

# Journal of the Senate

SECOND REGULAR SESSION

SIXTY-NINTH DAY—MONDAY, MAY 8, 2000

The Senate met pursuant to adjournment.

President Pro Tem Quick in the Chair.

The Reverend Carl Gauck offered the following prayer:

Benjamin Franklin said: "Remember that time is money....waste neither time nor money, but make the best use of both." (July 21, 1748)

Gracious God, help us to feel that our time here is well spent and our years of effort here are not wasted for we have tried to do what you have provided for us to do. Let us be resolved to use every moment this week we have left in some way to further life for Missourians along the path You would have us take. And we pray for Margaret Towson that You may heal her lungs and bring her health once again. This we ask in Your Holy Name. Amen.

The Pledge of Allegiance to the Flag was recited.

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

The Journal of the previous day was read and approved.

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

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

Present—Senators			
Bentley	Bland	Carter	Caskey
Childers	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

Senators Staples and Kinder offered Senate Resolution No. 1744, regarding the Honorable Jim Graham, Fredericktown, which was adopted.

## REPORTS OF STANDING COMMITTEES

Senator Mathewson, Chairman of the Committee on State Budget Control, submitted the following report:

Mr. President: Your Committee on State Budget Control, to which was referred **SCS** for **HB 1396**, begs leave to report that it has considered the same and recommends that the bill do pass.

## HOUSE BILLS ON THIRD READING

Senator Johnson moved that **SCS** for **HB 1396** be called from the Consent Calendar and again taken up.

Senator Wiggins assumed the Chair.

On motion of Senator Johnson, **SCS** for **HB 1396** was read the 3rd time and passed by the following vote:

## YEAS—Senators

Carter	Caskey	Childers	DePasco
Flotron	Goode	House	Howard
Johnson	Kenney	Klarich	Mathewson
Mueller	Quick	Rohrbach	Russell
Schneider	Scott	Sims	Singleton
Staples	Steelman	Stoll	Westfall
Wiggins	Yeckel—26		

## NAYS—Senators—None

## Absent—Senators

Bentley	Bland	Ehlmann	Graves
Jacob	Kinder	Maxwell—7	

Absent with leave—Senator Clay—1

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.

**HB 1443**, with **SCS**, introduced by Representative Koller, entitled:

An Act to repeal section 144.030, RSMo Supp. 1999, relating to sales tax exemptions, and to enact in lieu thereof two new sections for the sole purpose of providing sales tax exemptions for admission fees for hunting and fees for sales of feed and equipment used for production of certain domestically raised pheasants, partridges, quail and ungulates.

Was taken up by Senator Johnson.

**SCS** for **HB 1443**, entitled:

SENATE COMMITTEE SUBSTITUTE FOR  
HOUSE BILL NO. 1443

An Act to repeal sections 144.030 and 144.805, RSMo Supp. 1999, relating to sales tax exemptions, and to enact in lieu thereof four new sections for the purpose of providing sales and use tax.

Was taken up.

Senator Johnson moved that **SCS** for **HB 1443**

be adopted.

Senator Johnson offered **SS** for **SCS** for **HB 1443**, entitled:

SENATE SUBSTITUTE FOR  
SENATE COMMITTEE SUBSTITUTE FOR  
HOUSE BILL NO. 1443

An Act to repeal section 144.030, RSMo Supp. 1999, relating to sales tax exemptions, and to enact in lieu thereof one new section for the sole purpose of providing sales tax exemptions for admission fees for hunting and fees for sales of feed and equipment used for production of certain domestically raised pheasants, partridges, quail and ungulates.

Senator Johnson moved that **SS** for **SCS** for **HB 1443** be adopted.

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

SENATE AMENDMENT NO. 1

Amend Senate Substitute for Senate Committee Substitute for House Bill No. 1443, Page 16, Section 144.030, Lines 19-25, by striking all of said lines.

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

Senator Childers offered **SA 2**:

SENATE AMENDMENT NO. 2

Amend Senate Substitute for Senate Committee Substitute for House Bill No. 1443, Page 16, Section 144.030, Line 25, by adding one new section to read as follows:

**“Section 1. The provisions of section 144.030(19) and (20) notwithstanding, any in-state sales made by or to religious and charitable organizations and institutions, which are located outside the state of Missouri, which in-state sales are made to the organizations and institutions for their religious, charitable or educational functions and activities, shall be exempted from the provisions of sections 144.010 to 144.525 and from the computation of the tax levied, assessed or payable pursuant to sections 144.010 to 144.525 and from the provisions of the local sales tax law as defined in section 32.085, RSMo, section 238.235, RSMo**

**and sections 144.010 to 144.525 and 144.600 to 144.745 and the computation of the tax levied, assessed or payable pursuant to the local sales tax law as defined in sections 32.085, RSMo, section 238.235, and sections 144.010 to 144.525 and 144.600 to 144.745. For purposes of this section, a determination letter from the Internal Revenue Service determining that the religious or charitable organization is recognized as tax exempt under section 501(c)(3) of the Internal Revenue Code from federal income tax shall be sufficient without further proof that sales made by or to the religious or charitable organization are exempt from the provisions of sections 144.010 to 144.525 and the local tax law as defined in section 32.085, RSMo, section 238.235, RSMo and sections 144.010 to 144.525 and 144.600 to 144.745.”; and**

Further amend the title and enacting clause accordingly.

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

Senator Flotron offered SA 3:

#### SENATE AMENDMENT NO. 3

Amend Senate Substitute for Senate Committee Substitute for House Bill No. 1443, page 16, Section 144.030, Line 25, by adding after said line the following:

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

(1) A county, other political subdivision or instrumentality thereof exempt from taxation under subdivision (10) of section 39 of article III of the Constitution of Missouri; or

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

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

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

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

2. When any exempt entity contracts for the purpose of constructing, repairing or remodeling facilities, and purchases of tangible personal property and materials to be incorporated into or consumed in the construction of the project are to be made on a tax-exempt basis, such entity shall furnish to the contractor an exemption certificate authorizing such purchases for the construction, repair or remodeling project. The form and content of such project exemption certificate shall be approved by the director of revenue. The project exemption certificate shall include but not be limited to:

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

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

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

(4) The estimated project completion date; and

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

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

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

5. No contractor or material supplier shall, upon audit, be required to pay tax on tangible personal property and materials incorporated into or consumed in the construction of the project, due

to the failure of the exempt entity to revise the certificate expiration date as necessary to complete any work required by the contract. If it is determined that tax is owed on such property and materials due to the failure of the exempt entity to revise such certificate expiration date, the exempt entity shall be liable for the tax owed.

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

Further amend the Title and Enacting Clause accordingly.

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

Senator Bland offered **SA 4**:

**SENATE AMENDMENT NO. 4**

Amend Senate Substitute for Senate Committee Substitute for House Bill No. 1443, Page 1, In the Title, Lines 3-8, by striking lines 3-8 and inserting in lieu thereof the following: “tax relief, and to enact in lieu thereof two new sections with a referendum clause and an effective date for certain sections”; and

Further amend said bill, Page 1, Section A, Line 3, by inserting after all of said line the following:

“143.171. 1. For all tax years beginning before January 1, 1994, for an individual taxpayer and for all tax years beginning before September 1, 1993, for a corporate taxpayer, the taxpayer shall be allowed a deduction for [his] **such taxpayer's** federal income tax liability [under] **pursuant to**

chapter 1 of the Internal Revenue Code for the same taxable year for which the Missouri return is being filed after reduction for all credits thereon, except the credit for payments of federal estimated tax, the credit for the overpayment of any federal tax, and the credits allowed by the Internal Revenue Code by section 31 (tax withheld on wages), section 27 (tax of foreign country and United States possessions), and section 34 (tax on certain uses of gasoline, special fuels, and lubricating oils).

2. **(1)** For all tax years beginning on or after January 1, 1994, an individual taxpayer shall be allowed a deduction for [his] **such taxpayer's** federal income tax liability [under] **pursuant to** chapter 1 of the Internal Revenue Code for the same taxable year for which the Missouri return is being filed, not to exceed five thousand dollars on a single taxpayer's return or ten thousand dollars on a combined return, after reduction for all credits thereon, except the credit for payments of federal estimated tax, the credit for the overpayment of any federal tax, and the credits allowed by the Internal Revenue Code by section 31 (tax withheld on wages), section 27 (tax of foreign country and United States possessions), and section 34 (tax on certain uses of gasoline, special fuels, and lubricating oils).

**(2)** For all tax years beginning on or after January 1, 2001, an individual taxpayer shall be allowed a deduction for such taxpayer's federal income tax liability pursuant to chapter 1 of the Internal Revenue Code for the same taxable year for which the Missouri return is being filed, not to exceed three thousand dollars on a single taxpayer's return or six thousand dollars on a combined return, after reduction for all credits thereon, except the credit for payments of federal estimated tax, the credit for the overpayment of any federal tax, and the credits allowed by the Internal Revenue Code by section 31 (tax withheld on wages), section 27 (tax of foreign country and United States possessions), and section 34 (tax on certain uses of gasoline, special fuels, and lubricating oils).

3. For all tax years beginning on or after September 1, 1993, a corporate taxpayer shall be allowed a deduction for fifty percent of its federal

income tax liability [under] **pursuant to** chapter 1 of the Internal Revenue Code for the same taxable year for which the Missouri return is being filed after reduction for all credits thereon, except the credit for payments of federal estimated tax, the credit for the overpayment of any federal tax, and the credits allowed by the Internal Revenue Code by section 31 (tax withheld on wages), section 27 (tax of foreign country and United States possessions), and section 34 (tax on certain uses of gasoline, special fuels and lubricating oils).

4. If a federal income tax liability for a tax year prior to the applicability of sections 143.011 to 143.996 for which [he] **the taxpayer** was not previously entitled to a Missouri deduction is later paid or accrued, [he] **such taxpayer** may deduct the federal tax in the later year to the extent it would have been deductible if paid or accrued in the prior year.”; and

Further amend said bill, Page 9, Section 144.030, Line 301, by inserting after all of said line the following:

**“3. As of July 1, 2002, there is further specifically exempted from the provisions of the local sales tax law as defined in section 32.085, RSMo, and from the computation of the tax levied, assessed or payable pursuant to the provisions of sections 144.757 to 144.761, retail sales of food as defined in section 144.014. Any revenue lost by counties and political subdivisions shall be replaced by additional revenue derived from the reduction of the federal income tax deduction pursuant to subdivision (2) of subsection 2 of section 143.171, RSMo, which shall be deemed to be local tax revenue. The state treasurer shall deposit all additional state revenues derived from the reduction of the federal income tax deduction pursuant to subdivision (2) of subsection 2 of section 143.171, RSMo, less two percent for administrative costs, into the “Local Revenue Replacement Trust Fund” which is hereby created. The moneys collected shall be distributed by the director of revenue solely to counties and political subdivisions in the amount necessary to replace the revenue lost by each county and political subdivision as a result**

**of the exemption provided in this subsection; and further, these moneys shall not be subject to appropriation. Any unexpended balance at the end of each biennium shall remain in the fund. The director of revenue is authorized to examine sales tax collection records for every county and political subdivision to estimate the amount of revenue derived by each county and political subdivision from its local sales tax on food and reimburse them for lost revenue accordingly.”; and**

Further amend the title and enacting clause accordingly.

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

Senator Rohrbach offered SA 5, which was read:

**SENATE AMENDMENT NO. 5**

Amend Senate Substitute for Senate Committee Substitute for House Bill No. 1443, Page 16, Section 144.030, Lines 22-25, by deleting all of said lines after the word “conservation” on line 22.

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

Senator Stoll assumed the Chair.

Senator Graves offered SA 6, which was read:

**SENATE AMENDMENT NO. 6**

Amend Senate Substitute for Senate Committee Substitute for House Bill No. 1443, Page 10, Section 144.030, Line 13, by removing after the word “and” the words “one-half of”.

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

Senator DePasco offered SA 7, which was read:

**SENATE AMENDMENT NO. 7**

Amend Senate Substitute for Senate Committee Substitute for House Bill No. 1443, Page 16, Section 144.030, Line 25, by inserting the following:

**“(39) All sales of coffins, caskets, burial cases and burial vaults of less than five thousand dollars.”.**

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

President Wilson assumed the Chair.

Senator Maxwell offered SA 8:

**SENATE AMENDMENT NO. 8**

Amend Senate Substitute for Senate Committee Substitute for House Bill No. 1443, Page 1, Section A, Line 3 of said page, by inserting after all of said line the following:

**“135.760. 1. For all taxable years beginning on or after January 1, 2001, a resident individual who is allowed a federal earned income tax credit pursuant to section 32 of the Internal Revenue Code shall be allowed a credit against the tax otherwise due pursuant to chapter 143, RSMo, not including sections 143.191 to 143.265, RSMo, in an amount equal to two and one-half percent of the allowable federal earned income tax credit. The tax credit allowed by this section shall be claimed by such individual at the time such individual files a return and shall be applied against the income tax liability imposed by chapter 143, RSMo. Where the amount of the credit exceeds the tax liability, the difference shall be refunded to the taxpayer or carried forward into any subsequent taxable year.**

**2. The director of the department of revenue shall promulgate rules and regulations to administer the provisions of this section. 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.**

**3. Notwithstanding the provision of subsection 4 of section 32.057, RSMo, the department of revenue or any duly authorized employee or agent shall determine whether any taxpayer filing a report or return with the department of revenue who has not applied for the credit allowed pursuant to subsection 1 of this section may qualify for the credit, and shall notify any qualified claimant of his or her**

potential eligibility, where the department determines such potential eligibility exists.

4. Any tax credit allowed pursuant to this section shall be excluded from the calculation of Missouri adjusted gross income, as defined in section 143.121, RSMo.”; and

Further amend the title and enacting clause accordingly; and

Further amend said bill, page 1, in the title, lines 4-8, by striking all of said lines and inserting in lieu thereof “new section relating to the same subject”; and

Further amend said bill, page 1, in the title, line 3, by striking “sales tax exemptions” and inserting in lieu thereof “taxation”.

Senator Maxwell moved that the above amendment be adopted.

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

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

SA 8 was again taken up.

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

Senator Flotron offered SA 9:

SENATE AMENDMENT NO. 9

Amend Senate Substitute for Senate Committee Substitute for House Bill No. 1443, Page 16, Section 144.030, Line 25 of said page, by inserting after all of said section the following:

“144.815. In addition to the exemptions granted pursuant to the provisions of section 144.030, there shall also be specifically exempted from the provisions of sections 66.600 to 66.635, RSMo, sections 67.500 to 67.545, 67.547, 67.581, 67.582, 67.671 to 67.685, 67.700 to 67.729, 67.730 to 67.739, 67.782, RSMo, sections 92.400 to 92.420, RSMo, sections 94.500 to 94.570, 94.600 to 94.655, 94.700 to 94.755, RSMo, and sections 144.010 to 144.510 and 144.600 to 144.745, and from the computation of the tax levied, assessed or payable pursuant to sections 66.600 to 66.635,

RSMo, sections 67.500 to 67.545, 67.547, 67.581, 67.582, 67.671 to 67.685, 67.700 to 67.729, 67.730 to 67.739, 67.782, RSMo, sections 92.400 to 92.420, RSMo, sections 94.500 to 94.570, 94.600 to 94.655, 94.700 to 94.755, RSMo, and sections 144.010 to 144.510 and 144.600 to 144.745, purchases of bullion and investment coins. For purposes of this section the following terms shall mean:

(1) “Bullion”, gold, silver, platinum or palladium in a bulk state, where its value depends on its content rather than its form, with a purity of not less than nine hundred parts per one thousand; and

(2) “Investment coins”, numismatic coins or other forms of money and legal tender manufactured of gold, silver, platinum, palladium or metals with a fair market value greater than the face value of the coins.”; and

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

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

Senator Klarich offered SA 10:

SENATE AMENDMENT NO. 10

Amend Senate Substitute for Senate Committee Substitute for House Bill No. 1443, Page 16, Section 144.030, Line 25, by inserting after all of said line the following:

“139.031. 1. Any taxpayer may protest all or any part of any taxes assessed against [him] such taxpayer, except taxes collected by the director of revenue of Missouri. Any such taxpayer desiring to pay any taxes under protest shall, at the time of paying such taxes, file with the collector a written statement setting forth the grounds on which [his] such taxpayer's protest is based. The statement shall include the true value in money claimed by the taxpayer if disputed.

2. Upon receiving payment of taxes under protest pursuant to subsection 1 of this section or upon receiving notice of an appeal pursuant to section 138.430, RSMo, the collector shall disburse to the proper official all portions of taxes not disputed by the taxpayer and shall impound in a

separate fund all portions of such taxes which are in dispute. Except as provided in subsection 3 of this section, every taxpayer protesting the payment of taxes shall, within ninety days after filing [his] **such taxpayer's** protest, commence an action against the collector by filing a petition for the recovery of the amount protested in the circuit court of the county in which the collector maintains [his] **an** office. If any taxpayer so protesting [his] **such taxpayer's** taxes shall fail to commence an action in the circuit court for the recovery of the taxes protested within the time prescribed in this subsection, such protest shall become null and void and of no effect, and the collector shall then disburse to the proper official the taxes impounded, and any interest earned thereon, as provided above in this subsection.

3. No action against the collector shall be commenced by any taxpayer who has, for the tax year in issue, filed with the state tax commission a timely and proper appeal of the protested taxes. Such taxpayer shall notify the collector of the appeal in the written statement required by subsection 1 of this section. The taxes so protested shall be impounded in a separate fund and the commission may order all or any part of such taxes refunded to the taxpayer, or may authorize the collector to release and disburse all or any part of such taxes in its decision and order issued pursuant to chapter 138, RSMo.

