpose, for their actual and necessary expenses incurred in the performance of

their duties.

197.455. The department may file an action in the circuit court for the county in which [any home health agency alleged to be violating the provisions of sections 197.400 to 197.475 resides or may be found] **the home care company is located** for an injunction to restrain the home [health agency] **care company** from continuing the violation or **sections 197.400 to 197.477.**

197.460. 1. The provisions of sections 197.400 to [197.475] **197.477** shall not apply to [individuals who personally provide one or more home health services if such persons are not under the direct control and doing work for and employed by a home health agency.

2. The provisions of sections 197.400 to 197.475 shall not apply to any person or organization conducting a home health agency by and for the adherents of any recognized church or religious denomination or sect for the purpose of providing services for the care or treatment of the sick or infirm who depend upon prayer or spiritual means for healing in the practice of the religion of such church or religious denomination or sect.

3. The provisions of sections 197.400 to 197.475 shall not apply to any person or other entity which provides services pursuant to subdivision (18) of subsection 1 of section 208.152, RSMo, or provides in-home services pursuant to subdivision (21) of subsection 2 of section 660.050, RSMo] **the following:**

(1) Any person who is a single self-employed caregiver who provides one or more of the services defined in sections 197.400 to 197.477, when such services are not provided as an employee, or under agreement or contract with a home care company;

(2) Any person or other entity operating a home care company by and for the adherents of any recognized church or religious denomination or sect for the purpose of providing services for the care or treatment of the sick or infirm who depend upon prayer or spiritual means for healing in the practice of the religion of such church or religious denomination or sect;

(3) Any person or entity that provides

services pursuant to subdivision (18) of subsection 1 of section 208.152, RSMo, or provides in-home services pursuant to subdivision (21) of subsection 2 of section 660.050, RSMo, or provides in-home services pursuant to Title XIX of the Social Security Act, or any service or program authorized by the division of aging;

(4) Any person or entity licensed, certified, contracted, employed or operated by the state or its political subdivisions to provide specialized services, including care, treatment, habilitation and rehabilitation exclusively to persons affected by mental disorders, mental illness, mental retardation, developmental disabilities, or alcohol or drug abuse, as defined in section 630.005, RSMo;

(5) Any person or entity licensed, certified, contracted, employed or operated by the state to provide home health, paraprofessional or professional services to patients or clients of the division of vocational rehabilitation in the department of elementary and secondary education;

(6) The first steps program in the department of elementary and secondary education;

(7) Exempt from licensing services provided by a local public health agency not funded by private pay or a third-party payer such as Medicare, Medicaid or health insurance;

(8) The services of a provider or program that are regulated by a state regulatory program, other than those administered pursuant to this chapter, may be exempt from licensure pursuant to this chapter if the department determines the other program's regulatory standards are substantially the same or exceed the requirements of this chapter. To be exempted pursuant to this subdivision, a provider or program shall request that the department review the standards under which the provider or program is regulated. The department may require the provider or program to provide any information necessary to determine the comparability of the regulations.

2. Nothing in this section shall prohibit any person or entity from applying for a license pursuant to sections 197.400 to 197.477.

[197.470. All reports or documents collected by the department, or findings and decisions made by the department, under the provisions of sections 197.400 to 197.475, unless declared to be a confidential record under any other provision of law, shall be available to public inspection upon written request. The material requested shall be made available within thirty days after receipt of the request. The department may charge a reasonable fee for the copying of any material.]

197.474. The provisions of sections 197.400 to 197.477 shall be fully implemented by July 1, 2002.

197.477. Upon the completion of the final report of an inspection or evaluation of a health facility or agency or any part thereof pursuant to sections 190.235 to 190.249, RSMo, sections 197.010 to 197.120, sections 197.200 to 197.240, or sections 197.400 to 197.475, including any amendments thereto which may hereinafter be enacted by the general assembly or rule or regulation promulgated pursuant thereto, the department of health may disclose to the public reports of the inspections or evaluations showing the standards by which the inspections or evaluations were conducted, whether such standards were met, and, if such standards were not met, in what manner they were not met and how the facility proposed to correct or did correct the deficiencies. All other information whatsoever, including information and reports submitted to the department of health by governmental agencies and recognized accrediting organizations in whole or in part for licensure purposes pursuant to sections 190.235 to 190.249, RSMo, sections 197.010 to 197.120, sections 197.200 to 197.240, or sections 197.400 to 197.475, collected during such inspections or evaluations or information which is derived as a result of such inspections or evaluations shall be confidential and shall be disclosed only to the person or organization which

is the subject of the inspection or evaluation or a representative thereof. **The material requested shall be made available within thirty days after receipt of the request. The department may charge a reasonable fee for the copying of any material.**"; and

