

# Journal of the Senate

SECOND REGULAR SESSION

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**SIXTY-FIRST DAY—MONDAY, APRIL 29, 2002**

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The Senate met pursuant to adjournment.

President Pro Tem Kinder in the Chair.

Reverend Carl Gauck offered the following prayer:

“Be merciful to me, O God, be merciful to me, for in you my soul takes refuge; in the shadow of your wings I will take refuge until the destroying storms pass by.” (Psalm 57:1)

Merciful Father, we are thankful for Your many blessings and Your watching our “going out and coming in.” We pray for Your blessings and comfort to those whose lives have been disrupted by the storms that blew through our state and Midwest the last several days. Heal those who were injured and comfort those who suffered death to loved ones and provide refuge for all who seek it. In Your Holy Name we pray. Amen.

The Pledge of Allegiance to the Flag was recited.

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

The Journal for Thursday, April 25, 2002, was read and approved.

Photographers from KRCG-TV, KCTV-5, Metro Sports, KMBC-TV and KSHB-TV 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	Caskey	Cauthorn
Childers	Coleman	Dougherty	Foster
Gibbons	Goode	Gross	House
Jacob	Johnson	Kennedy	Kenney
Kinder	Klarich	Klindt	Loudon
Mathewson	Quick	Rohrbach	Russell
Schneider	Sims	Singleton	Staples
Steelman	Stoll	Westfall	Wiggins
Yeckel—33			

Absent with leave—Senator DePasco—1

## RESOLUTIONS

Senator Cauthorn offered Senate Resolution No. 1617, regarding WTJR Television, Quincy, Illinois, which was adopted.

Senator Cauthorn offered Senate Resolution No. 1618, regarding WGCA Radio, Quincy, Illinois, which was adopted.

Senator Cauthorn offered Senate Resolution No. 1619, regarding KLTE Radio, Kirksville, which was adopted.

Senator Cauthorn offered Senate Resolution No. 1620, regarding KJIR Radio, Hannibal, which was adopted.

Senator Cauthorn offered Senate Resolution No. 1621, regarding KJAB Radio, Mexico, which was adopted.

Senator Caskey offered Senate Resolution No. 1622, regarding the Eightieth Birthday of Lee Fellman, Harrisonville, which was adopted.

Senator Klarich offered Senate Resolution No. 1623, regarding Regis Hillow of Medical Systems, Incorporated, St. Louis, which was adopted.

Senator Klarich offered the following resolution, which was referred to the Committee on Rules, Joint Rules, Resolutions and Ethics:

SENATE RESOLUTION NO. 1624

WHEREAS, the Missouri Senate strives to effectively advance the interests of all citizens through excellence in tradition, process and administration; and

WHEREAS, the position of Senate Administrator is essential to the efficient and effective operation of the upper chamber of the Missouri General Assembly; and

WHEREAS, Ron Kirchoff, who served the State of Missouri and the Missouri Senate in this capacity for more than 26 years, retired from this position on February 1, 2002; and

WHEREAS, Michael N. Keathley was selected by the Senate Administration Committee to serve as Missouri's Interim Senate Administrator upon the retirement of Ron Kirchoff; and

WHEREAS, Michael N. Keathley has worked to build upon the institutional wisdom and spirit of service of the Missouri Senate by implementing knowledge and skills he acquired in years of managerial experience in the private sector; and

WHEREAS, Michael N. Keathley has engaged in the performance of his duties in an exemplary manner commensurate with the standards of excellence he achieved in the private sector; and

WHEREAS, Administrative demands and responsibilities subject themselves to the Senate irrespective of the time of year or status of legislative activity; and

WHEREAS, continuity in administrative effectiveness is essential to the ability of the Senate to meet the best interests of all Missourians:

NOW, THEREFORE, BE IT RESOLVED by the members of

the Missouri Senate of the Ninety-first General Assembly, Second Regular Session, that the status of Michael N. Keathley be changed from that of Interim Senate Administrator to the permanent position of Senate Administrator; and

BE IT FURTHER RESOLVED that the Committee on Administration be instructed to implement the provisions and intent of this resolution in accordance with the policies of the Senate Administration Committee and under the Rules of the Missouri Senate.