4. Trial of the action in the circuit court shall be in the manner prescribed for nonjury civil proceedings, and, after determination of the issues, the court shall make such orders as may be just and equitable to refund to the taxpayer all or any part of the taxes paid under protest, together with any interest earned thereon, or to authorize the collector to release and disburse all or any part of the impounded taxes, and any interest earned thereon, to the appropriate officials of the taxing authorities. Either party to the proceedings may appeal the determination of the circuit court.

5. All the county collectors of taxes, and the collector of taxes in any city not within a county, shall, upon written application of a taxpayer, [refund any real or tangible personal property tax mistakenly or erroneously paid in whole or in part

to the collector, or shall] credit against the taxpayer's tax liability in the following taxable year **and subsequent consecutive taxable years until the credit is fully used** any real or personal property tax mistakenly or erroneously levied against the taxpayer and collected in whole or in part by the collector, **or, if the taxpayer has no tax liability to such collector in the immediately following taxable year, refund any balance remaining on real or tangible personal property tax mistakenly or erroneously paid in whole or in part to the collector.** Such application shall be filed within [one year] **three years** after the tax is mistakenly or erroneously paid. The governing body, or other appropriate body or official of the county or city not within a county, shall make available to the collector funds necessary to make refunds [under] **pursuant to** this subsection by issuing warrants **pro rata in the amount credited to each political subdivision** upon the fund to which the mistaken or erroneous payment has been credited, or otherwise.

6. [No] A taxpayer shall receive any interest **at the rate required by section 32.065, RSMo,** on any money paid in by [him] **such taxpayer** erroneously.

7. All protested taxes shall be invested by the collector in the same manner as assets specified in section 30.260, RSMo, for investment of state moneys. A taxpayer who is entitled to a refund of protested taxes shall also receive the interest earned on the investment thereof. If the collector is ordered to release and disburse all or part of the taxes paid under protest to the proper official, such taxes shall be disbursed along with the proportional amount of interest earned on the investment of the taxes due the particular taxing authority.

8. On or before March first next following the delinquent date of taxes paid under protest, the county collector shall notify any taxing authority of the taxes paid under protest which would be received by such taxing authority if the funds were not the subject of a protest. Any taxing authority may apply to the circuit court of the county or city not within a county in which a collector has impounded protested taxes [under] **pursuant to** this section and, upon a satisfactory showing that



such taxing authority would receive such impounded tax funds if they were not the subject of a protest and that such taxing authority has the financial ability and legal capacity to repay such impounded tax funds in the event a decision ordering a refund to the taxpayer is subsequently made, the circuit court shall order, *pendente lite*, the disbursal of all or any part of such impounded tax funds to such taxing authority. The circuit court issuing an order [under] **pursuant to** this subsection shall retain jurisdiction of such matter for further proceedings, if any, to compel restitution of such tax funds to the taxpayer. In the event that any protested tax funds refunded to a taxpayer were disbursed to a taxing authority [under] **pursuant to** this subsection instead of being held and invested by the collector [under] **pursuant to** subsection 7 of this section, such taxing authority shall pay the taxpayer entitled to the refund of such protested taxes the same amount of interest, as determined by the circuit court having jurisdiction in the matter, such protested taxes would have earned if they had been held and invested by the collector.

9. No appeal filed shall stay any order of refund, but the decision filed by any court of last review modifying the circuit court's or state tax commission's determination pertaining to the amount of refund shall be binding on the parties, and the decision rendered shall be complied with by the party affected by any modification within ninety days of the date of such decision. No taxpayer shall receive any interest on any additional award of refund, and the collector shall not receive any interest on any ordered return of refund in whole or in part.”; and

Further amend the title and enacting clause accordingly.

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

Senator Klarich offered **SA 11**:

**SENATE AMENDMENT NO. 11**

Amend Senate Substitute for Senate Committee Substitute for House Bill No. 1443, Page 16, Section 144.030, Line 25, by inserting immediately after said line the following:

“149.015. 1. A tax shall be levied upon the sale of cigarettes at an amount equal to eight and one-half mills per cigarette, until such time as the general assembly appropriates an amount equal to twenty-five percent of the net federal reimbursement allowance to the health initiatives fund, then the tax shall be six and one-half mills per cigarette beginning July first of the fiscal year immediately after such appropriation. As used in this section, “net federal reimbursement allowance” shall mean that amount of the federal reimbursement allowance in excess of the amount of state matching funds necessary for the state to make payments required by subsection 1 of section 208.471, RSMo, or, if the payments exceed the amount so required, the actual payments made for the purposes specified in subsection 1 of section 208.471, RSMo.

2. The tax shall be evidenced by stamps which shall be furnished by and purchased from the director or by an impression of the tax by the use of a metering machine when authorized by the director as provided in this chapter, and the stamps or impression shall be securely affixed to one end of each package in which cigarettes are contained. All cigarettes must be stamped before being sold in this state.

3. Cigarette tax stamps shall be purchased only from the director. All stamps shall be purchased by the director in proper denominations, shall contain such appropriate wording as the director may prescribe, and shall be of such design, character, color combinations, color changes, sizes and material as the director may, by [his] rules and regulations, determine to afford the greatest security to the state. It shall be the duty of the director to manufacture or contract for revenue stamps required by this chapter; provided that if the stamps are contracted for, the manufacturer thereof shall be within the jurisdiction of the criminal and civil courts of this state, unless the stamps cannot be obtained in this state at a fair price or of acceptable quality. If stamps are manufactured outside of the state, the director shall take any precautions which he deems necessary to safeguard the state against forgery and misdelivery of any stamps. The director may require of the manufacturer from whom stamps are purchased a

bond in an amount to be determined by him commensurate with the monetary value of the stamps, containing such conditions as he may deem necessary in order to protect the state against loss.

4. It shall be the intent of this chapter that the impact of the tax levied hereunder be absorbed by the consumer or user and when the tax is paid by any other person, the payment shall be considered as an advance payment and shall thereafter be added to the price of the cigarettes and recovered from the ultimate consumer or user with the person first selling the cigarettes acting as an agent of the state for the payment and collection of the tax to the state, except that in furtherance of the intent of this chapter no refund of any tax collected and remitted by a retailer upon gross receipts from a sale of cigarettes subject to tax [under] **pursuant to this chapter shall be claimed [under] pursuant to chapter 144, RSMo, for any amount illegally or erroneously overcharged or overcollected as a result of imposition of sales tax by the retailer upon amounts representing the tax imposed [under] pursuant to this chapter and any such tax shall either be refunded to the person who paid such tax or paid to the director. The director may assess any retailer for any tax illegally or erroneously overcharged or overcollected unless such tax has been refunded to the person who paid such tax.**

5. In making sales of cigarettes in the state, a wholesaler shall keep a record of the amount of tax on his gross sales. The tax shall be evidenced by appropriate stamps attached to each package of cigarettes sold, **provided however, that no such stamp need be attached to a package of cigarettes transported in the state between wholesalers unless and until such package is sold to a retailer or consumer.**

6. The tax on any cigarettes contained in packages of four, ten, twenty or similar quantities to be used solely for distribution as samples shall be computed on a per cigarette basis at the rate set forth in this section, and payment of the tax shall be remitted to the director at such time and in such manner as he may prescribe.

7. The revenue generated by the additional two mills tax imposed effective August 13, 1982, less

any three percent reduction allowed [under] **pursuant to** the provisions of section 149.021, shall be placed in a separate fund entitled “The Fair Share Fund”. Such moneys in the fair share fund shall be distributed to the schools in this state on an average daily attendance basis, except as provided in section 163.031, RSMo.

8. The revenue generated by the additional two mills tax imposed effective October 1, 1993, less any three percent reduction allowed [under] **pursuant to** the provisions of section 149.021, shall be deposited in the health initiatives fund created in section 191.831, RSMo. When the general assembly appropriates an amount equal to twenty-five percent of the net federal reimbursement allowance to the health initiatives fund, this subsection shall expire. The additional two mills tax levied [under] **pursuant to** this section shall not apply to an amount of stamped cigarettes in the possession of licensed wholesalers on October 1, 1993, up to thirty-five percent of the total cigarette sales made by such licensed wholesaler during the six months immediately preceding October 1, 1993.”; and

Further amend the title and enacting clause accordingly.

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

Senator Westfall offered SA 12:

#### SENATE AMENDMENT NO. 12

Amend Senate Substitute for Senate Committee Substitute for House Bill No. 1443, Page 1, In the Title, Lines 2-3, by striking the words 4-8, by striking all of said lines and inserting in lieu thereof the words “and to enact two new sections relating to the same subject”; and

Further amend said bill, Page 1, Section A, Line 3, by inserting after all of said line the following:

**“135.918. This section shall be known and may be cited as the “Missouri Agricultural Investment Tax Credit Act”. For tax years beginning on or after January 1, 2000, but before December 31, 2004, an individual taxpayer who qualifies as a farmer pursuant to**

**Section 6654(i)(2) of Title 26 of the Internal Revenue Code or a corporate taxpayer who qualifies as a farming corporation pursuant to chapter 350, RSMo, shall be allowed to claim a nonrefundable credit against the tax otherwise due pursuant to chapter 143, RSMo, excluding sections 143.191 to 143.265, RSMo, and related provisions, in an amount equal to ten percent of the cost of any item which is allowable as an expensing election pursuant to Section 179 of the Internal Revenue Code for the same tax year. The tax credit allowed pursuant to this section shall not exceed five hundred dollars. An eligible taxpayer shall claim the credit allowed by this section at the time such taxpayer files a return; provided that, a taxpayer who fails to timely file such taxpayer's return, including extensions, shall not be eligible for a credit pursuant to this section. Any amount of credit that exceeds the tax due for a taxpayer's tax year may be carried back to any of the taxpayer's three prior tax years or carried forward to any of the taxpayer's five subsequent tax years. The department of revenue is authorized to adopt any rules or regulations deemed necessary for the effective administration of this section. 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.”; and**

Further amend the title and enacting clause accordingly.

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

Senator Yeckel offered SA 13:

**SENATE AMENDMENT NO. 13**

Amend Senate Substitute for Senate Committee Substitute for House Bill No. 1443, Page 1, In the Title, Line 3 of said page, by striking “sales tax exemptions”; and inserting in lieu thereof the following: “taxation,”; and further amend line 3, by striking the word “one”; and further amend lines 4-8, by striking said lines and inserting in lieu thereof the following: “three new sections relating to the same subject.”; and

Further amend said bill, Page 1, Section A, Line 3 of said page, by inserting immediately after said line the following:

“135.545. [A] **The director of the department of economic development may authorize a taxpayer [shall be allowed] to receive a credit for taxes paid pursuant to chapter 143, 147 or 148, RSMo, exclusive of the provisions relating to the withholding of tax as provided in sections 143.191 to 143.265, RSMo, in an amount equal to up to fifty percent of a contribution to qualified [investment in] transportation development [for] projects, which can include aviation, mass transportation, including parking facilities for users of mass transportation, railroads, ports, including parking facilities and limited access roads within ports, waterborne transportation, bicycle and pedestrian paths, or rolling stock located in a distressed community as defined in section 135.530, and which are part of a development plan approved by the appropriate local agency. General purpose streets and roads are not eligible transportation development projects under this program.** If the department of economic development determines [the investment has been so approved] **that a project is eligible under this section,** the department [shall] **may** grant [the] tax [credit in order of date received] **credits to qualified taxpayers contributing to eligible projects. Not-for-profit entities, public entities or the public at large shall be the beneficiaries of projects under this program. Not-for-profit entities, including but not limited to, corporations organized pursuant to chapter 355, RSMo, shall be ineligible to be direct recipients of the tax credits authorized pursuant to this section.** A taxpayer may carry forward any unused tax credit for up to [ten] **five** years and may carry it back for the previous three years until such credit has been fully claimed. Certificates of tax credit issued in accordance with this section may be transferred, sold or assigned by **filing a notarized endorsement thereof with the department of economic development** which names the transferee **and the amount of tax credits transferred.** The tax credits allowed pursuant to this section shall be for an amount of no more than [ten] **eight** million dollars for each year. [This

credit shall apply to returns filed for all taxable years beginning on or after January 1, 1999.] Any unused portion of the tax credit authorized pursuant to this section shall be available for use in the future by those entities until fully claimed.

**135.630. 1. As used in this section, the following terms shall mean:**

(1) “Contribution”, a donation of cash, stock, bonds or other marketable securities;

(2) “Director”, the director of the department of social services;

(3) “State tax liability”, in the case of a business taxpayer, any liability incurred by such taxpayer pursuant to the provisions of chapters 143, 147, 148 and 153, RSMo, exclusive of the provisions relating to the withholding of tax as provided for in sections 143.191 to 143.265, RSMo, and related provisions, and in the case of an individual taxpayer, any liability incurred by such taxpayer pursuant to the provisions of chapter 143, RSMo;

(4) “Taxpayer”, a person, firm, a partner in a firm, corporation or a shareholder in an S corporation doing business in the state of Missouri and subject to the state income tax imposed by the provisions of chapter 143, RSMo, or a corporation subject to the annual corporation franchise tax imposed by the provisions of chapter 147, RSMo, or an insurance company paying an annual tax on its gross premium receipts in this state, or other financial institution paying taxes to the state of Missouri or any political subdivision of this state pursuant to the provisions of chapter 148, RSMo, or an express company which pays an annual tax on its gross receipts in this state pursuant to chapter 153, RSMo, or an individual subject to the state income tax imposed by the provisions of chapter 143, RSMo;

(5) “Unplanned pregnancy resource center”, a nonresidential facility located in this state:

(a) Established and operating primarily to provide assistance to women with crisis pregnancies or unplanned pregnancies by offering pregnancy testing, counseling,

**emotional and material support, and other similar services to encourage and assist such women in carrying their pregnancies to term; and**

**(b) Where childbirths are not performed; and**

**(c) Which does not perform or refer for abortions and which does not hold itself out as performing or referring for abortions; and**

**(d) Which provides direct client services at the facility, as opposed to merely providing counseling or referral services by telephone; and**

**(e) Which provides its services at no cost; and**

**(f) Which is exempt from income taxation pursuant to the United States Internal Revenue Code.**

**2. A taxpayer shall be allowed to claim a tax credit against the taxpayer's state tax liability, in an amount equal to fifty percent of the amount such taxpayer contributed to an unplanned pregnancy resource center.**

**3. The amount of the tax credit claimed shall not exceed the amount of the taxpayer's state tax liability for the taxable year that the credit is claimed, and such taxpayer shall not be allowed to claim a tax credit in excess of fifty thousand dollars per taxable year. However, any tax credit that cannot be claimed in the taxable year the contribution was made may be carried over to the next four succeeding taxable years until the full credit has been claimed.**

**4. Except for any excess credit which is carried over pursuant to subsection 3 of this section, a taxpayer shall not be allowed to claim a tax credit unless the total amount of such taxpayer's contribution or contributions to an unplanned pregnancy resource center or centers in such taxpayer's taxable year has a value of at least one hundred dollars.**

**5. The director shall determine, at least annually, which facilities in this state may be classified as unplanned pregnancy resource centers. The director may require of a facility seeking to be classified as an unplanned**

pregnancy resource center whatever information which is reasonably necessary to make such a determination. The director shall classify a facility as an unplanned pregnancy resource center if such facility meets the definition set forth in subsection 1 of this section.

6. The director shall establish a procedure by which a taxpayer can determine if a facility has been classified as an unplanned pregnancy resource center. Unplanned pregnancy resource centers shall be permitted to decline a contribution from a taxpayer. The cumulative amount of tax credits which may be claimed by all the taxpayers contributing to unplanned pregnancy resource centers in any one fiscal year shall not exceed two million dollars.

7. The director shall establish a procedure by which, from the beginning of the fiscal year until some point in time later in the fiscal year to be determined by the director, the cumulative amount of tax credits are equally apportioned among all facilities classified as unplanned pregnancy resource centers. If an unplanned pregnancy resource center fails to use all, or some percentage to be determined by the director, of its apportioned tax credits during this predetermined period of time, the director may reapportion these unused tax credits to those unplanned pregnancy resource centers that have used all, or some percentage to be determined by the director, of their apportioned tax credits during this predetermined period of time. The director may establish more than one period of time and reapportion more than once during each fiscal year. To the maximum extent possible, the director shall establish the procedure described in this subsection in such a manner as to ensure that taxpayers can claim all the tax credits possible up to the cumulative amount of tax credits available for the fiscal year.

8. Each unplanned pregnancy resource center shall provide information to the director concerning the identity of each taxpayer making a contribution to the unplanned pregnancy resource center and the amount of the

contribution. The director shall provide the information to the director of the department of revenue.

9. This section shall become effective January 1, 2001, and shall apply to all tax years after December 31, 2000.”; and

Further amend the title and enacting clause accordingly.

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

Senator Scott offered SA 14:

SENATE AMENDMENT NO. 14

Amend Senate Substitute for Senate Committee Substitute for House Bill No. 1443, Page 16, Section 144.030, Line 25, by striking all of said lines and inserting in lieu thereof the following:

“144.805. 1. In addition to the exemptions granted pursuant to the provisions of section 144.030, there shall also be specifically exempted from the provisions of sections 144.010 to 144.525, sections 144.600 to 144.748, and section 238.235, RSMo, and the provisions of any local sales tax law, as defined in section 32.085, RSMo, and from the computation of the tax levied, assessed or payable pursuant to sections 144.010 to 144.525, sections 144.600 to 144.748, and section 238.235, RSMo, and the provisions of any local sales tax law, as defined in section 32.085, RSMo[.];

(a) All sales of aviation jet fuel in a given calendar year to common carriers engaged in the interstate air transportation of passengers and cargo, and the storage, use and consumption of such aviation jet fuel by such common carriers, if such common carrier has first paid to the state of Missouri, in accordance with the provisions of this chapter, state sales and use taxes pursuant to the foregoing provisions and applicable to the purchase, storage, use or consumption of such aviation jet fuel in a maximum and aggregate amount of one million five hundred thousand dollars of state sales and use taxes in such calendar year and shall be exempt from taxation on the first one million dollars of sales tax or purchases other than aviation jet fuel; and

**(b) Any common carrier engaged in the interstate air transportation of passengers and cargo which has a national corporate headquarters located in this state and uses as a hub for its operations an airport located within this state, and either purchases, stores, uses or consumes within this state less than three million gallons of aviation jet fuel per month on average throughout the calendar year shall be exempt from taxation on the first one hundred fifty thousand dollars on the purchase of aviation jet fuel.**

2. To qualify for the exemption prescribed in subsection 1 of this section, the common carrier shall furnish to the seller a certificate in writing to the effect that an exemption pursuant to this section is applicable [to the aviation jet fuel so purchased, stored, used and consumed]. The director of revenue shall permit any such common carrier to enter into a direct-pay agreement with the department of revenue, pursuant to which such common carrier may pay directly to the department of revenue any applicable sales and use taxes on such aviation jet fuel up to the maximum aggregate amount of one million five hundred thousand dollars in each calendar year, **or up to the maximum aggregate amount of one hundred fifty thousand dollars in each calendar year, whichever is applicable.** The director of revenue shall adopt appropriate rules and regulations to implement the provisions of this section, and to permit appropriate claims for refunds of any excess sales and use taxes collected in calendar year 1993 or any subsequent year with respect to any such common carrier and aviation jet fuel.