Further amend the title and enacting clause accordingly.

Senator Sims moved that the above amendment be adopted.

Senator Sims offered **SA 1 to SA 4:**

**SENATE AMENDMENT NO. 1 TO
SENATE AMENDMENT NO. 4**

Amend Senate Amendment No. 4 to Senate Committee Substitute for House Committee Substitute for House Bills Nos. 1386 and 1086, Page 21, Section 197.460, Line 7, by inserting after "regulations" the following: ";

(9) Any person or entity licensed pursuant to chapter 338, RSMo. The board of pharmacy shall investigate complaints made against any person or entity licensed pursuant to chapter 338, RSMo, or any employee of such entity. After investigation the board of pharmacy shall refer the results of their investigation to the appropriate professional licensing board for appropriate action. If the complaint is against an unlicensed employee, the board of pharmacy shall handle the entire investigation and take appropriate action. The board of pharmacy shall promulgate rules for any activity or services provided by these persons or entities."

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

SA 4, as amended, was again taken up.

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

Senator Rohrbach offered **SA 5:**

SENATE AMENDMENT NO. 5

Amend Senate Committee Substitute for House Committee Substitute for House Bills Nos. 1386 and 1086, Page 3, Section 210.936, Line 4, by adding after 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 the issue submitted to the trier of fact as provided in subsection 4 of this section.

6. As used in this section, the term "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 5 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 Maxwell moved that SCS for HCS for HBs 1386 and 1086, as amended, be adopted, which motion prevailed.

Senator Maxwell was recognized to close on final passage of the bill.

President Pro Tem Quick referred SCS for HCS for HBs 1386 and 1086, as amended, to the Committee on State Budget Control.

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 Speaker has appointed the following conferees to act with a like committee from the Senate on SCS for HS for HCS for HB 1742, as amended:

Representatives Gaw, Koller, Green, Ostmann and Patek.

CONFERENCE COMMITTEE APPOINTMENTS

President Pro Tem Quick appointed the following conference committee to act with a like committee from the House on SCS for HS for HCS for HB 1742, as amended: Senators Mathewson, Staples, Scott, Russell and Westfall.

PRIVILEGED MOTIONS

Senator House moved that the Senate refuse to concur in HCS for SS for SB 813, as amended, and request the House to recede from its position and, failing to do so, grant the Senate a conference thereon, which motion prevailed.

RESOLUTIONS

Senator Schneider offered Senate Resolution No. 1688, regarding Mrs. Margaret L. Davis, St. Louis, which was adopted.

Senator Schneider offered Senate Resolution No. 1689, regarding Mrs. Patricia "Pat" Tepen, St. Louis, which was adopted.

Senator Stoll offered Senate Resolution No. 1690, regarding Anthony "Tony" Picarella, Crystal City, which was adopted.

Senator Stoll offered Senate Resolution No. 1691, regarding Richard G. Butchart, Bloomsdale, which was adopted.

Senator Westfall offered Senate Resolution No. 1692, regarding the Future Farmers of America Chapter from Aurora High School, Aurora, which was adopted.

Senator Rohrbach offered Senate Resolution No. 1693, regarding Reverend John Hobrathschk, Jefferson City, which was adopted.

INTRODUCTIONS OF GUESTS

Senator Maxwell introduced to the Senate, Hillary Suzanne and Sandra Marie Greenwell, Shelbina; and Hillary and Sandra were made honorary pages.

Senator Jacob introduced to the Senate, Mrs. Donald Barnes and Joe Barnes, Moberly.