Senator Klarich moved that **SR 1602** be taken up for adoption, which motion prevailed.

Senator Klarich offered **SS** for **SR 1602**:

SENATE SUBSTITUTE FOR  
SENATE RESOLUTION NO. 1602

Notice of Proposed Rule Change

BE IT RESOLVED by the Senate of the Ninety-First General Assembly, Second Regular Session, that Senate Rule 93 of the temporary rules be amended to read as follows:

“Rule 93. No person except members of the house of representatives, former members of the senate, the governor, the secretary of state, the state auditor, the state treasurer, judges of the supreme court, courts of appeals or circuit courts, attorney general and the congress, shall be admitted within the senate chamber during the sitting of the senate, unless invited by the senate; except that the seats at the north and south ends of the senate chamber may be reserved for spouses and families of members of the senate, and other persons may be admitted to the senate chamber on special request of any senator when the senate is in session. **No person except present and former members of the senate and the house of representatives, present and former governors, present and former secretaries of state, present and former state auditors, present and former state treasurers, present and former judges of the supreme court, courts of appeals or circuit courts, present and former attorneys general, present and former members of congress and present senate, house and legislative research staff shall be admitted to the Pershing and Bingham galleries when the senate is in session, unless upon unanimous consent of the senate.** Access to the third floor rear gallery shall be limited to senators during the hours in which the senate is engaged in floor session. Any use of the gallery when the senate is not in session must be approved by the Chairman of the Committee on Administration.”.

Senator Klarich moved that **SS** for **SR 1602** be adopted.

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

## SENATE AMENDMENT NO. 1

Amend Senate Substitute for Senate Resolution No. 1602, Page 967 of the Senate Journal of Thursday, April 25, 2002, Line 23, by adding after the period “.” the following:

“This exception shall not apply to a person registered as a lobbyist with the Missouri Ethics Commission.”.

Senator Mathewson moved that the above amendment be adopted.

Senator Klarich requested a roll call vote be taken on the adoption of **SA 1** to **SS** for **SR 1602** and was joined in his request by Senators Mathewson, Sims, Singleton and Stoll.

**SA 1** was adopted by the following vote:

## YEAS—Senators

Caskey	Cauthorn	Childers	Coleman
Dougherty	Foster	Goode	House
Jacob	Johnson	Kennedy	Kinder
Mathewson	Rohrbach	Russell	Sims
Staples	Stoll	Westfall	Wiggins
Yeckel—21			

## NAYS—Senators

Bentley	Gibbons	Gross	Kenney
Klarich	Klindt	Singleton	Steelman—8

## Absent—Senators

Bland	Quick—2
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## Absent with leave—Senators

DePasco	Loudon	Schneider—3
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At the request of Senator Klarich, his motion for adoption was withdrawn, which placed the resolution back on the Calendar, with **SS**, as amended (pending).

## CONCURRENT RESOLUTIONS

Senator Singleton offered the following concurrent resolution:

## SENATE CONCURRENT RESOLUTION NO. 70

Relating to an increase in the tax upon the sale of cigarettes and upon the sale of tobacco products other than cigarettes.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF MISSOURI, AS FOLLOWS:

WHEREAS, inappropriate use of tobacco is creating a health care crisis in Missouri due to the fact that it is the number one preventable cause of diseases with an overall health care cost, directly and indirectly, to the citizens of Missouri of approximately \$4 billion; and

WHEREAS, cigarette smoking among adults in Missouri is 5% above the national median with 31.7% of men and 26% of women currently claimed as smokers; and