3. The provisions of this section shall apply to all purchases and deliveries of aviation jet fuel from and after May 10, 1993.

4. [Effective September 1, 1998, all sales and use tax revenues upon aviation jet fuel received pursuant to this chapter, less the amounts specifically designated pursuant to the constitution or pursuant to section 144.701, for other purposes, shall be deposited to the credit of the aviation trust fund established pursuant to section 305.230, RSMo; provided however, the amount of such state sales and use tax revenues deposited to the credit of

such aviation trust fund shall not exceed five million dollars in each calendar year.

5.] The provisions of this section and section 144.807 shall expire on December 31, [2003] **2004.**

155.080. 1. There is hereby imposed a use tax on each gallon of aviation fuel used in propelling aircraft with reciprocating engines. The tax is imposed at the rate of nine cents per gallon. Such tax is to be collected and remitted to this state or paid to this state in the same manner and method and at the same time as is prescribed by chapter 142, RSMo, for the collection of the motor fuel tax imposed on each gallon of motor fuel used in propelling motor vehicles upon the public highways of Missouri.

2. All applicable provisions contained in chapter 142, RSMo, governing administration, collection and enforcement of the state motor fuel tax shall apply to this section, including but not limited to reporting, penalties and interest.

3. Each commercial agricultural aircraft operator may apply for a refund of the tax it has paid for aviation fuel used in a commercial agricultural aircraft. All such applications for refunds shall be made in accordance with the procedures specified in chapter 142, RSMo, for refunds of motor fuel taxes paid. If any person who is eligible to receive a refund of aviation fuel tax fails to apply for a refund as provided in chapter 142, RSMo, he makes a gift of his refund to the aviation trust fund.

**4. Effective from September 1, 1998 until December 31, 2006, all sales and use tax revenues upon aviation jet fuel received pursuant to chapter 144, RSMo, less the amounts specifically designated pursuant to the constitution or pursuant to section 144.701, RSMo, for other purposes, shall be deposited to the credit of the aviation trust fund established pursuant to section 305.230, RSMo; provided however, the amount of such state sales and use tax revenues deposited to the credit of such aviation trust fund shall not exceed five million dollars in each calendar year.**

305.230. 1. The state highways and transportation commission shall administer an

aeronautics program within this state. The state commission shall encourage, foster and participate with the political subdivisions of this state in the promotion and development of aeronautics. The state commission may provide financial assistance in the form of grants from funds appropriated for such purpose to any political subdivision or instrumentality of this state acting independently or jointly or to the owner or owners of any privately owned airport designated as a reliever by the Federal Aviation Administration for the planning, acquisition, construction, improvement or maintenance of airports, or for other aeronautical purposes.

2. Any political subdivision or instrumentality of this state or the owner or owners of any privately owned airport designated as a reliever by the Federal Aviation Administration receiving state funds for the purchase, construction, or improvement, except maintenance, of an airport shall agree before any funds are paid to it to control by ownership or lease the airport for a period equal to the useful life of the project as determined by the state commission following the last payment of state or federal funds to it. In the event an airport authority ceases to exist for any reason, this obligation shall be carried out by the governing body which created the authority.

3. Unless otherwise provided, grants to political subdivisions, instrumentalities or to the owner or owners of any privately owned airport designated as a reliever by the Federal Aviation Administration shall be made from the aviation trust fund. In making grants, the commission shall consider whether the local community has given financial support to the airport in the past. Priority shall be given to airports with local funding for the past five years with no reduction in such funding. The aviation trust fund is a revolving trust fund exempt from the provisions of section 33.080, RSMo, relating to the transfer of funds to the general revenue funds of the state by the state treasurer. All interest earned upon the balance in the aviation trust fund shall be deposited to the credit of the same fund.

4. The moneys in the aviation trust fund shall be administered by the state commission and, when

appropriated, shall be used for the following purposes:

(1) As matching funds on an up to [eighty] **ninety** percent state/[twenty] **ten** percent local basis, except in the case where federal funds are being matched, when the ratio of state and local funds used to match the federal funds shall be fifty percent state/fifty percent local:

(a) For preventive maintenance of runways, taxiways and aircraft parking areas, and for emergency repairs of the same;

(b) For the acquisition of land for the development and improvement of airports;

(c) For the earthwork and drainage necessary for the construction, reconstruction or repair of runways, taxiways, and aircraft parking areas;

(d) For the construction, or restoration of runways, taxiways, or aircraft parking areas;

(e) For the acquisition of land or easements necessary to satisfy Federal Aviation Administration safety requirements;

(f) For the identification, marking or removal of natural or manmade obstructions to airport control zone surfaces and safety areas;

(g) For the installation of runway, taxiway, boundary, ramp, or obstruction lights, together with any work directly related to the electrical equipment;

(h) For the erection of fencing on or around the perimeter of an airport;

(i) For purchase, installation or repair of air navigational and landing aid facilities and communication equipment;

(j) For engineering related to a project funded under the provisions of this section and technical studies or consultation related to aeronautics;

(k) For airport planning projects including master plans and site selection for development of new airports, for updating or establishing master plans and airport layout plans at existing airports;

(l) For the purchase, installation, or repair of safety equipment and such other capital improvements and equipment as may be required

for the safe and efficient operation of the airport;

(2) As total funds, with no local match:

(a) For providing air markers, windsocks, and other items determined to be in the interest of the safety of the general flying public;

(b) For the printing and distribution of state aeronautical charts and state airport directories on an annual basis, and a newsletter on a quarterly basis or the publishing and distribution of any public interest information deemed necessary by the state commission;

(c) For the conducting of aviation safety workshops;

(d) For the promotion of aerospace education;

(3) As total funds with no local match, up to five hundred thousand dollars per year may be used for the cost of operating existing air traffic control towers that do not receive funding from the Federal Aviation Administration or the Department of Defense, except no more than one hundred twenty-five thousand dollars per year may be used for any individual control tower.

5. In the event of a natural or manmade disaster which closes any runway or renders inoperative any electronic or visual landing aid at an airport, any funds appropriated for the purpose of capital improvements or maintenance of airports may be made immediately available for necessary repairs once they are approved by the Missouri department of transportation. For projects designated as emergencies by the Missouri department of transportation, all requirements relating to normal procurement of engineering and construction services are waived.

6. As used in this section, the term “instrumentality of the state” shall mean any state educational institution as defined in section 176.010, RSMo, or any state agency which owned or operated an airport on January 1, 1997, and continues to own or operate such airport.”; and

Further amend the title and enacting clause accordingly.

Senator Scott moved that the above amendment be adopted.

Senator Graves offered SA 1 to SA 14:

SENATE AMENDMENT NO. 1 TO  
SENATE AMENDMENT NO. 14

Amend Senate Amendment No. 14 to Senate Substitute for Senate Committee Substitute for House Bill No. 1443, Page 2, Line 6, by inserting after “year and” the following: “, **except as provided in subsection 4 of Section 155.080,**”; and

Further amend said amendment, Page 2, Line 14, by inserting after the word “shall” the following: “, **except as provided in subsection 4 of section 155.080,**”; and

Further amend said amendment, Page 4, Section 155.080, Line 19, by striking “2006” and inserting in lieu thereof “**2008**”; and

Further amend said amendment, Section and Page, Line 26, by striking “exceed five” and insert in lieu thereof the following: “**be less than that credited in fiscal year 2001 and shall not exceed six**”.

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

SA 14, as amended, was again taken up.

Senator Ehlmann offered SA 2 to SA 14:

SENATE AMENDMENT NO. 2 TO  
SENATE AMENDMENT NO. 14

Amend Senate Amendment No. 14 to Senate Substitute for Senate Committee Substitute for House Bill No. 1443, Page 9, Section 144.805, Line 5, by inserting immediately after said line the following:

**“305.215. 1. It shall be unlawful for the state or any county, municipality, airport authority, district, or other political subdivision to levy or collect a tax, fee, head charge, or other charge, directly or indirectly, on:**

**(1) Persons traveling in air commerce, whether on regularly scheduled commercial airlines, chartered air flights, or in privately owned civil aircraft;**

**(2) The carriage of persons traveling in air commerce; or**

**(3) The sale of air transportation or on the**



**gross receipts derived from air transportation.**

**2. This section shall not be construed to prohibit the state or any county, municipality, airport authority, district, or other political subdivision:**

**(1) From levying or collecting any property, income, franchise, sale, use, or other tax otherwise authorized by law; or**

**(2) Which owns or operates an airport from levying or collecting reasonable rental charges, landing fees, license fees, permit fees, and other service charges for the use of airport facilities and related facilities from aircraft owners, operators, persons selling or providing goods or services to the owners or operators or to the public, and others, when otherwise allowed by law. Such fees, however, shall not result in an airline payment exceeding eight dollars per enplaned passenger. Any fee exceeding eight dollars per enplaned passenger shall be refunded. This provision shall expire on January 1, 2006.”; and**

Further amend the title and enacting clause accordingly.

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

**SA 2 to SA 14 failed of adoption by the following vote:**

YEAS—Senators

Childers	Ehlmann	Flotron	Graves
Kinder	Klarich	Rohrbach	Singleton
Steelman	Westfall—10		

NAYS—Senators

Bentley	Bland	Carter	Caskey
Clay	DePasco	Goode	House
Howard	Jacob	Johnson	Kenney
Mathewson	Maxwell	Quick	Russell
Scott	Sims	Stoll	Wiggins
Yeckel—21			

Absent—Senators

Mueller	Schneider	Staples—3
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Absent with leave—Senators—None

**SA 14**, as amended, was again taken up.

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

Senator Quick offered **SA 15**:

SENATE AMENDMENT NO. 15

Amend Senate Substitute for Senate Committee Substitute for House Bill No. 1443, Page 16, Section 144.030, Line 25, by inserting after all of said line the following:

**“144.819. In addition to the exemptions granted pursuant to the provisions of section 144.030, RSMo, there shall also be specifically exempted from the provisions of sections 66.600 to 66.635, RSMo, sections 67.391 to 67.395, 67.500 to 67.545, 67.547, 67.581, 67.582, 67.671 to 67.685, 67.700 to 67.729, 67.730 to 67.739, 67.782, RSMo, sections 70.500 to 70.510, RSMo, sections 92.400 to 92.420, RSMo, sections 94.500 to 94.550, 94.577, 94.600 to 94.660, 94.700 to 94.755, 94.850 to 94.857, 94.890, RSMo, sections 144.010 to 144.525, 144.600 to 144.809, RSMo, sections 190.335 to 190.337, RSMo, and section 238.235, RSMo, and sections 644.032 to 644.033, RSMo, and from the computation of the tax levied, assessed or payable pursuant to sections 66.600 to 66.635, RSMo, sections 67.391 to 67.395, 67.500 to 67.545, 67.547, 67.581, 67.582, 67.671 to 67.685, 67.700 to 67.729, 67.730 to 67.739, 67.782, RSMo, sections 70.500 to 70.510, RSMo, sections 92.400 to 92.420, RSMo, sections 94.500 to 94.550, 94.577, 94.600 to 94.660, 94.700 to 94.755, 94.850 to 94.857, 94.890, RSMo, sections 144.010 to 144.525, sections 190.335 to 190.337, RSMo, section 238.235, RSMo, and sections 644.032 to 644.033, RSMo, and 144.600 to 144.809, RSMo, all services, materials and supplies used directly in the production of all printed material by firms classified in the 1987 standard industry code classification group 27, except 279 (or their equivalents in the 1997 North American industry classification system), which is intended to be sold ultimately for final use or consumption including, but not limited to, image output, photoprocessing chemicals, photosensitive paper, film and negatives.”; and**

Further amend the title and enacting clause accordingly.

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

Senator Jacob offered **SA 16**:

**SENATE AMENDMENT NO. 16**

Amend Senate Substitute for Senate Committee Substitute for House Bill No. 1443, Page 16, Section 144.030, Line 25, by inserting after all of said line the following:

**“144.049. 1. There is hereby specifically exempted from the provisions of the state sales and use tax law in sections 144.010 to 144.811, and the local sales and use tax law as defined in section 32.085, RSMo, section 238.235, RSMo, and sections 144.010 to 144.811, and from the computation of the tax levied, assessed or payable pursuant to both state and local sales and use tax law, all retail sales of any article of clothing having a taxable value of one hundred dollars or less during the period beginning 12:01 a.m. on the Thursday next following the effective date of this act through midnight on the Sunday next following the effective date of this act. For purposes of this section, the term “clothing” means any article of wearing apparel, including footwear, intended to be worn on or about the human body. The term shall not include watches, watchbands, jewelry, handbags, handkerchiefs, umbrellas, scarves, ties, headbands or belt buckles. Any local sales tax revenue lost due to the implementation of the sales tax holiday period defined in this section will be reimbursed by the state and every local political subdivision held harmless.**

**2. The provisions of this section shall expire July first at least twelve months following the effective date of this section.”; and**

Further amend the title and enacting clause accordingly.

Senator Jacob moved that the above amendment be adopted and requested a roll call vote be taken. He was joined in his request by Senators Clay, Kinder, Russell and Singleton.

**SA 16** was adopted by the following vote:

**YEAS—Senators**

Bland	Carter	Caskey	Childers
Clay	DePasco	Ehlmann	Flotron
Graves	House	Howard	Jacob
Kenney	Kinder	Klarich	Maxwell
Russell	Steelman	Stoll	Wiggins
Yeckel—21			

**NAYS—Senators**

Bentley	Johnson	Mathewson	Quick
Rohrbach	Scott	Sims	Singleton
Westfall—9			

**Absent—Senators**

Goode	Mueller	Schneider	Staples—4
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**Absent with leave—Senators—None**

At the request of Senator Johnson, **HB 1443**, with **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 third read **SCR 38**, as amended.

With House Amendment No. 1.

**HOUSE AMENDMENT NO. 1**

Amend Senate Concurrent Resolution No. 38, of Senate Journal for the Fifty-Second Day of Monday, April 10, 2000, Page 648, Lines 1-3, by deleting all of said lines; and

Further amend said resolution, Page 648, Line 24, by immediately inserting after the word “obligations” the following: **“and four additional citizen members shall be appointed to the commission consisting of two home builders-urban and two home builders-rural before the commission is scheduled for their next meeting”**.

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 taken up and third read **SCR 29**.

Also,

Mr. President: I am instructed by the House of Representatives to inform the Senate that the House has taken up and passed **HCR 28**.

HOUSE CONCURRENT RESOLUTION NO. 28

WHEREAS, Kansas City, known as the "Heart of America" and the "City of Fountains", includes more than one hundred thirty-six cities with a population of approximately one million six hundred thousand people; and

WHEREAS, Kansas City offers a diverse selection of shopping and entertainment areas such as Crown Center, Westport and Country Club Plaza, and is home for two impressive art museums, the Nelson-Atkins Museum of Art and the Kemper Museum of Contemporary Art and Design; and

WHEREAS, Kansas City is also big on professional sports with the Truman Sports Complex, home of Kansas City Chiefs football, Kansas City Royals baseball and Kansas City Wizards soccer; Kemper Arena, home of Kansas City Blades IHL hockey and Kansas City Attack NPSL soccer; and Hale Arena in the American Royal Complex where the Explorers play professional tennis; and

WHEREAS, Kansas City's 18th & Vine Historic District attractions include the Kansas City Jazz Museum, the Negro Leagues Baseball Museum and the renovated Gem Theatre Cultural and Performing Arts Center; and

WHEREAS, Kansas City's Liberty Memorial is the country's only memorial and museum dedicated to World War I veterans; and

WHEREAS, June 3, 2000, marks the 150th anniversary of the incorporation of the Town of Kansas in the County of Jackson, Missouri; and

WHEREAS, Kansas City is commemorating its sesquicentennial with a wide range of projects and celebrations, known as "KC150", throughout the year across the Kansas City metropolitan area; and

WHEREAS, May 26 to June 4, 2000, marks the midpoint for celebrations which will include a May 26, 2000, free public debut performance of a Rob Kapilow symphony inspired by the memories and history of Kansas City and Union Station, a performance on May 28, 2000, by the United States Air Force Band, free admittance to major Kansas City-area museums and entertainment complexes on June 2, 2000, and a "Barbecue and Basie on the Boulevard" day featuring a barbecue contest between professional and backyard barbecue teams; and

WHEREAS, the celebrations will end on January 1, 2001, with the opening of a Century Box that was placed in 1901, and the sealing of a new time capsule to be opened January 2, 2101:

NOW, THEREFORE, BE IT RESOLVED that the members of

the Missouri House of Representatives of the Ninetieth General Assembly, Second Regular Session, the Senate concurring therein, hereby declare June 3, 2000, to be "KC150 Day" and encourage the people of the state of Missouri, especially those persons in the Kansas City metropolitan area, to support and participate in the year-long celebrations commemorating the 150th Anniversary of Kansas City.