Senator Howard introduced to the Senate, Cecily Ross, Cape Girardeau; Mayuko Fujita, Dr. Floyd Wright, Mary Pelts Allgood and Tommy Allgood, Kennett; and Mariann Wright; and Cecily and Mayuko were made honorary pages.

Senator Howard introduced to the Senate, the Physician of the Day, Dr. Stephen Segall, M.D. and his wife, Nancy and Sid and Marilyn Roney, Poplar Bluff.

Senator Russell introduced to the Senate, Robert Heagerty, Lebanon.

Senator Russell introduced to the Senate, Joe and Mary Ruth Brooks, Marshfield.

Senator Graves introduced to the Senate, members of the Missouri State Eight-Man Championship Football Team, Mound City.

Senator Mueller introduced to the Senate, Mrs. Madeline Carosello, Mrs. Joann Green, Mrs. Sandra McMillan and fourth grade students from Edgar Road Elementary School, St. Louis County; and Caitlin McCann, Chris Sell, Madeline Harding, Mike Sebelski, Brady Hanlen and Lauren Ahrens were made honorary pages.

Senator Caskey introduced to the Senate, Monte Olsen, Belton; and Thiago Serrano, Brazil; and Thiago was made an honorary page.

Senator Rohrbach introduced to the Senate, Alexander G. Osipov, Uzbekistan; and Jeanne Schwaller, Jefferson City.

Senator Staples introduced to the Senate, former State Representative Ron Bockenkamp, St. Francois County.

Senator Klarich introduced to the Senate, Judge Larry Davis, his daughter and grandson, and eighteen third and fourth grade students from Crosspoint Christian School.

Senator Singleton introduced to the Senate, Gene Hall, Cheryl Wimpey and Brenda Smith, McDonald County.

On motion of Senator DePasco, the Senate adjourned until 9:30 a.m., Wednesday, May 3, 2000.

SENATE CALENDAR

SIXTY-FIFTH DAY—WEDNESDAY, MAY 3, 2000

FORMAL CALENDAR

SENATE BILLS FOR PERFECTION

SBs 818 & 564-Maxwell
and Kinder, with SCS
SB 955-Mathewson,
et al
SB 1048-Mathewson,
with SCS
SB 866-Klarich

SB 748-Johnson, with SCS
SB 1047-Rohrbach, with SCS
SB 1045-Caskey, with
SCS
SBs 1043, 1031, 580 &
671-Mathewson,
with SCS

HOUSE BILLS ON THIRD READING

- | | |
|---|---|
| <p>1. HB 1443-Koller, with
SCS (Johnson)
(In Budget Control)</p> <p>2. HS for HB 1615-Hosmer,
with SCS (Caskey)
(In Budget Control)</p> <p>3. HS for HCS for HBs 1566 &
1810-Bray,
with SCS (Scott)
(In Budget Control)</p> <p>4. HB 1082-Crump, with
SCS (Childers)</p> <p>5. HB 1706-Gambaro,
et al, with SCS (Clay)</p> <p>6. HS for HCS for
HB 1076-Relford,
with SCS (Stoll)
(In Budget Control)</p> | <p>7. HS for HB 1603-May
(108th), with SCS
(Jacob)</p> <p>8. HB 1292-Auer, with
SCS (Jacob)</p> <p>9. HCS for HB 1434, with
SCA 1 (Quick)</p> <p>10. HCS for HB 1113, with
SCS (Goode)</p> <p>11. HCS for HB 1120, with
SCS (Goode)</p> <p>12. HB 1121-Franklin, with
SCS (Goode)</p> <p>13. HB 1122-Franklin, with
SCS (Goode)</p> |
|---|---|