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 taken up and third read **HCR 34**.

HOUSE CONCURRENT RESOLUTION NO. 34

BE IT RESOLVED by the members of the House of Representatives of the Ninetieth General Assembly, Second Regular Session, the Senate concurring therein, that the Missouri Committee on Legislative Research shall prepare and cause to be collated, indexed, printed and bound all acts and resolutions of the Ninetieth General Assembly, Second Regular Session, and shall examine the printed copies and compare them with and correct the same by the original rolls, together with an attestation under the hand of the Revisor of Statutes that he has compared the same with the original rolls in his office and has corrected the same thereby; and

BE IT FURTHER RESOLVED that the size and quality of the paper and binding shall be substantially the same as used in prior session laws and the size and style of type shall be determined by the Revisor of Statutes; and

BE IT FURTHER RESOLVED that the Joint Committee on Legislative Research is authorized to print and bind copies of the acts and resolutions of the Ninetieth General Assembly, Second Regular Session, with appropriate indexing; and

BE IT FURTHER RESOLVED that the Revisor of Statutes is authorized to determine the number of copies to be printed.

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 refuses to recede from its position on **HS** for **HCS** for **SB 856**, as amended, and grants the Senate a conference thereon.

Also,

Mr. President: I am instructed by the House of Representatives to inform the Senate that the House refuses to recede from its position on **HS** for **HCS** for **SB 788**, as amended, and grants the Senate a

conference thereon.

Also,

Mr. President: I am instructed by the House of Representatives to inform the Senate that the House has taken up and passed **HS** for **HCS** for **SB 896**, entitled:

An Act to repeal sections 143.331, 351.055, 351.300, 351.355, 351.690, 359.091, 359.481, 361.230, 361.250, 361.390, 361.440, 361.470, 361.520, 361.540, 361.600, 362.025, 362.035, 362.042, 362.060, 362.115, 362.116, 362.172, 362.235, 362.325, 362.440, 362.450, 362.700, 362.710, 362.730, 362.740, 362.750, 369.219, 375.017, 375.126, 376.350, 379.105, 408.052, 408.234, 525.080, 525.230, 525.233, 525.240 and 525.250, RSMo 1994, and sections 140.110, 148.064, 301.600, 306.400, 306.410, 306.420, 347.137, 347.141, 351.025, 351.245, 351.482, 354.065, 359.451, 362.044, 362.105, 362.119, 362.170, 362.245, 362.464, 362.600, 362.680, 365.020, 375.022, 400.3-312 and 443.415, RSMo Supp. 1999, and section 136.055 as enacted by conference committee substitute for house substitute for senate substitute for senate committee substitute for senate bill no. 19 of the first regular session of the ninetieth general assembly and section 136.055 as enacted by house committee substitute for house bill no. 459 of the first regular session of the eighty-ninth general assembly, relating to business organizations, and to enact in lieu thereof seventy-seven new sections relating to the same subject, with penalty provisions and an emergency clause for certain sections.

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

#### HOUSE AMENDMENT NO. 1

Amend House Substitute for House Committee Substitute for Senate Bill No. 896, Pages 60-63, Section 362.044, by deleting all of said section from the bill; and

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

Further amend said bill, Page 102, Section

362.600, Line 8, by adding after the word “**not**” on said line the word “**otherwise**”.

#### HOUSE AMENDMENT NO. 2

Amend House Substitute for House Committee Substitute for Senate Bill No. 896, Page 142, Section 427.220, Line 15 of said page, by deleting the number “**427.220**” and inserting in lieu thereof the number “**369.371**”; and

Further amend said bill, Page 158, Section 362.170, Line 17 of said page, by deleting the words “**subsection 1**” and inserting in lieu thereof the words “**subsection 2**”; and

Further amend said bill, Page 158, Section 362.170, Line 18 of said page, by deleting the words “**subsection 1**” and inserting in lieu thereof the words “**subsection 2**”; and

Further amend said bill, Page 158, Section 362.170, Lines 21 to 22 of said page, by deleting the words “**subsection 1**” and inserting in lieu thereof the words “**subsection 2**”; and

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

#### HOUSE AMENDMENT NO. 3

Amend House Substitute for House Committee Substitute for Senate Bill No. 896, Page 85, Section 362.245, Line 4 of said page, by deleting the words “[five] **three**” and inserting in lieu thereof the word “five”.

#### HOUSE AMENDMENT NO. 4

Amend House Substitute for House Committee Substitute for Senate Bill No. 896, Page 134, Section 400.3-312, Line 17 of said page, by inserting after all of said line the following:

**“407.125. The provisions of this chapter shall not bar the commissioner of securities from administering the provisions of chapter 409, RSMo.**

**407.2000. 1. For the purposes of sections 407.2000 to 407.2021, “business opportunity” means the sale or lease of any product, equipment, supplies or services which are sold or leased to a purchaser to enable the purchaser to start a business for which the purchaser is**

required to pay an initial fee or sum of money in excess of five hundred dollars to the seller, and in which the seller represents:

(1) That the seller or a person or entity affiliated with, or referred by, the seller will provide locations, or assist the purchaser in finding locations, for the use or operation of vending machines, racks, display cases or other similar devices or currency-operated amusement machines or devices on premises neither owned nor leased by the purchaser or the sellers;

(2) That the promoter or its affiliate or designee will refund all or a substantial part of the purchaser's initial payment if the purchaser is unsuccessful or dissatisfied with the business opportunity;

(3) That the seller guarantees in writing that the purchaser will derive income from the business opportunity which exceeds the price paid or rent charged for the business opportunity or that the seller will refund all or part of the price paid or rent charged for the business opportunity or will repurchase any of the products, equipment, supplies or chattels supplied by the seller, if the purchaser is not satisfied with the business opportunity; or

(4) That the business opportunity is free from risk or certain to produce profits, which representation may arise from all of the assurances taken as a whole.

2. For purposes of subsection 1 of this section the term "assist the purchaser in finding locations", includes, but is not limited to, supplying the purchaser with names of locator companies, contracting with the purchaser to provide assistance or supply names or collecting a fee on behalf of or for a locator company.

3. For purposes of sections 407.2000 to 407.2021, "business opportunity" does not include:

(1) The sale of ongoing businesses when the owner of those businesses sells and intends to sell only those business opportunities so long as those business opportunities to be sold are no

more than five in number; or

(2) The not-for-profit sale of sales demonstration equipment, materials or samples for a price that does not exceed five hundred dollars or any sales training course offered by the seller, the cost of which does not exceed five hundred dollars.

4. For purposes of sections 407.2000 to 407.2021, "purchaser" shall include a lessee and "seller" shall include a lessor.

407.2015. 1. A business opportunity seller shall not:

(1) Misrepresent, by failure to disclose or otherwise, the known required total investment for such business opportunity;

(2) Misrepresent or fail to disclose efforts to sell or establish more franchises or distributorships than it is reasonable to expect the market or market area for the particular business opportunity to sustain;

(3) Misrepresent the quantity or the quality of the products to be sold or distributed through the business opportunity;

(4) Misrepresent the training and management assistance available to the business opportunity purchaser;

(5) Misrepresent the amount of profits, net or gross, which the franchisee can expect from the operation of the business opportunity;

(6) Misrepresent, by failure to disclose or otherwise, the termination, transfer or renewal provision of a business opportunity agreement;

(7) Falsely claim or imply that a primary marketer or trademark of products or services sponsors or participates directly or indirectly in the business opportunity;

(8) Assign a so-called exclusive territory encompassing the same area to more than one business opportunity purchaser;

(9) Provide machines or display of a brand or kind substantially different from and inferior to those promised by the business opportunity seller;

(10) Fail to provide the purchaser a written contract;

(11) Misrepresent the seller's ability or the ability of a person or entity providing services as defined in subdivision (1) of subsection 1 of section 407.2000 to provide locations or assist the purchaser in finding locations expected to have a positive impact on the success of the business opportunity;

(12) Misrepresent a material fact or create a false or misleading impression in the sale of a business opportunity.

2. Any person who violates the provisions of this section is guilty of a class A misdemeanor.

**407.2021. 1.** If a business opportunity seller uses untrue or misleading statements in the sale of a business opportunity, fails to give the proper disclosures, or fails to deliver the equipment, supplies or products necessary to begin substantial operation of the business within forty-five days of the delivery date stated in the business opportunity contract, the purchaser may, within one year of the date of the execution of the contract and upon written notice to the seller, rescind the contract and the purchaser shall be entitled to receive from the business opportunity seller all sums paid to the business seller. Upon receipt of such sums, the purchaser shall make available to the seller at the purchaser's address, or at the places at which the purchaser is located at the time notice is given, all products, equipment or supplies received by the purchaser. The purchaser shall not be entitled to unjust enrichment by exercising the remedies provided in this subsection.

2. Any purchaser injured by a violation of sections 407.2000 to 407.2021 or by the business opportunity seller's breach of a contract subject to sections 407.2000 to 407.2021 or any obligation arising therefrom, may bring an action for recovery of damages, including reasonable attorney's fees.

3. Upon complaint of any person that a business opportunity seller has violated the provisions of sections 407.2000 to 407.2021, the

circuit court shall have jurisdiction to enjoin the defendant from any further violations.

4. The remedies provided in this section shall be in addition to any other remedies provided by law or in equity.”; and

Further amend said bill, Pages 138 to 139, Section 409.1000, by deleting all of said section; and

Further amend said bill, Pages 139 to 141, Section 409.1015, by deleting all of said section; and

Further amend said bill, Pages 141 to 142, Section 409.1018, by deleting all of said section; and

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

#### HOUSE AMENDMENT NO. 5

Amend House Substitute for House Committee Substitute for Senate Bill No. 896, Page 7, Section 140.110, Line 6, by inserting the following at the end of said line:

“140.160. 1. No proceedings for the sale of land and lots for delinquent taxes [under the provisions of] **pursuant to** this chapter, relating to the collection of delinquent and back taxes and providing for foreclosure sale and redemption of land and lots therefore, shall be valid unless initial proceedings therefore shall be commenced within three years after delinquency of such taxes, and any sale held pursuant to initial proceedings commenced within such period of three years shall be deemed to have been in compliance with the provisions of said law insofar as the time at which such sales are to be had is specified therein; provided further, that in suits or actions to collect delinquent drainage and/or levee assessments on real estate such suits or actions shall be commenced within three years after delinquency, otherwise no suit or action therefore shall be commenced, had or maintained, **except that the three-year limitation described in this subsection shall not be applicable if any written instrument conveys any real estate having a tax-exempt status, if such instrument causes such real estate to again become taxable real**

**property and if such instrument has not been recorded in the office of the recorder in the county in which the real estate has been situated. Such three-year limitation shall only be applicable once the recording of the title has occurred.**

2. In order to enable county and city collectors to be able to collect delinquent and back taxes, the county auditor in all counties having a county auditor shall annually audit and list all delinquent and back taxes and provide a copy of such audit and list to the county collector and to the governing body of the county. A copy of the audit and list may be provided to city collectors within the county at the discretion of the county collector.”.

#### HOUSE AMENDMENT NO. 6

Amend House Substitute for House Committee Substitute for Senate Bill No. 896, Page 120, Section 375.017, Line 21 of said page, by inserting after all of said line the following:

**“5. Any bank or trust company in their sale or issuance of insurance products or services, as authorized pursuant to section 362.105, RSMo, shall be subject to the insurance laws of this state and rules adopted by the department of insurance.”; and**

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

#### HOUSE SUBSTITUTE AMENDMENT NO. 1 FOR HOUSE AMENDMENT NO. 7

Amend House Substitute for House Committee Substitute for Senate Bill No. 896, Page 116, Section 365.020, by inserting after said section:

“367.031. 1. At the time of making any secured personal credit loan, the lender shall execute and deliver to the borrower a receipt for and describing the tangible personal property subjected to the security interest to secure the payment of the loan. The receipt shall contain the following:

- (1) The name and address of the pawnshop;
- (2) The name and address of the pledgor, the pledgor's description, and the driver's license number, military identification number, identification certificate number, or other official

number capable of identifying the pledgor;

- (3) The date of the transaction;
- (4) An identification and description of the pledged goods, including serial numbers if reasonably available;
- (5) The amount of cash advanced or credit extended to the pledgor;
- (6) The amount of the pawn service charge;
- (7) The total amount which must be paid to redeem the pledged goods on the maturity date;
- (8) The maturity date of the pawn transaction; and
- (9) A statement to the effect that the pledgor is not obligated to redeem the pledged goods, and that the pledged goods may be forfeited to the pawnbroker sixty days after the specified maturity date.

2. The pawnbroker [may be required, in accordance with local ordinances, to] **shall** furnish local law enforcement authorities with copies of information contained in subdivisions (1),<sup>3</sup> [to] **and** (4) of subsection 1 of this section, **upon request[.] if the property in question is determined to be stolen, the pawnbroker shall provide law enforcement with the information contained in subdivision (2) of subsection 1 of this section.**

3. If the pawn ticket is lost, destroyed, or stolen, the pledgor may so notify the pawnbroker in writing, and receipt of such notice shall invalidate such pawn ticket, if the pledged goods have not previously been redeemed. Before delivering the pledged goods or issuing a new pawn ticket, the pawnbroker shall require the pledgor to make a written affidavit of the loss, destruction or theft of the ticket. The pawnbroker shall record on the written statement the identifying information required, the date the statement is given, and the number of the pawn ticket lost, destroyed, or stolen. The affidavit shall be signed by a notary public appointed by the secretary of state pursuant to section 486.205, RSMo, to perform notarial acts in this state.; and

Further amend the title and enacting clause

accordingly.

#### HOUSE AMENDMENT NO. 8

Amend House Substitute for House Committee Substitute for Senate Bill No. 896, Page 41, Section 351.482, Line 10, by deleting said line and inserting in lieu thereof the following: “(3) At the request of the corporation, be published by the Secretary of State in an electronic format accessible to the public.”.

#### HOUSE AMENDMENT NO. 9

Amend House Substitute for House Committee Substitute for Senate Bill No. 896, Page 147, Section 2, Line 12, by inserting after said line the following:

**“Section 3. 1. As used in this section, the terms “consumer” and “person” shall have the same meaning as in the definition section of the Federal Fair Credit Reporting Act, 15 U.S.C. 1681a, as amended.**

**2. The provisions of this section shall be in addition to the provisions of the Federal Fair Credit Reporting Act, 15 U.S.C. 1681 et. seq., as amended, and, pursuant to 15 U.S.C. 1681t(a), as amended, the provisions of the Federal Fair Credit Reporting Act, or any other applicable federal law, shall control to the extent of any inconsistency between this section and the Federal Fair Credit Reporting Act.**

**3. No person shall sell information containing both the name and the credit card number of any consumer to any other person, unless that consumer has expressly agreed, either orally or in writing, to the sale of his or her name and credit card number by the person selling such information. A violation of this section shall be an unlawful merchandising practice in violation of sections 407.010 to 407.145.”; and**

Further amend the title and enacting clause accordingly.

#### HOUSE AMENDMENT NO. 10

Amend House Substitute for House Committee Substitute for Senate Bill No. 896, Page 7, Section 143.331, Line 20, by inserting after all of said

section the following:

**“144.815. In addition to the exemptions granted pursuant to the provisions of section 144.030, there shall also be specifically exempted from the provisions of sections 66.600 to 66.635, RSMo, sections 67.500 to 67.545, 67.547, 67.581, 67.582, 67.671 to 67.685, 67.700 to 67.729, 67.730 to 67.739, 67.782, RSMo, sections 92.400 to 92.420, RSMo, sections 94.500 to 94.570, 94.600 to 94.655, 94.700 to 94.755, RSMo, and sections 144.010 to 144.510 and 144.600 to 144.745, and from the computation of the tax levied, assessed or payable pursuant to sections 66.600 to 66.635, RSMo, sections 67.500 to 67.545, 67.547, 67.581, 67.582, 67.671 to 67.685, 67.700 to 67.729, 67.730 to 67.739, 67.782, RSMo, sections 92.400 to 92.420, RSMo, sections 94.500 to 94.570, 94.600 to 94.655, 94.700 to 94.755, RSMo, and sections 144.010 to 144.510 and 144.600 to 144.745, purchases of bullion and investment coins. For purposes of this section the following terms shall mean:**

**(1) “Bullion”, gold, silver, platinum or palladium in a bulk state, where its value depends on its content rather than its form, with a purity of not less than nine hundred parts per one thousand; and**

**(2) “Investment coins”, numismatic coins or other forms of money and legal tender manufactured of gold, silver, platinum, palladium or metals with a fair market value greater than the face value of the coins.”; and**

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

#### HOUSE AMENDMENT NO. 11

Amend House Substitute for House Committee Substitute for Senate Bill No. 896, Page 116, Section 365.020, by inserting immediately after line 4, the following:

**367.052. When an item of property is the subject of a lease, rental transaction or retail installment contract with a company domiciled in the state, between the claimant and the claimant's lease or rental customer at the time it is delivered**



into the possession of the pawnbroker, the property shall not be deemed misappropriated unless it bears a conspicuous permanent label or marking identifying it as the claimant's property. Evidence of defacing or the removal of identification marking of leased or rented property shall be treated as marked and identified and therefore deemed to be misappropriated. Property subject to a lease, rental transaction or retail installment contract with a company domiciled in the state, which is not marked as provided in this subsection may be recovered by the claimant [upon payment to the pawnbroker of all moneys owing to or advanced by the pawnbroker in the pawn or purchase transaction, and] upon producing evidence identifying the property as having been the property of the claimant and leased or rented at the time the property was placed in the pawnbroker's possession. The pawnbroker shall be free from liability in connection with the recovery of leased or rental property pursuant to this subsection.

**HOUSE AMENDMENT NO. 12**

Amend House Substitute for House Committee Substitute for Senate Bill No. 896, Page 118, Section 375.017, Line 23, by inserting after the word "basis" the following:

"and if his or her state's continuing education requirement for licensees is comparable to the requirements of this state."

Emergency clause adopted.

In which the concurrence of the Senate is respectfully requested.

**CONFERENCE COMMITTEE REPORTS**

Senator Johnson, on behalf of the conference committee appointed to act with a like committee from the House on **SCS** for **HCS** for **HB 1142**, as amended, submitted the following conference committee report:

**CONFERENCE COMMITTEE REPORT ON SENATE COMMITTEE SUBSTITUTE FOR HOUSE COMMITTEE SUBSTITUTE FOR HOUSE BILL NO. 1142**

Mr. President: Your Conference Committee, appointed to confer with a like committee of the House on Senate Committee Substitute for House Committee Substitute for House Bill No. 1142, with Senate Amendment No. 1 and Senate Amendment No. 2, begs leave to report that we, after free and fair discussion of the differences between the House and the Senate, have agreed to recommend and do recommend to the respective bodies as follows:

1. That the Senate recede from its position on Senate Committee Substitute for House Committee Substitute for House Bill No. 1142, as amended;
2. That the House recede from its position on House Committee Substitute for House Bill No. 1142;
3. That the attached Conference Committee Substitute be adopted.

**FOR THE SENATE:**

- /s/ Sidney Johnson
- /s/ Harold Caskey
- /s/ Jim Mathewson
- /s/ John T. Russell
- /s/ Doyle Childers

**FOR THE HOUSE:**

- /s/ Bill Ransdall
- /s/ Sam Leake
- /s/ Gary Wiggins
- /s/ Gary Marble
- /s/ Vicky Hartzler

Senator Johnson moved that the above conference committee report be adopted, which motion prevailed by the following vote:

**YEAS—Senators**

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

**NAYS—Senators—None**

**Absent—Senators**

Clay	Mueller	Schneider	Staples—4
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Absent with leave—Senators—None

On motion of Senator Johnson, **CCS** for **SCS** for **HCS** for **HB 1142**, entitled:

**CONFERENCE COMMITTEE SUBSTITUTE  
FOR 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 301.010, 304.170 and 304.200, RSMo Supp. 1999, relating to the regulation of farm equipment, and to enact in lieu thereof six new sections relating to the same subject.

Was read the 3rd time and passed by the following vote:

YEAS—Senators

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

NAYS—Senators—None

Absent—Senators

Clay	Mueller	Schneider	Staples—4
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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.

**CONFERENCE COMMITTEE  
APPOINTMENTS**

President Pro Tem Quick appointed the following conference committee to act with a like committee from the House on **HS** for **HCS** for **SB 856**, as amended: Senators Maxwell, Wiggins,

Carter, Singleton and Bentley.

President Pro Tem Quick appointed the following conference committee to act with a like committee from the House on **HS** for **HCS** for **SB 788**, as amended: Senators Johnson, Maxwell, Wiggins, Singleton and Sims.

**REFERRALS**

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

On motion of Senator DePasco, the Senate recessed until 2:30 p.m.

**RECESS**

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

Photographers from the Senate and KOMU-NBC8 were given permission to take pictures in the Senate Chamber today.

**MESSAGES FROM THE HOUSE**

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

Mr. President: I am instructed by the House of Representatives to inform the Senate that the House has taken up and passed **HS** for **SB 961**, entitled:

An Act to repeal section 173.239, RSMo Supp. 1999, relating to educational assistance for members of the Missouri national guard, and to enact in lieu thereof one new section relating to the same subject, with an emergency clause.

With House Substitute Amendment No. 1 for House Amendment No. 1, House Substitute Amendment No. 1 for House Amendment No. 2, House Amendments Nos. 3 and 4.

**HOUSE SUBSTITUTE AMENDMENT NO. 1  
FOR HOUSE AMENDMENT NO. 1**

Amend House Substitute for Senate Bill No. 961, Page 1, In the Title, Lines 2 to 7 of said page, by deleting all of said lines and inserting in lieu thereof the following:

“To repeal section 173.239, RSMo Supp.

1999, and to enact in lieu thereof ten new sections relating to awards for members of the Missouri military, with an emergency clause for a certain section.”; and

Further amend said bill, Page 1, Section A, Line 12 of said page, by inserting after all of said line the following:

**“42.150. 1. Every person who served on active duty in the United States military service, including the merchant marine serving under veteran status, during World War II, except those excluded pursuant to section 42.155, for a period of at least one hundred eighty-one consecutive days, and who is a legal resident of the state of Missouri on August 28, 2000, and who was honorably separated or discharged from service, or is still in active service in an honorable status, or has been retired, furloughed to a reserve or placed on inactive status, shall receive one lump sum bonus of four hundred dollars, regardless of whether or not he or she served overseas.**

**2. No right or payment pursuant to sections 42.150 to 42.170 is taxable or subject to the claim of any creditor.**

**42.155. 1. In the case of the death, after application, of any person who would be entitled to the bonus pursuant to sections 42.150 to 42.170, the same shall be paid to the following persons in the order named: first, the surviving spouse, unless remarried; second, any surviving child, and if there is more than one child surviving then equally among such children; third, any surviving mother or father, who shall share equally if both are surviving.**

**2. Every person making application for a bonus as provided in sections 42.150 to 42.170 shall set forth in his or her application the names and addresses of all persons who would be entitled to receive the same in the event of the death of the applicant and, if the applicant dies before payment of the bonus, then such application shall inure to the benefit of the person next entitled thereto and payment shall be made to such person upon proof of identity satisfactory to the adjutant general. If all**

**persons designated in sections 42.150 to 42.170 as being entitled to the bonus of any deceased person die before payment thereof, the right of the bonus ceases and terminates. Application for bonus made in behalf of minor children may be made by the duly appointed guardian or curator of such children, or by any person duly appointed by the probate court for the purpose of making such application.**

**42.160. 1. The adjutant general of the state of Missouri shall administer sections 42.150 to 42.170, and may adopt all necessary rules and regulations to implement the provisions of sections 42.150 to 42.170. 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. The adjutant general shall determine as expeditiously as possible the persons who are entitled to payments pursuant to sections 42.150 to 42.170 and direct the payment in the manner herein prescribed. Applications for payment shall be filed with the adjutant general's office within one year from the effective date of sections 42.150 to 42.170 on forms prescribed and furnished by the office. The adjutant general shall approve all claims that are in order and allowable, and shall cause a voucher for each approved claim to be prepared for the proper amount and transmitted to the commissioner of administration.**

**2. If the adjutant general, after due consideration, finally disallows the claim of any person for the bonus pursuant to sections 42.150 to 42.170, a statement of the reason for disallowance shall be filed with the application and notice thereof mailed to the applicant at his or her last known address. Within sixty days after mailing this notice, the applicant may have his or her application reconsidered by the governor, attorney general and director of veterans affairs, sitting as a board of review, upon filing with the adjutant general an application for review. Upon the filing of the application for review the adjutant general shall, within thirty days of receipt of such application, deliver to the governor all papers**

and files in his or her office pertaining to the claim. Upon receipt of such papers and files, the governor shall arrange for a hearing by the board of review and shall cause notice of such hearing to be mailed to the applicant. The applicant shall be entitled to appear at the hearing and be represented by counsel. If the decision of the adjutant general is approved at such hearing, a statement to that effect shall be made and signed by the governor and all the files again returned to the adjutant general. If the board of review overrules the decision of the adjutant general and allows the claim for the bonus, then the decision shall be certified by the governor to the adjutant general and the adjutant general shall allow the claim and transmit a voucher for such claim to the commissioner of administration in the same manner as if the claim had been allowed by the adjutant general in the first instance.

42.165. The “Veterans’ Service Bonus Fund”, is hereby created in the state treasury. Money appropriated to the fund shall be retained therein until the accumulated balance in the fund is sufficient to pay the claims filed and allowed pursuant to section 42.160. As soon as possible after the expiration of one year from the effective date of sections 42.150 to 42.170, and after final action on all duly filed claims has been taken pursuant to section 42.160, the commissioner of administration shall notify the state treasurer of the total amount necessary to pay the vouchers transmitted to his or her office by the adjutant general. When all bonus claims filed and allowed have been paid, the fund shall automatically be terminated. The commissioner of administration shall certify the claims allowed by the adjutant general to the state treasurer for payment and the state treasurer shall pay the claims out of the fund as provided by law. Any balance remaining in the veterans’ service bonus fund after all claims have been paid shall be transferred to the veterans’ commission capital improvements trust fund established in section 313.835, RSMo. Notwithstanding the provisions of section 33.080, RSMo, to the contrary, moneys in the fund shall not revert to the credit of the general

revenue fund at the end of the biennium.

42.170. Whoever knowingly makes a false statement, oral or written, of any material fact relating to a claim pursuant to the provisions of sections 42.150 to 42.170 is guilty of a class A misdemeanor.

42.180. 1. Every veteran who honorably served on active duty in the United States military service at any time beginning December 7, 1941, and ending September 30, 1945, shall be entitled to receive a medallion, medal and a certificate of appreciation pursuant to sections 42.180 to 42.195; provided that:

(1) Such veteran is a legal resident of this state on August 28, 2000; and

(2) Such veteran was honorably separated or discharged from military service or is still in active service in an honorable status.

2. The medallion, medal and the certificate shall be awarded regardless of whether or not such veteran served within the United States or in a foreign country. The medallion, medal and the certificate shall be awarded regardless of whether or not such veteran was under eighteen years of age at the time of enlistment. For purposes of sections 42.180 to 42.195, “veteran” means any person defined as a veteran by the United States Department of Veterans’ Affairs or its successor agency.

42.185. 1. Except as otherwise provided in sections 42.180 to 42.195, the adjutant general of the state of Missouri shall administer sections 42.180 to 42.195, and may adopt all rules and regulations necessary to administer the provisions of sections 42.180 to 42.195. No rule or portion of a rule promulgated pursuant to sections 42.180 to 42.195 shall become effective unless promulgated pursuant to chapter 536, RSMo.

2. The adjutant general shall determine as expeditiously as possible the persons who are entitled to a medallion, medal and a certificate pursuant to sections 42.180 to 42.195 and distribute the medallions, medals and the certificates as provided in sections 42.180 to 42.195. Applications for the medallion, medal

and the certificate shall be filed with the office of the adjutant general at any time after January 1, 2001, and before January 1, 2002, on forms prescribed and furnished by the adjutant general's office. The adjutant general shall approve all applications that are in order, and shall cause a medallion, medal and a certificate to be prepared for each approved veteran in the form created by the veterans' commission pursuant to section 42.190.

3. If any person dies after applying for a medallion or medal and a certificate pursuant to sections 42.180 to 42.195 and such person would have been entitled to the medallion, medal and the certificate, the adjutant general shall give the medallion, medal and the certificate to the person to whom the largest portion of the veteran's estate was given in such veteran's will. If the estate was split evenly among two or more persons, the surviving spouse, the eldest living child or the closest relative by degree of consanguinity, in that order, shall receive the medallion, medal and the certificate. If there was no will, the veteran's intestate survivor shall receive the medallion, medal and the certificate.

4. If the adjutant general disallows any veteran's claim to a medallion, medal and a certificate pursuant to sections 42.180 to 42.195, a statement of the reason for the disallowance shall be filed with the application and notice of this disallowance shall be mailed to the applicant at the applicant's last known address.

42.190. The veterans' commission shall design the form of the medallion, medal, and the certificate and forward the approved designs to the adjutant general for distribution pursuant to sections 42.180 to 42.195. It is the intent of the general assembly to create statewide involvement in the design of these symbols in recognition of this historic endeavor. Therefore, in designing the forms, the veterans' commission may solicit potential designs from elementary and secondary schools, veterans' groups, civic organizations or any other interested party, and may select the best design from among such solicited designs, or may select another design.

42.195. 1. The "World War II Veterans'

Recognition Award Fund" is hereby created in the state treasury, and shall consist of all gifts, donations and bequests to the fund. The fund shall be administered by the adjutant general. Notwithstanding the provisions of section 33.080, RSMo, to the contrary, moneys in the World War II veterans' recognition award fund shall not be transferred to the credit of the general revenue fund at the end of the biennium. Interest and moneys earned on the fund shall be credited to the fund.

2. Moneys in the fund shall be used solely to promote the solicitation for designs for, aid in the manufacture of and aid in the distribution of the medallion, medal and the certificate.

3. When all allowed medallions, medals and certificates have been distributed, the fund shall automatically be terminated. Any balance remaining in the fund after all such distributions shall be transferred to the veterans' commission capital improvement trust fund created in section 313.835, RSMo."; and

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

#### HOUSE SUBSTITUTE AMENDMENT NO. 1 FOR HOUSE AMENDMENT NO. 2

Amend House Substitute for Senate Bill No. 961, Page 1, Section A, Line 12 of said page, by inserting after all of said line the following:

"42.500. The Missouri general assembly shall, through appropriations as provided by law, participate in the funding of the National World War II Memorial to be located at a site dedicated on November 11, 1995, on the National Mall in Washington, D.C. in an amount equal to four hundred thirty-eight thousand dollars. Such funds shall be disbursed upon enactment to the World War II Memorial Fund."; and

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

#### HOUSE AMENDMENT NO. 3

Amend House Substitute for Senate Bill No. 961, Page 4, Section B, Line 14, by inserting after said line the following:

"Section C. Section 8.012, RSMo Supp. 1999, is repealed and one new section enacted in lieu thereof, to be known as section 8.012, to read as follows:

8.012. At [the state capitol] **all state buildings** and upon the grounds thereof, the board of public buildings may accompany the display of the flag of the United States and the flag of this state with the display of the POW/MIA flag, which is designed to commemorate the service and sacrifice of the members of the armed forces of the United States who were prisoners of war or missing in action."; and

Further amend the title and enacting clause accordingly.

#### HOUSE AMENDMENT NO. 4

Amend House Substitute for Senate Bill No. 961, Page 4, Section 173.239, Line 6 of said page, by inserting after all of said line the following:

**"Section 1. The general assembly shall appropriate moneys to cover the cost of providing every eligible Missouri World War II veteran of the June 6, 1944, "D-Day" invasion of Europe with a replica of the fiftieth anniversary "Jubilee of Liberty" medal issued by France in 1994."**; and

Further amend said bill, Page 4, Section B, Lines 8 and 9 of said page, by deleting all of said lines and inserting in lieu thereof the following: "swift attention and funding of issues involving those who serve our country and state in the armed forces, section A of this act is"; and

Further amend said bill, Page 4, Section B, Lines 12 and 13 of said page, by deleting the following: "The repeal and reenactment of section 173.239" and inserting in lieu thereof the following: "section A"; and

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

Emergency clause adopted.

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 Speaker has appointed the following conferees to act with a like committee from the Senate on **HS** for **HCS** for **SB 856**, as amended: Representatives Harlan, Foley, Wilson 42, Reinhart and Griesheimer.

Also,

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 **HS** for **HCS** for **SB 788**, as amended: Representatives Barry, Kennedy, Graham 24, Tudor and Bartelsmeyer.

#### RESOLUTIONS

Senator Caskey offered Senate Resolution No. 1745, regarding Karen DeAnn Tippie, Kansas City, which was adopted.

Senator Scott offered Senate Resolution No. 1746, regarding JoAnne Fluke, Baldwin City, Kansas, which was adopted.

Senator DePasco offered Senate Resolution No. 1747, regarding Hallmark Cards, Kansas City, which was adopted.

Senator Clay offered Senate Resolution No. 1748, regarding the St. Louis Bring It Together Musicfest, which was adopted.

Senator Sims offered Senate Resolution No. 1749, regarding the Honorable Emmy McClelland, Webster Groves, which was adopted.

Senator Maxwell offered Senate Resolution No. 1750, regarding Leroy A. Halsey, Ashland, which was adopted.

Senator Maxwell offered Senate Resolution No. 1751, regarding Charles Douglas Davenport, Hallsville, which was adopted.

Senator Maxwell offered Senate Resolution No. 1752, regarding Brian Ostendorf, Mexico, which was adopted.

Senator Maxwell offered Senate Resolution No. 1753, regarding Robert Todd Reinerd, Sturgeon, which was adopted.

Senator Maxwell offered Senate Resolution

No. 1754, regarding Brian Watt, Mexico, which was adopted.

Senator Maxwell offered Senate Resolution No. 1755, regarding Travis Knoepflein, Montgomery City, which was adopted.

Senator Mathewson offered Senate Resolution No. 1756, regarding the Fiftieth Wedding Anniversary of Mr. and Mrs. J. Eldon Whitsitt, Mayview, which was adopted.

Senators Staples and Kinder offered the following resolution, which was read and adopted:

SENATE RESOLUTION NO. 1757

WHEREAS, it is always a moment of great pride when the members of the Missouri Senate pause to applaud the achievements of an individual who has demonstrated an exceptional degree of ability and commitment in meeting all the responsibilities associated with elective office; and

WHEREAS, the Honorable Jim Graham, State Representative from District Number 106, is retiring from public service with the expiration of his current term, thereby bringing to completion a decade of tireless endeavor for the overall good of the citizens of this fair state; and

WHEREAS, Jim Graham was initially elected to the Missouri House of Representatives in 1990, since which time he has proudly, ably, and faithfully given of his expertise and energy to a variety of important causes which have improved the quality of life for every Missourian; and

WHEREAS, Jim Graham is highly regarded for the dedication he so consistently displayed while serving as a member of such vital House committees as Agriculture; Appropriations-Natural and Economic Resources; Banks and Financial Institutions; and Budget; as well as the Joint Committee on Correctional Institutions and Problems; and

WHEREAS, Jim Graham is known and respected as a fair, honest, and hardworking politician who puts forth tremendous effort to support the principles in which he believes and stands firm in his commitment to those values which he cherishes so dearly; and

WHEREAS, a 1978 graduate of Fredericktown High School, Jim Graham earned an Associate of Science degree in business management from Mineral Area College in 1980 which has enabled him to broaden his horizons as well as his understanding of all aspects of his occupation as a cattle farmer; and

WHEREAS, a recipient of the Missouri FFA State Farmer Degree, Representative Graham also distinguished himself as a delegate for the American Council of Young Political Leaders in the Republic of China and Taiwan in 1993:

NOW, THEREFORE, BE IT RESOLVED that we, the members of the Missouri Senate, Ninetieth General Assembly, join unanimously in expressing sincere appreciation and deep gratitude

to Jim Graham for his ten years of dedicated service to the legislative branch of state government and in wishing him well as he leaves his official duties in the House of Representatives; and

BE IT FURTHER RESOLVED that the Secretary of the Senate be instructed to prepare a properly inscribed copy of this resolution for the Honorable Jim Graham, as a mark of our esteem for him.