INFORMAL CALENDAR

SENATE BILLS FOR PERFECTION

- | | |
|---|--|
| <p>SBs 545, 628, 647, 728,
834 & 832-Staples,
with SCS (pending)</p> <p>SBs 584, 539, 630, 777,
796, 918 & 927-Bentley,
with SCS & SS for SCS
(pending)</p> <p>SBs 599 & 531-Schneider,
with SCS (pending)</p> <p>SB 604-Wiggins</p> <p>SB 697-Schneider, with
SCS & SA 1 (pending)</p> <p>SB 720-Caskey, with SS &
SA 3 (pending)</p> <p>SB 729-House, with SCS &
SA 8 (pending)</p> <p>SB 744-Klarich</p> | <p>SB 803-Goode, et al, with
SCS</p> <p>SBs 807, 553, 574, 614,
747 & 860-Jacob, with
SCS, SS for SCS & SA 2
(pending)</p> <p>SB 817-Stoll, with SCS</p> <p>SB 826-Jacob, et al, with
SCS, SS for SCS & SA 5
(pending)</p> <p>SB 827-Scott, et al, with
SS & SA 2 (pending)</p> <p>SB 930-Jacob, with SCS</p> <p>SB 957-Johnson and Quick,
with SCS, SA 2, SSA 1
for SA 2 & SA 3 to SSA
1 for SA 2 (pending)</p> |
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SB 980-Jacob, with SCS

SB 1016-Jacob, et al,
with SS, SA 2 & point
of order (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)

HOUSE BILLS ON THIRD READING

SS for SCS for HB 1808
(Scott)

(In Budget Control)

SCS for HCS for HBs 1386
& 1086 (Maxwell)
(In Budget Control)

HS for HCS for HJR 61-Van
Zandt, with SCS, SA 1
& SA 7 to SA 1 (pending)
(Quick)

CONSENT CALENDAR

Senate Bills

Reported 2/15

SB 740-Wiggins

House Bills

Reported 4/10

SCS for HB 1604-Graham
(106th) (Johnson)
(In Budget Control)

Reported 4/11

HB 1085-Selby (Stoll)

Reported 4/12

HB 1659-Summers, with
SCS (Maxwell)

HB 1486-Abel, et al (Stoll)
HB 1647-Skaggs (Quick)

HB 1097-Hosmer, with SCS
 (Caskey)
 HB 1428-Hickey, et al,
 with SCAs 1, 2 & 3
 (DePasco)
 HB 1739-Auer, with SCS
 (Jacob)
 HB 1544-Smith (Mueller)

Reported 4/13

HB 1848-Treadway, with SCS (Carter)	HB 1396-Farnen, with SCS (Johnson)
HB 1568-Riback Wilson and Holand, with SCS (Jacob)	HB 1363-Bray, et al (Quick)
HB 1596-Auer (Clay)	HB 1948-Gratz, et al, with SCS (Staples)
HB 1875-Franklin, with SCA 1 (Wiggins)	

SENATE BILLS WITH HOUSE AMENDMENTS

SB 881-Wiggins, with HS
 for HCS, as amended

BILLS IN CONFERENCE AND BILLS
 CARRYING REQUEST MESSAGES

In Conference

HCS for HB 1102, with SCS, as amended (Goode)	HCS for HB 1108, with SCS (Goode)
HCS for HB 1103, with SCS, as amended (Goode)	
HCS for HB 1104, with SCS (Goode)	
HCS for HB 1105, with SCS, as amended (Goode)	
HCS for HB 1106, with SCS, as amended (Goode)	
HCS for HB 1107, with SCS, as amended (Goode)	

HCS for HB 1109, with SCS
(Goode)

HCS for HB 1110, with SCS,
as amended (Goode)

HCS for HB 1111, with SCS,
as amended (Goode)

HCS for HB 1112, with SCS,
as amended (Goode)

HB 1591-Backer, with SCS
(Howard)

HS for HCS for HB 1742-
Koller, with SCS, as
amended (Mathewson)

Unofficial

Requests to Recede or Grant Conference

SS for SB 549-Quick,
et al, with HS for HCS,
as amended
(Senate requests House
recede or grant conference)

SS for SB 813-House, with
HCS, as amended
(Senate requests House
recede or grant conference)

Journal

RESOLUTIONS

SR 1204-Goode
SR 1373-Mathewson

SCR 33-Kinder, et al
SCR 44-Quick

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To be Referred

HCR 29-Graham

Reported from Committee

SCR 34-Bland, et al, with
point of order (pending)

SCR 40-House
(In Budget Control)