President Wilson assumed the Chair.

**PRIVILEGED MOTIONS**

Senator Stoll moved that the Senate refuse to concur in **HS for SB 961**, 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.

**HOUSE BILLS ON THIRD READING**

**HS for HB 1615**, with **SCS**, entitled:

An Act to repeal sections 191.900, 191.910, 198.012, 198.026, 198.032, 198.090, 208.152, 344.050, 565.186, 565.188, 565.190, 660.300, 660.305, 660.315 and 660.320, RSMo 1994, and sections 198.070, 198.526, 198.532, 208.010, 208.151, 210.903, 210.909, 210.915, 210.933, 210.936, 660.050, 660.055 and 660.317, RSMo Supp. 1999, and to enact in lieu thereof forty-two new sections relating to protection of the elderly, with penalty provisions and an expiration date for a certain section, with an emergency clause.

Was taken up by Senator Caskey.

**SCS for HS for HB 1615**, entitled:

**SENATE COMMITTEE SUBSTITUTE FOR  
HOUSE SUBSTITUTE FOR  
HOUSE BILL NO. 1615**

An Act to repeal sections 191.900, 191.910, 197.405, 197.410, 197.420, 197.425, 197.430, 197.435, 197.440, 197.450, 197.455, 197.460, 197.470, 197.477, 198.012, 198.026, 198.032, 198.090, 208.152, 344.050, 565.186, 565.188, 565.190, 660.300, 660.305, 660.315 and 660.320, RSMo 1994, and sections 197.400, 197.415, 197.445, 198.070, 198.526, 198.532, 208.010, 208.151, 210.903, 210.909, 210.915, 210.933, 210.936, 660.050, 660.055 and 660.317, RSMo Supp. 1999, and to enact in lieu thereof fifty-seven new sections relating to protection of the elderly,

with penalty provisions, an expiration date for a certain section and an emergency clause for a certain section.

Was taken up.

Senator Caskey moved that **SCS** for **HS** for **HB 1615** be adopted.

Senator Caskey offered **SS** for **SCS** for **HS** for **HB 1615**, entitled:

SENATE SUBSTITUTE FOR  
SENATE COMMITTEE SUBSTITUTE FOR  
HOUSE SUBSTITUTE FOR  
HOUSE BILL NO. 1615

An Act to repeal sections 191.900, 191.910, 197.405, 197.410, 197.420, 197.425, 197.430, 197.435, 197.440, 197.450, 197.455, 197.460, 197.470, 197.477, 198.012, 198.032, 198.090, 344.050, 565.186, 565.188, 565.190, 660.300, 660.305, 660.315 and 660.320, RSMo 1994, and sections 197.400, 197.415, 197.445, 198.070, 198.526, 198.532, 660.050 and 660.317, RSMo Supp. 1999, and to enact in lieu thereof thirty-nine new sections relating to protection of the elderly, with penalty provisions and an emergency clause for a certain section.

Senator Caskey moved that **SS** for **SCS** for **HS** for **HB 1615** be adopted.

Senator Caskey offered **SA 1**:

SENATE AMENDMENT NO. 1

Amend Senate Substitute for Senate Committee Substitute for House Substitute for House Bill No. 1615, Page 5, Section 187.020, Line 14 of said page, by striking the words “or an eligible adult”.

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

Senator Russell offered **SA 2**:

SENATE AMENDMENT NO. 2

Amend Senate Substitute for Senate Committee Substitute for House Substitute for House Bill No. 1615, Page 81, Section 660.050, Line 12 of said page, by inserting after all of said line the following:

**“Section 1. Sections 1 to 15 of this act shall be known as the “Missouri Law Enforcement**

**District Act”.**

**Section 2. As used in sections 1 to 15 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 15 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 15 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 15 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 15 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 15 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 15 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 15 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 15 of this act.”; and**

Further amend said bill, Page 94, Section B, Lines 35 to 39 of said page, by deleting all of said lines and inserting in lieu thereof the following:

“Section C. Because immediate action is necessary to ensure the safety and protection of certain citizens of this state, the enactment of section 187.084 and sections 1 to 20 is deemed necessary for the immediate preservation of the public health, welfare, peace and safety, and is hereby declared to be an emergency act within the meaning of the constitution, and the enactment of section 187.084 and sections 1 to 20 shall be in full force and effect upon its passage and approval.”; and

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

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

Senator Howard offered SA 3:

#### SENATE AMENDMENT NO. 3

Amend Senate Substitute for Senate Committee Substitute for House Substitute for House Bill No. 1615, Page 3, Section 187.010, Line 8 of said page, by inserting after all of said line the following:

**“(6) “Noncompliant client” or “non-compliant”, an in-home client who is able to make decisions, but unwilling to accept assistance as authorized in the department plan of service necessary to meet his or her essential human needs when such unwillingness creates a likelihood of serious physical harm;”;** and further amend said section by renumbering the remaining subdivisions accordingly; and

Further amend said bill, Page 15, Section 187.075, Line 4 of said page, by inserting after all of said line the following:

**“12. Any in-home services provider shall report to the department an in-home services client who is at risk of serious physical harm because the client is noncompliant with the department's plan of service. Upon notification by the in-home services provider of a client suspected to be noncompliant, the department nurse shall attempt to resolve the circumstances with the case manager and shall investigate the allegation when necessary. The nurse shall report to the referring provider about the status of the case within five business days. If unable to resolve the situation, the department shall refer the client to the interdisciplinary case management team as established in subsection 3 of this section. The interdisciplinary case management team shall attempt to resolve the circumstances. If unable, the team shall issue a consensus report about the case and the client shall be identified as noncompliant. Providers of clients that have been identified as noncompliant by the team are not liable solely**

for the consequences of the client's non-compliant behavior.

13. The department shall establish ad-hoc interdisciplinary case management teams to assist the department, the client's case manager, and the client's in-home services provider by acting as consultants and by intervening in cases where the team's specialized expertise will supplement the plan of service. The department shall determine membership on the interdisciplinary case management teams on a case by case basis. The teams shall include at a minimum the client's case manager, a department nurse, an in-home services provider nurse, a long-term care specialist, a mental health professional as defined by 9 CSR 30-4.025 provided through the department of mental health, and may include a representative of law enforcement, a physician and other local resources. The mental health professional, shall, when appropriate, assume the role of co-case manager for the in-home services client. In cases in which the interdisciplinary case management team believes the client, as a result of a mental disorder, presents a likelihood of serious harm as defined in section 632.005, the interdisciplinary team shall refer the client to a mental health coordinator who shall conduct an investigation pursuant to section 632.300.

14. The department shall establish a procedure by which all in-home services clients will be categorized based on their care and condition needs after the initial qualification assessment. The department shall determine the criteria for each category by rule, pursuant to chapter 536, RSMo. The department may refer any client to an interdisciplinary case management team, as necessary. The department may authorize the in-home services provider nurse, licensed pursuant to chapter 335, RSMo, to assist the department in the assessment of the client's condition upon initiation of services to determine the care needs of the client and establish a plan of services appropriate to meet the client's needs. After initial assessment of the client, nurse visits shall be authorized twice annually for clients with plans of service that do not include nurse visits as part of the plan for the purpose of assessing

the client and the client's services. If the provider nurse believes that the plan of service needs alteration, the department shall be notified and the department shall make a client evaluation. All authorized nurse visits shall be reimbursed to the in-home services provider. All department authorized nurse visits shall be reimbursed outside of the nursing home cap for in-home clients whose services have reached one hundred percent of the average statewide charge for care and treatment in an intermediate care facility, provided that the services have been pre-authorized by the department.

15. All in-home clients shall be advised of their rights by the department at the initial evaluation. The rights shall include, but not be limited to, the right to call the department for any reason, including dissatisfaction with the provider or services. The department shall establish a process to receive these nonabuse and neglect calls other than the elder abuse and neglect hotline.

16. The department shall establish a quality assurance and supervision process for clients that assures the in-home services provider is reimbursed for any nurse assessment portion of the process.”; and further amend said section by renumbering the remaining subsection accordingly.

And further amend said bill, page 27, section 187.100, by deleting all of said section and amend the title and enacting clause accordingly.

Senator Howard moved that the above amendment be adopted.

Senator Howard offered SA 1 to SA 3:

SENATE AMENDMENT NO. 1 TO  
SENATE AMENDMENT NO. 3

Amend Senate Amendment No. 3 to Senate Substitute for Senate Committee Substitute for House Substitute for House Bill No. 1615, Page 2, Lines 5-11 of said page, by striking all of said lines and inserting in lieu thereof the following: “established in subsection 3 of this section. The inter-disciplinary team shall attempt to resolve the circumstances, and shall document all such attempts at resolution. If unable to resolve the circumstances, the team shall issue a written



consensus report about the case and the client may be identified as noncompliant. Providers whose clients have been identified as noncompliant are not liable for the consequences of the client's noncompliant behavior, unless such consequences are the result of such provider's negligent, reckless, willful or wanton behavior.”.

Senator Howard moved that the above amendment be adopted.

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

SENATE AMENDMENT NO. 1 TO  
SENATE AMENDMENT NO. 1 TO  
SENATE AMENDMENT NO. 3

Amend Senate Amendment No. 3 to Senate Substitute for Senate Committee Substitute for House Substitute for House Bill No. 1615, Page 2, Line 12, by inserting after the word “behavior” the words “or employee's negligent, reckless, willful, or wanton behavior.”.

Senator Steelman moved that the above amendment be adopted.

Senator Caskey raised the point of order that SA 1 to SA 1 to SA 3 is out of order as it is in the third degree.

At the request of Senator Caskey, the point of order was withdrawn.

At the request of Senator Steelman, SA 1 to SA 1 to SA 3 was withdrawn.

Senator Steelman offered SSA 1 for SA 1 to SA 3:

SENATE SUBSTITUTE AMENDMENT NO. 1  
FOR SENATE AMENDMENT NO. 1 TO  
SENATE AMENDMENT NO. 3

Amend Senate Amendment No. 3 to Senate Substitute for Senate Committee Substitute for House Substitute for House Bill No. 1615, Page 2, Lines 5-11 of said page, by striking all of said lines and inserting in lieu thereof the following: “**established in subsection 3 of this section. The inter-disciplinary team shall attempt to resolve the circumstances, and shall document all such attempts at resolution. If unable to resolve the**

circumstances, the team shall issue a written consensus report about the case and the client may be identified as noncompliant. Providers whose clients have been identified as noncompliant are not liable for the consequences of the client's noncompliant behavior, unless such consequences are the result of such provider's negligent, reckless, willful or wanton behavior or an employee's negligent, reckless, willful, or wanton behavior.”.

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

SA 3, as amended, was again taken up.

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

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

SENATE AMENDMENT NO. 2 TO  
SENATE AMENDMENT NO. 3

Amend Senate Amendment No. 3 to Senate Substitute for Senate Committee Substitute for House Substitute for House Bill No. 1615, Page 2, Section 187.010, Line 19, by inserting immediately after the word “manager,” the following: “**a family member when available,**”.

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

SA 3, as amended, was adopted by the following vote:

YEAS—Senators

Bentley	Caskey	Childers	DePasco
Goode	Graves	Howard	Jacob
Kenney	Kinder	Mathewson	Maxwell
Mueller	Sims	Staples	Stoll
Wiggins—17			

NAYS—Senators

Bland	Carter	Clay	Ehlmann
Flotron	House	Klarich	Rohrbach
Russell	Schneider	Scott	Singleton
Steelman	Westfall	Yeckel—15	

Absent—Senator Quick—1

Absent with leave—Senator Johnson—1

Senator Howard offered **SA 4**:

SENATE AMENDMENT NO. 4

Amend Senate Substitute for Senate Committee Substitute for House Substitute for House Bill No. 1615, Page 9, Section 187.030, Line 17 of said page, by inserting after the word “personnel” the following: **“and volunteers for local area agencies on aging”**.

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

Senator Sims offered **SA 5**:

SENATE AMENDMENT NO. 5

Amend Senate Substitute for Senate Committee Substitute for House Substitute for House Bill No. 1615, Page 81, Section 660.050, Line 12, by adding the following:

**“660.083. Pursuant to chapter 190, RSMo, when the department of social services issues a license for or renews the existing license of a facility, as defined in section 198.006, RSMo, the division of aging shall consider the compliance history of a facility and of the facility's operator.”**; and

Further amend the title and enacting clause accordingly.

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

Senator Scott offered **SA 6**:

SENATE AMENDMENT NO. 6

Amend Senate Substitute for Senate Committee Substitute for House Substitute for House Bill No. 1615, Page 30, Section 191.910, Line 5, by removing the brackets [ ] from the word shall; and

Further amend said bill, page 30, section 191.910, lines 5-7, by deleting the following: **“may either commence a state prosecution in counties of the third classification which employ less than full-time prosecuting attorneys, or”**.

Senator Scott moved that the above amendment

be adopted, which motion prevailed.

Senator Wiggins assumed the Chair.

Senator Caskey offered **SA 7**:

SENATE AMENDMENT NO. 7

Amend Senate Substitute for Senate Committee Substitute for House Substitute for House Bill No. 1615, Page 69, Section 198.532, Line 8 of said page, by inserting immediately after said line the following:

“210.903. 1. To protect children and the elderly in this state, and to promote family and community safety by providing information concerning family caregivers, there is hereby established within the department of health a “Family Care Safety Registry and Access Line” which shall be available by January 1, 2001.

2. The family care safety registry shall contain information on child-care workers' and elder-care workers' background and on child-care and elder-care providers through:

(1) The patrol's criminal record check system pursuant to section 43.540, RSMo, including state and national information, to the extent possible;

(2) Probable cause findings of abuse and neglect pursuant to sections 210.109 to 210.183;

(3) The division of aging's employee disqualification list pursuant to section [660.315] **187.081**, RSMo;

(4) Foster parent licensure denials, revocations and suspensions pursuant to section 210.496;

(5) Child-care facility license denials, revocations and suspensions pursuant to sections 210.201 to 210.259; [and]

(6) Residential living facility and nursing home license denials, revocations, suspensions and probationary status pursuant to chapter 198, RSMo[.]; **and**

**(7) The employee disqualification list maintained by the department of mental health pursuant to section 630.170, RSMo.**

210.909. 1. Upon submission of a completed registration form by a child-care worker or elder-care worker, the department, in coordination

with the department of social services, shall:

(1) Determine if a probable cause finding of child abuse or neglect involving the applicant has been recorded pursuant to section 210.145;

(2) Determine if the applicant has been refused licensure or has experienced licensure suspension or revocation pursuant to section 210.496;

(3) Determine if the applicant has been placed on the employee disqualification list pursuant to section [660.315] **187.081**, RSMo;

(4) Determine through a request to the patrol pursuant to section 43.540, RSMo, whether the applicant has any conviction, plea of guilty or nolo contendere, or a suspended execution of sentence to a felony charge of any offense pursuant to chapters 198, 334, 560, 565, 566, 568, 569, 573, 575 and 578, RSMo; and

(5) If the background check involves a provider, determine if a facility has been refused licensure or has experienced licensure suspension, revocation or probationary status pursuant to sections 210.201 to 210.259 or chapter 198, RSMo[.]; and

**(6) Determine if the applicant has been placed on the employee disqualification list maintained by the department of mental health pursuant to section 630.170, RSMo.**

2. Upon completion of the background check described in subsection 1 of this section, the department shall include information in the registry for each registrant as to whether any felony convictions, employee disqualification listings pursuant to [section 660.315] **section 187.081, RSMo, and section 630.170**, RSMo, probable cause findings, pleas of guilty or nolo contendere, or license denial, revocation or suspension have been documented through the records checks authorized pursuant to the provisions of sections 210.900 to 210.936.

3. The department shall notify such registrant in writing of the results of the determination recorded on the registry pursuant to this section.

210.915. The department of corrections, the department of public safety, **the department of mental health** and the department of social

services shall collaborate with the department to compare records on child-care and elder-care workers, and the records of persons with criminal convictions and the background checks pursuant to subdivisions (1) to [(6)] **(7)** of subsection 2 of section 210.903, and to enter into any interagency agreements necessary to facilitate the receipt of such information and the ongoing updating of such information. The department, in coordination with the department of social services, shall promulgate rules and regulations concerning such updating, including subsequent background reviews as listed in subsection 1 of section 210.909.

210.933. For any elder-care worker listed in the registry or who has submitted the registration form as required by sections 210.900 to 210.936, an elder-care provider may access the registry in lieu of the requirements established pursuant to section [660.315] **187.081**, RSMo, or to subsections 3, 4 and 5 of section [660.317] **187.084**, RSMo.

210.936. For purposes of providing background information pursuant to sections 210.900 to 210.936, reports and related information pursuant to [sections 198.070] **section 187.020, RSMo**, and **section 198.090**, RSMo, sections 210.109 to 210.183, **section 630.170, RSMo**, and sections [660.300 to 660.315] **187.075 to 187.081**, RSMo, shall be deemed public records.”; and

Further amend the title and enacting clause accordingly.

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

Senator Stoll assumed the Chair.

Senator Singleton offered **SA 8**:

#### SENATE AMENDMENT NO. 8

Amend Senate Substitute for Senate Committee Substitute for House Substitute for House Bill No. 1615, Page 56, Section 197.477, Line 1, by inserting after all of said line the following:

**“197.715. 1. For the purposes of this section, “continuing care retirement community” means a facility that provides services, either at the same site or at another location including, but**

**not limited to independent housing, day care, ambulatory care, and long-term health care to older persons not related by blood or marriage to the owner or operator of the facility under an agreement with the person effective for the life of the person or a specified period of time in excess of one year which guarantees or provides priority access to on-site health related long-term care services.**

**2. The provisions of sections 197.300 through 197.366 shall not apply to and a certificate of need shall not be required for any facility operating as a continuing care retirement community within this state.”; and**

Further amend the title and enacting clause accordingly.

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

Senator Rohrbach offered **SA 9**:

#### SENATE AMENDMENT NO. 9

Amend Senate Substitute for Senate Committee Substitute for House Substitute for House Bill No. 1615, Page 33, Sections 197.400-197.460, Line 11, by deleting all of said sections, page 33, line 11 through page 54, line 15; and

Further amend said bill, by amending the titling and enacting clauses accordingly.

Senator Rohrbach moved that the above amendment be adopted.

Senator Wiggins assumed the Chair.

Senator Sims offered **SSA 1** for **SA 9**:

#### SENATE SUBSTITUTE AMENDMENT NO. 1 FOR SENATE AMENDMENT NO. 9

Amend Senate Substitute for Senate Committee Substitute for House Substitute for House Bill No. 1615, Page 35, Section 197.450, Line 14, by inserting after “services” “where the employee or home care provider engages in activities that require physical contact with the client, such as assistance with bathing, toileting and other such services where such services are”.

Senator Sims moved that the above substitute amendment be adopted.

At the request of Senator Caskey, **HS** for **HB 1615**, with **SCS**, **SS** for **SCS**, **SA 9** and **SSA 1** for **SA 9** (pending), was placed on the Informal Calendar.

### PRIVILEGED MOTIONS

Senator Mathewson moved that the conference committee report on **SCS** for **HS** for **HCS** for **HB 1742**, as amended, be taken up for adoption, which motion prevailed.

Senator Mathewson moved that the conference committee report be adopted.

At the request of Senator Mathewson, his motion to adopt the conference committee report was withdrawn.

Senator Klarich moved that the Senate refuse to concur in **HS** for **HCS** for **SB 896**, as amended, and request the House to recede from its position specifically on **HA 9** and **HA 12** and take up and pass the bill, which motion prevailed.

### CONFERENCE COMMITTEE REPORTS

Senator Caskey, on behalf of the conference committee appointed to act with a like committee from the House on **HCS** for **SB 944**, as amended, submitted the following conference committee report:

#### CONFERENCE COMMITTEE REPORT ON HOUSE COMMITTEE SUBSTITUTE FOR SENATE BILL NO. 944

Mr. President: Your Conference Committee, appointed to confer with a like committee of the House, on House Committee Substitute for Senate Bill No. 944, with House Amendments Nos. 1, 2, 3, 4, 5, 6, House Substitute Amendment No. 1 for House Amendment No. 7, House Amendments Nos. 8, 9, 11, 13, 14 and 15; begs leave to report that we, after free and fair discussion of the differences between the House and Senate, have agreed to recommend and do recommend to the respective bodies as follows:

1. That the House recede from its position on House Committee Substitute for Senate Bill No. 944, as amended;
2. That the Senate recede from its position on

Senate Bill No. 944; and

3. That the attached Conference Committee Substitute for House Committee Substitute for Senate Bill No. 944 be adopted.

FOR THE SENATE: FOR THE HOUSE:

- /s/ Harold Caskey /s/ Phil Smith
- /s/ Joe Maxwell /s/ D. J. Davis
- /s/ Jerry T. Howard /s/ Kate Hollingsworth
- /s/ Roseann Bentley /s/ Emmy McClelland
- /s/ Morris Westfall /s/ Jewell Patek

Senator Caskey moved that the above conference committee report be adopted, which motion prevailed by the following vote:

YEAS—Senators

Bentley	Carter	Caskey	Childers
DePasco	Ehlmann	Flotron	Goode
Graves	House	Howard	Jacob
Kenney	Klarich	Mathewson	Maxwell
Mueller	Quick	Russell	Scott
Sims	Singleton	Staples	Steelman
Stoll	Westfall	Wiggins	Yeckel—28

NAYS—Senators

Kinder	Rohrbach	Schneider—3
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Absent—Senators

Bland	Clay—2
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Absent with leave—Senator Johnson—1

On motion of Senator Caskey, **CCS** for **HCS** for **SB 944**, entitled:

CONFERENCE COMMITTEE SUBSTITUTE  
FOR HOUSE COMMITTEE SUBSTITUTE  
FOR SENATE BILL NO. 944

An Act to repeal sections 475.060 and 475.070, RSMo 1994, and sections 160.261, 160.522, 161.650, 163.031, 165.011, 165.016, 167.020, 167.023, 167.115, 167.117, 167.171, 170.250, 210.865 and 571.030, RSMo Supp. 1999, relating to school safety, and to enact in lieu thereof twenty-two new sections relating to the same subject, with penalty provisions.

Was read the 3rd time and passed by the following vote:

YEAS—Senators

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

NAYS—Senators

Kinder	Rohrbach—2
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Absent—Senator Clay—1

Absent with leave—Senator Johnson—1

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.

**PRIVILEGED MOTIONS**

Senator Staples moved that the Senate refuse to recede from its position on **SCS** for **HB 1948** and grant the House a conference thereon, which motion prevailed.

**REPORTS OF STANDING COMMITTEES**

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

Mr. President: Your Committee on Rules, Joint Rules and Resolutions, to which was referred **HCR 34**, begs leave to report that it has considered the same and recommends that the concurrent resolution do pass.

**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 is removing Representative Griesheimer from the conference committee on **HS** for **HCS** for **SB 856**, as amended, and adding Representative Shields to the conference committee on **HS** for **HCS** for **SB 856**, as amended.

Also,

Mr. President: I am instructed by the House of Representatives to inform the Senate that the House has taken up and passed **HS** for **HCS** for **SB 858**, entitled:

An Act to repeal sections 610.021, 610.022 and 610.027, RSMo Supp. 1999, relating to the sunshine law, and to enact in lieu thereof five new sections relating to the same subject.

With House Amendments Nos. 1 and 2, House Substitute Amendment No. 1 for House Amendment No. 3, Part 1 of House Amendment No. 4, Part 2 of House Amendment No. 4, House Amendment No. 5, House Substitute Amendment No. 1 for House Amendment No. 6, House Amendment No. 9, House Substitute Amendment No. 1 for House Amendment No. 10, House Amendment Nos. 11, 12, 13, 14 and 15.

#### HOUSE AMENDMENT NO. 1

Amend House Substitute for House Committee Substitute for Senate Bill No. 858, Page 5, Section 610.021, Lines 14 through 17, by deleting said lines and by inserting in lieu thereof the following:

“such a legal action. **Any vote taken on a question deemed closed pursuant to this subsection shall be by roll call vote as set out in 610.015 and shall be made public as set out above.** Legal work product shall be considered a”; and

Further amend said section, Page 6, Lines 2 through 4, by deleting said lines and by inserting in lieu thereof the following:

“estate. **Any vote taken on any question deemed closed pursuant to this subsection shall be by roll call vote as set out in 610.015 and shall be made public within seventy-two hours after execution of the lease, purchase or sale of the real estate;**” and

Further amend said section, Page 6, Lines 15 through 18, by deleting said lines and by inserting in lieu thereof the following:

“decision is made available to the public. **Any vote taken on any question deemed closed pursuant to this subsection shall be by roll call vote as set out in 610.015 and shall be made public within 72 hours of the close of the meeting where such action occurs, as further set out above.** As used in this”.

#### HOUSE AMENDMENT NO. 2

Amend House Substitute for House Committee Substitute for Senate Bill No. 858 (3809L.10F), Page 3, Section 197.760, Lines 3-12 of said page, by deleting said lines and inserting in lieu thereof the following:

(2) Discussion and analysis of:

(a) Developing a new health service or a new facility;

(b) Expanding or revising an existing health service or facility; or

(c) Entering into a shared service arrangement or other affiliation agreement.

No final decision to implement paragraph (a), (b), or (c) of this subdivision may be made by the governing body of a public hospital or a related organization until 30 days after a public meeting has been held by the governing body, at which the proposed action has been made public, with notice of said meeting having been given pursuant to section 610.020, RSMo;” and

Further amend said bill, Page 4, Section 197.760, Line 6 of said page, by deleting the number “(2)” and inserting in lieu thereof the number “(3)”.

#### HOUSE SUBSTITUTE AMENDMENT NO. 1 FOR HOUSE AMENDMENT NO. 3

Amend House Substitute for House Committee Substitute for Senate Bill No. 858, Page 4, Section 197.760, Lines 8-9, by deleting the words “two years following the termination of such contract” and inserting in lieu thereof the words “eighteen months following the termination of such contract”.

HOUSE AMENDMENT NO. 4  
PART I

Amend House Substitute for House Committee Substitute for Senate Bill No. 858, Page 11, Section 610.027, Line 18, by inserting immediately after the word “[purposely]” the word “**knowingly**”; and

HOUSE AMENDMENT NO. 4  
PART II

Amend House Substitute for House Committee Substitute for Senate Bill No. 858, Page 11, Section 610.027, Line 21, by deleting the word “**twenty-five**” and by inserting in lieu thereof the word “**five**”.

HOUSE AMENDMENT NO. 5

Amend House Substitute for House Committee Substitute for Senate Bill No. 858, Page 8, Section 610.021, Line 19, by adding after the word “restructuring” the following: “**or retail choice, for natural gas or electric service**”; and

Further amend said line, by deleting the word [electric]; and

Further amend on Line 23, by deleting the word [electric]; and

Further amend on Line 24, after the word “areas” by adding the following: “**for natural gas or electric service**”; and

Further amend Page 9, Line 2, by deleting the word “electric”; and

Further amend Page 9, Line 8, by deleting the word “electric”; and

Further amend said line, by adding after the word “utility” the following: “**supplying natural gas or electric service**”; and

Further amend Line 9, by deleting all the remainder of said subsection after the word “the” and inserting in lieu thereof the following: “**general assembly does not adopt, on or before December 31, 2002, legislation authorizing electric utility restructuring**”; and

HOUSE SUBSTITUTE AMENDMENT NO. 1  
FOR HOUSE AMENDMENT NO. 6

Amend House Substitute for House Committee Substitute for Senate Bill No. 858, Page 1, In the Title, Line 5 of said page, by deleting the word “five” and inserting in lieu thereof the word “six”; and

Further amend said bill, Page 1, Section A, Line 10 of said page, by deleting the word “five” and inserting in lieu thereof the word “six” and by inserting after the number “197.760,” the number “197.765.”; and

Further amend said bill, Page 4, Section 197.760, Line 2 of said page, by inserting after the word “section” the words “or section 197.765.”; and

Further amend said bill, Page 4, Section 197.760, Line 13 of said page, by inserting after said line the following:

“197.765. The meetings and records of a public hospital as defined in subdivision 2 of subsection 1 of section 197.760 shall not be construed to be a public record or a public meeting as defined in subdivisions (5) and (6) of section 610.010, RSMo, if:

(1) the public hospital does not receive money from a tax levy imposed by the city, county or hospital district that established the hospital, and

(2) the public hospital waives its right to claim sovereign or governmental tort immunity protection available pursuant to sections 537.600 to 537.615, RSMo.”.

HOUSE AMENDMENT NO. 9

Amend House Substitute for House Committee Substitute for Senate Bill No. 858, Page 9, Section 610.021, Lines 12-15, by deleting said lines and inserting in lieu thereof the following:

“(19) Financial records, business and marketing plans and other proprietary information submitted as a part of a sealed bid or sealed proposal.”; and

Further amend said bill, Page 9, Section 610.022, Line 17, by adding before the word “No”, the following: “Laws relating to open meetings and governmental records shall be included with

financial disclosure forms provided to candidates and elected officials by the Office of Secretary of State.”.

HOUSE SUBSTITUTE AMENDMENT NO. 1  
FOR HOUSE AMENDMENT NO. 10

Amend House Substitute for House Committee Substitute for Senate Bill No. 858, Page 10, Section 610.022, Line 24 of said page, by inserting after all of said line the following:

“610.026. 1. Except as otherwise provided by law, each public governmental body shall provide access to and, upon request, furnish copies of public records subject to the following:

(1) Fees for copying public records shall not exceed the actual cost of document search and duplication[. Upon request, the governmental body shall certify in writing that the actual cost of document search and duplication is fair, reasonable and does not exceed the actual cost incurred by the public governmental body] **or twenty-five cents per page, whichever is less. If the actual cost of search and duplication exceeds twenty-five cents per page, then the governmental body shall certify in writing why the search of the specific documents will require extraordinary effort and then the governmental body may charge the actual cost of search and duplication.** Documents may be furnished without charge or at a reduced charge when the public governmental body determines that waiver or reduction of the fee is in the public interest because it is likely to contribute significantly to public understanding of the operations or activities of the public governmental body and is not primarily in the commercial interest of the requester;

(2) Fees for providing access to public records maintained on computer facilities, recording tapes or discs, videotapes or films, pictures, slides, graphics, illustrations or similar audio or visual items or devices, shall include only the cost of copies, staff time required for making copies and programming, if necessary, and the disk or tape used for the duplication.

2. Payment of such copying fees may be requested prior to the making of copies.

3. Except as otherwise provided by law, each

public governmental body of the state shall remit all moneys received by or for it from fees charged pursuant to this section to the director of revenue for deposit to the general revenue fund of the state.

4. Except as otherwise provided by law, each public governmental body of a political subdivision of the state shall remit all moneys received by it or for it from fees charged pursuant to sections 610.010 to 610.028 to the appropriate fiscal officer of such political subdivision for deposit to the governmental body's accounts.

5. The term “tax, license or fees” as used in section 22 of article X of the Constitution of the state of Missouri does not include copying charges and related fees that do not exceed the level necessary to pay or to continue to pay the costs for providing a service, program, or activity which was in existence on November 4, 1980, or which was approved by a vote of the people subsequent to November 4, 1980.”; and

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

HOUSE AMENDMENT NO. 11

Amend House Substitute for House Committee Substitute for Senate Bill 858, Page 4, Section 197.760, Line 13, by inserting immediately after said line the following:

“217.412. 1. It shall be the duty of the department of corrections to ensure that an autopsy is performed upon all offenders within the custody of the department who die under violent or suspicious circumstances or apparent suicide to ascertain as nearly as possible the cause of death. The department shall maintain a record of the findings and conclusions of each such autopsy.

**2. The department shall provide a copy of such record to any member of the general assembly upon request.”.**

HOUSE AMENDMENT NO. 12

Amend House Substitute for House Committee Substitute for Senate Bill No. 858, Page 4, Section 197.760, Line 13, by inserting immediately after said line the following:

“610.015. Except as provided in section



610.021, rules authorized pursuant to article III of the Missouri Constitution and as otherwise provided by law, all votes shall be recorded, and [if a roll call is taken, as to attribute] **attributed as to** each “yea” and “nay” vote, or abstinence if not voting, to the name of the individual member of the public governmental body. Any votes taken during a closed **or open** meeting shall be taken by roll call, **except votes on procedural or ministerial matters**. All public meetings shall be open to the public and public votes and public records shall be open to the public for inspection and duplication.”; and

Further amend title, enacting clause and intersectional references accordingly.

#### HOUSE AMENDMENT NO. 13

Amend House Substitute for House Committee Substitute for Senate Bill No. 858, Page 4, Section 197.760, Line 13, by inserting immediately after said line the following:

“610.010. As used in sections 610.010 to 610.030 and sections 610.100 to 610.150, unless the context otherwise indicates, the following terms mean:

(1) “Closed meeting”, “closed record”, or “closed vote”, any meeting, record or vote closed to the public;

(2) “Copying”, if requested by a member of the public, copies provided as detailed in section 610.026, if duplication equipment is available;

(3) “Public business”, all matters which relate in any way to the performance of the public governmental body's functions or the conduct of its business;

(4) “Public governmental body”, any legislative, administrative or governmental entity created by the constitution or statutes of this state, by order or ordinance of any political subdivision or district, judicial entities when operating in an administrative capacity, or by executive order, including:

(a) Any body, agency, board, bureau, council, commission, committee, board of regents or board of curators or any other governing body of any institution of higher education, including a

community college, **and including, but not limited to, the University of Missouri**, which is supported in whole or in part from state funds;

(b) Any advisory committee or commission appointed by the governor by executive order;

(c) Any department or division of the state, of any political subdivision of the state, of any county or of any municipal government, school district or special purpose district including but not limited to sewer districts, water districts, and other subdistricts of any political subdivision;

(d) Any other legislative or administrative governmental deliberative body under the direction of three or more elected or appointed members having rulemaking or quasi-judicial power;

(e) Any committee appointed by or at the direction of any of the entities and which is authorized to report to any of the above-named entities, any advisory committee appointed by or at the direction of any of the named entities for the specific purpose of recommending, directly to the public governmental body's governing board or its chief administrative officer, policy or policy revisions or expenditures of public funds including, but not limited to, entities created to advise bi-state taxing districts regarding the expenditure of public funds, or any policy advisory body, policy advisory committee or policy advisory group appointed by a president, chancellor or chief executive officer of any college or university system or individual institution at the direction of the governing body of such institution which is supported in whole or in part with state funds, **including, but not limited to, the University of Missouri**, for the specific purpose of recommending directly to the public governmental body's governing board or the president, chancellor or chief executive officer policy, policy revisions or expenditures of public funds provided, however, the staff of the college or university president, chancellor or chief executive officer shall not constitute such a policy advisory committee. The custodian of the records of any public governmental body shall maintain a list of the policy advisory committees described in this subdivision; and

(f) Any quasi-public governmental body. The

term “quasi-public governmental body” means any person, corporation or partnership organized or authorized to do business in this state pursuant to the provisions of chapter 352, 353, or 355, RSMo, or unincorporated association which either:

a. Has as its primary purpose to enter into contracts with public governmental bodies, or to engage primarily in activities carried out pursuant to an agreement or agreements with public governmental bodies; or

b. Performs a public function as evidenced by a statutorily based capacity to confer or otherwise advance, through approval, recommendation or other means, the allocation or issuance of tax credits, tax abatement, public debt, tax-exempt debt, rights of eminent domain, or the contracting of leaseback agreements on structures whose annualized payments commit public tax revenues; or any association that directly accepts the appropriation of money from a public governmental body, but only to the extent that a meeting, record, or vote relates to such appropriation;

(5) “Public meeting”, any meeting of a public governmental body subject to sections 610.010 to 610.030 at which any public business is discussed, decided, or public policy formulated, whether corporeal or by means of communication equipment. The term “public meeting” shall not include an informal gathering of members of a public governmental body for ministerial or social purposes when there is no intent to avoid the purposes of this chapter, but the term shall include a public vote of all or a majority of the members of a public governmental body, by electronic communication or any other means, conducted in lieu of holding a public meeting with the members of the public governmental body gathered at one location in order to conduct public business;

(6) “Public record”, any record, whether written or electronically stored, retained by or of any public governmental body including any report, survey, memorandum, or other document or study prepared and presented to the public governmental body by a consultant or other professional service paid for in whole or in part by public funds; provided, however, that personally identifiable

student records maintained by public educational institutions shall be open for inspection by the parents, guardian or other custodian of students under the age of eighteen years and by the parents, guardian or other custodian and the student if the student is over the age of eighteen years. The term “public record” shall not include any internal memorandum or letter received or prepared by or on behalf of a member of a public governmental body consisting of advice, opinions and recommendations in connection with the deliberative decision-making process of said body, unless such records are retained by the public governmental body or presented at a public meeting;

(7) “Public vote”, any vote cast at any public meeting of any public governmental body.”; and

Further amend said bill by amending the title and enacting clause accordingly.

#### HOUSE AMENDMENT NO. 14

Amend House Substitute for House Committee Substitute for Senate Bill No. 858, Page 8, Section 610.021, Line 17 on said page, by inserting immediately after the word “product” the following:

**“, but this exception shall not include any completed audit for any public entity or state-supported college or university;”.**

#### HOUSE AMENDMENT NO. 15

Amend House Substitute for House Committee Substitute for Senate Bill No. 858, Page 1, Section 166.456, Line 18, by inserting after all of said line the following:

“193.245. It shall be unlawful for any person to permit inspection of, or to disclose information contained in, vital records or to copy or issue a copy of all or part of any such record except as authorized by this law and by regulation or by order of a court of competent jurisdiction or in the following situations:

(1) A listing of persons who are born or who die on a particular date may be disclosed upon request, but no information from the record other than the name and the date of such birth or death shall be disclosed;

(2) The department may authorize the disclosure of information contained in vital records for legitimate research purposes;

(3) To a qualified applicant as provided in section 193.255;

**(4) The department shall provide microfilms or electronically created copies of all vital records that are seventy-two years old or older, and microfilms or electronically created copies of indexes to such records to the state archives for study by the public.”; and**

Further amend title, enacting clause and intersectional references accordingly.

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 taken up and passed HCS for SS for SCS for SB 577, entitled:

An Act to repeal sections 260.375, 260.380, 260.391, 260.395, 260.480, 260.535, 260.546 and 260.569, RSMo 1994, and sections 260.475, 260.479 and 260.500, RSMo Supp. 1999, relating to hazardous waste, and to enact in lieu thereof twenty-four new sections relating to the same subject, with an expiration date for a certain section.

With House Amendment No. 1 to HCS and House Amendment No. 1 to Part 2 of HCS.

#### HOUSE AMENDMENT NO. 1

Amend House Committee Substitute for Senate Substitute for Senate Committee Substitute for Senate Bill No. 577, Page 24, Section 260.569, Line 39, by inserting after all of said line the following:

**“701.337. 1. The department shall have the authority to develop a plan for implementing a program that provides financial assistance via loans or grants to owners of dwellings or child-occupied facilities for performing lead abatement projects. In developing the plan, the department shall consult with the department of natural resources and the department of**

**economic development.**

**2. The program shall accept applications from local entities for implementing at the local level of lead abatement projects that conform with the requirements of sections 701.300 to 701.338, and any rules promulgated thereunder. For purposes of this section, “local entities” shall include any municipality or county, any local not-for-profit community or housing organization or any community assistance project agency.**

**3. There is hereby established in the state treasury the “Missouri Lead Abatement Loan Fund”. The state treasurer shall receive and deposit to the credit of the fund moneys from appropriations by the general assembly, repayments by applicants of loans made pursuant to this section, including interest on such loans, and gifts, bequests, donations or any other payments made by any public or private entity for use in carrying out the provisions of this section. The state treasurer shall deposit all moneys in the fund in any of the qualified depositories of the state. All such deposits shall be secured in such a manner and shall be made upon such terms and conditions as are now or may hereafter be provided by law relative to state deposits. Interest accrued by the fund shall be credited to the fund. Notwithstanding the provisions of section 33.080, RSMo, to the contrary, moneys in the fund shall not revert to the credit of the general revenue fund at the end of the biennium. The fund shall be used solely for the purposes of this section and for no other purpose.”; and**

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

#### HOUSE AMENDMENT NO. 1 TO PART II

Amend House Committee Substitute for Senate Substitute for Senate Committee Substitute for Senate Bill No. 577, Page 1, In the title, Line 5, by deleting the following: “a certain section” and inserting in lieu thereof the following: “certain sections”; and

Further amend said bill, Page 1, Section A,

Line 3, by deleting the word “eleven” and inserting in lieu thereof the word “twenty-four”; and

Further amend said bill, Page 1, Section A, Line 4, by deleting the following: “and 260.569,” and inserting in lieu thereof the following: “, 260.569, 260.900, 260.905, 260.910, 260.915, 260.920, 260.925, 260.930, 260.935, 260.940, 260.945, 260.950, 260.955 and 260.960,”; and

Further amend said bill, Page 24, Section B, Lines 1 to 3, by deleting all of said lines; and

Further amend said bill, Pages 26 to 27, Section 260.905, Lines 13 to 42, by deleting all of said lines; and

Further amend said bill, Page 27, Section 260.905, Line 43, by deleting the symbol “(3)” and inserting in lieu thereof the symbol “(1)”; and

Further amend said bill, Page 27, Section 260.905, Line 46, by deleting the symbol “(4)” and inserting in lieu thereof the symbol “(2)”; and

Further amend said bill, Page 27, Section 260.905, Line 56, by deleting the symbol “(5)” and inserting in lieu thereof the symbol “(3)”; and

Further amend said bill, Page 27, Section 260.905, Line 59, by deleting the symbol “(4)” and inserting in lieu thereof the symbol “(2)”; and

Further amend said bill, Page 28, Section 260.910, Line 4, by adding immediately after the number “**260.960**” the following: “, **or operate an active dry cleaning facility in violation of any other applicable federal or state environmental statutes, rules or regulations**”; and

Further amend said bill, Page 29, Section 260.925, Line 5, by deleting the words “(4) and (5) of subsection 5” and inserting in lieu thereof the words “(2) and (3) of subsection 2”; and

Further amend said bill, Page 30, Section 260.925, Line 44, by deleting the word “or”; and

Further amend said bill, Page 30, Section 260.925, Line 47, by inserting immediately after the word “list” the following: “;

**(5) For corrective action at sites with active dry cleaning facilities where the owner or operator is not in compliance with sections 260.900 to 260.960, rules and regulations**

**adopted pursuant to sections 260.900 to 260.960, orders of the director pursuant to sections 260.900 to 260.960, or any other applicable federal or state environmental statutes, rules or regulations; or**

**(6) For corrective action at sites with abandoned dry cleaning facilities that have been taken out of operation prior to July 1, 2004, and not documented by or reported to the department by July 1, 2004. Any person reporting such a site to the department shall include any available evidence that the site once contained a dry cleaning facility”; and**

Further amend said bill, Page 32, Section 260.925, Line 98, by deleting the words “**subsection 3**” and inserting in lieu thereof the words “**subsection 5**”; and

Further amend said bill, Page 32, Section 260.925, Lines 112 to 114, by deleting all of said lines; and

Further amend said bill, Page 34, Section 260.940, Line 6, by deleting the word “ten” and inserting in lieu thereof the word “**eight**”; and

Further amend said bill, Page 37, Section C, Line 1, by deleting all of said line and inserting in lieu thereof the following:

“Section B. Sections 260.900, 260.905, 260.910, 260.915, 260.920, 260.925, 260.930, 260.935, 260.940, 260.945, 260.950, 260.955 and 260.960 of this act shall expire on August 28, 2007.”; and

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

In which the concurrence of the Senate is respectfully requested.

#### CONFERENCE COMMITTEE APPOINTMENTS

President Pro Tem Quick appointed the following conference committee to act with a like committee from the House on SCS for **HB 1948**: Senators Staples, Mathewson, Scott, Childers and Westfall.

**RESOLUTIONS**

Senator Graves offered Senate Resolution No. 1758, regarding Franklin E. Schottel, Ludlow, which was adopted.

Senator Yeckel offered Senate Resolution No. 1759, regarding the Ninetieth Birthday of Mrs. Orlou M. Dotzman, St. Louis, which was adopted.

Senator Maxwell offered Senate Resolution No. 1760, regarding Owens Kollar, Macon, which was adopted.

On motion of Senator DePasco, the Senate adjourned until 9:30 a.m., Tuesday, May 9, 2000.

**SENATE CALENDAR**

SEVENTIETH DAY—TUESDAY, MAY 9, 2000

**FORMAL CALENDAR****SENATE BILLS FOR PERFECTION**

SB 1045-Caskey, with SCS

SBs 1043, 1031, 580 &  
671-Mathewson, with SCS

**HOUSE BILLS ON THIRD READING**

- |   |   |
|---|---|
| <p>1. HS for HCS for HBs 1652 &amp; 1433-Hoppe, with SCAs 1, 2, 3, 4, 5 &amp; 6 (Caskey) (In Budget Control)</p> <p>2. HS for HCS for HBs 1677, 1675 &amp; 1676-Riback Wilson, with SCS (Jacob)</p> <p>3. HS for HB 1238-Hoppe, with SCS (Mathewson)</p> <p>4. HS for HCS for HB 1797-Gratz, with SCA 1 (Goode)</p> <p>5. HS for HCS for HBs 1172, 1501, 1633, 1440, 1634, 1177 &amp; 1430-Davis (122nd), with SCS (Howard)</p> | <p>6. HS for HCS for HB 1762-Williams (159th), with SCS (Caskey)</p> <p>7. HCS for HB 1144, with SCS (Johnson)</p> <p>8. HJR 43-Barry, et al (House)</p> <p>9. HS for HCS for HB 1481-Smith (Maxwell)</p> <p>10. HCS for HB 1644, with SCS (Scott)</p> <p>11. HS for HCS for HBs 1215 &amp; 1240-Smith, with SCS (Caskey)</p> <p>12. HB 1768-Ward, with SCS (Staples)</p> <p>13. HB 1326-Mays (50th), with SCAs 1 &amp; 2 (Goode)</p> |
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| <p>14. HS for HB 1728-Backer,<br/>with SCS (Flotron)<br/>(In Budget Control)</p> <p>15. HS for HCS for HBs 1489,<br/>1488 &amp; 1650-Kennedy,<br/>with SCS (Maxwell)<br/>(In Budget Control)</p> | <p>16. HS for HCS for HB 1305-<br/>Rizzo, with SCS (DePasco)<br/>(In Budget Control)</p> <p>17. HS for HCS for HB 1254-<br/>Kissell, with SCS (Caskey)</p> <p>18. HB 1499 &amp; HB 1579-<br/>Hoppe, with SCS (Scott)</p> <p>19. HB 1946-Dougherty<br/>(Maxwell)</p> |
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# Unofficial

## INFORMAL CALENDAR

### SENATE BILLS FOR PERFECTION

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| <p>SBs 545, 628, 647, 728,<br/>834 &amp; 832-Staples,<br/>with SCS (pending)</p> <p>SBs 584, 539, 630, 777,<br/>796, 918 &amp; 927-Bentley,<br/>with SCS &amp; SS for SCS<br/>(pending)</p> <p>SBs 599 &amp; 531-Schneider,<br/>with SCS (pending)</p> <p>SB 604-Wiggins</p> <p>SB 697-Schneider, with<br/>SCS &amp; SA 1 (pending)</p> <p>SB 720-Caskey, with SS &amp;<br/>SA 3 (pending)</p> <p>SB 729-House, with SCS &amp;<br/>SA 8 (pending)</p> <p>SB 744-Klarich</p> <p>SB 748-Johnson, with SCS</p> <p>SB 803-Goode, et al, with<br/>SCS</p> <p>SBs 807, 553, 574, 614,<br/>747 &amp; 860-Jacob, with<br/>SCS, SS for SCS &amp; SA 2<br/>(pending)</p> <p>SB 817-Stoll, with SCS</p> <p>SBs 818 &amp; 564-Maxwell and<br/>Kinder, with SCS</p> | <p>SB 826-Jacob, et al, with<br/>SCS, SS for SCS &amp; SA 5<br/>(pending)</p> <p>SB 827-Scott, et al, with<br/>SS &amp; SA 2 (pending)</p> <p>SB 866-Klarich</p> <p>SB 930-Jacob, with SCS</p> <p>SB 955-Mathewson, et al</p> <p>SB 957-Johnson and Quick,<br/>with SCS, SA 2, SSA 1<br/>for SA 2 &amp; SA 3 to SSA<br/>1 for SA 2 (pending)</p> <p>SB 980-Jacob, with SCS</p> <p>SB 1016-Jacob, et al,<br/>with SS, SA 2 &amp; point<br/>of order (pending)</p> <p>SB 1047-Rohrbach, with<br/>SCS (pending)</p> <p>SB 1048-Mathewson, with<br/>SCS</p> <p>SJR 45 &amp; 41-House, with<br/>SCS (pending)</p> <p>SJR 46-Goode, et al, with<br/>SCS (pending)</p> <p>SJR 47-Quick, et al, with<br/>SCS, SS for SCS, SA 1,<br/>SSA 1 for SA 1 &amp; point<br/>of order (pending)</p> |
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HOUSE BILLS ON THIRD READING

HS for HCS for HB 1076-  
Relford, with SCS (Stoll)  
HB 1082-Crump, with SCS  
& SA 1 (pending)  
(Childers)  
SCS for HB 1292-Auer  
(Jacob)  
(In Budget Control)  
SCS for HCS for HBs 1386  
& 1086 (Maxwell)  
(In Budget Control)  
HB 1443-Koller, with SCS  
& SS for SCS (pending)  
(Johnson)  
HS for HCS for HBs 1566  
& 1810-Bray, with SCS  
(Scott)

HS for HB 1603-May  
(108th), with SCS  
(pending) (Jacob)  
HS for HB 1615-Hosmer,  
with SCS, SS for SCS,  
SA 9 & SSA 1 for SA 9  
(pending) (Caskey)  
HB 1706-Gambaro, et al,  
with SCS (Clay)  
HS for HCS for HJR 61-Van  
Zandt, with SCS, SA 1  
& SA 7 to SA 1  
(pending) (Quick)

Journal  
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CONSENT CALENDAR

Senate Bills

Reported 2/15

SB 740-Wiggins

Copy  
House Bills

Reported 4/11

HB 1085-Selby (Stoll)

Reported 4/13

HB 1875-Franklin  
(Wiggins)

## SENATE BILLS WITH HOUSE AMENDMENTS

SS for SCS for SB 577-  
Maxwell, with HCS, as  
amended

SB 858-Maxwell, with HS  
for HCS, as amended

BILLS IN CONFERENCE AND BILLS  
CARRYING REQUEST MESSAGES

## In Conference

SS for SB 549-Quick,  
et al, with HS for HCS,  
as amended  
SB 788-Johnson, with HS  
for HCS, as amended  
SS for SB 813-House, with  
HCS, as amended  
SB 856-Maxwell, with HS  
for HCS, as amended  
SB 881-Wiggins, with HS  
for HCS, as amended  
SB 944-Caskey, with HCS,  
as amended  
(Senate adopted CCR  
and passed CCS)

HB 1591-Backer, with SCS  
(Howard)  
HS for HCS for HB 1742-  
Koller, with SCS, as  
amended (Mathewson)  
(House adopted CCR  
and passed CCS)  
HB 1808-O'Toole, with SS  
for SCS, as amended  
(Scott)  
HB 1848-Treadway, with  
SCS (Carter)  
HB 1948-Gratz, et al,  
with SCS (Staples)

## Requests to Recede or Grant Conference

SB 896-Klarich, with HS  
for HCS, as amended  
(Senate requests House  
recede and pass the bill)

SB 961-Stoll and Maxwell,  
with HS, as amended  
(Senate requests House  
recede or grant conference)

## RESOLUTIONS

SR 1204-Goode  
SR 1373-Mathewson

SCR 33-Kinder, et al  
SCR 38-Caskey, with HA 1



To be Referred

HCR 28-Van Zandt, et al

Reported from Committee

SCR 34-Bland, et al, with  
point of order (pending)

SCR 40-House

SCR 43-Maxwell

SCR 41-Scott, with SCS

SCR 42-Rohrbach and

Johnson, with SCA 1

HCR 22-Liese (House)

(In Budget Control)

HCR 27-Ross, et al

HCR 4-Kennedy and

Thompson (Howard)

HCR 29-Graham (Jacob)

HCR 10-Auer, with SCA 1

(Jacob)

SCR 26-Howard

HCR 34-Clayton

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