WHEREAS, the average annual deaths in Missouri related to smoking from 1990 to 1994 were 9,960, making Missouri 14th in smoking-related deaths; and

WHEREAS, the average medical costs related to smoking in Missouri include \$380,820,000 for hospital care, \$318,760,000 for nursing home care, and \$66,410,000 for prescription drugs and an average of 13.6 years of an individual's life are lost due to smoking; and

WHEREAS, 32.8% of Missouri's high school students are already regular smokers, supporting the projection that 119,057 Missouri youth will die prematurely as a result of smoking; and

WHEREAS, a National Cancer Institute Expert Panel reported in 1993 that a substantial increase in tobacco excise taxes may be the single most effective measure for decreasing tobacco consumption; and

WHEREAS, Missouri is ranked 40th in the nation for the amount of excise taxes charged on tobacco sales and in comparing the trends in cigarette prices and overall consumption throughout the nation, there is a strong correlation between increasing prices and decreasing consumption:

NOW, THEREFORE, BE IT RESOLVED that the members of the Senate of the Ninety-first General Assembly, Second Regular Session, the House of Representatives concurring therein, hereby approve a tax in addition to the taxes imposed in sections 149.015 and 149.082, RSMo, upon the sale of cigarettes in the amount of thirty-seven and one-half mills per cigarette and also approve a tax in addition to the taxes imposed in section 149.160, RSMo, upon the sale of each tobacco product other than cigarettes at the rate of ten percent of the manufacturer's invoice price before discounts and deals for tobacco products other than cigarettes; and

BE IT FURTHER RESOLVED that such additional tax revenues shall be credited to a Fund for Lifelong Health for the

purpose of funding elderly pharmaceutical assistance programs, for use in comprehensive tobacco cessation, education, treatment programs, core public health funding, including health care and health care services, rural health initiatives, health care practitioner reimbursement, grants for the innovative development of health care delivery, life sciences research, and for Missouri land grant institutions with medical schools for the purpose of discovering, developing, and perfecting new and current technologies in the medical sciences; and

BE IT FURTHER RESOLVED that this resolution be sent to the Governor for his approval or rejection pursuant to the Missouri Constitution.

Read 1st time.

Senator Singleton offered the following concurrent resolution:

SENATE CONCURRENT RESOLUTION NO. 71

Relating to a state employee pay raise.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF MISSOURI, AS FOLLOWS:

WHEREAS, state employees did not receive a pay raise in fiscal year 2002 and are not budgeted to receive a pay raise in fiscal year 2003; and

WHEREAS, section 313.820, RSMo, requires excursion boat licensees to pay a \$2.00 admission fee for each person embarking on an excursion gambling boat with a ticket of admission; and

WHEREAS, an increase in the admission fee by \$.50 would adequately fund a pay raise for all state employees:

NOW, THEREFORE, BE IT RESOLVED that the members of the Senate of the Ninety-first General Assembly, Second Regular Session, the House of Representatives concurring therein, hereby approve an increase in the excursion boat admission fee, pursuant to section 313.820, RSMo, in the amount of \$.50 for each person embarking on an excursion gambling boat with a ticket of admission; and

BE IT FURTHER RESOLVED that such additional funds raised by the \$.50 admission fee increase shall be utilized in fiscal year 2004 for a state employee pay raise, and for all fiscal years thereafter, the allocation of the additional funds shall only be utilized for state employee compensation; and

BE IT FURTHER RESOLVED that this resolution be sent to the Governor for his approval or rejection pursuant to the Missouri Constitution.

Read 1st time.

HOUSE BILLS ON THIRD READING

**HB 2120**, with **SCS**, introduced by Representatives Ridgeway and Hosmer, entitled:

An Act to repeal section 570.020, RSMo, and to enact in lieu thereof one new section relating to the method of ascertaining the value of property.

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

**SCS** for **HB 2120**, entitled:

SENATE COMMITTEE SUBSTITUTE FOR HOUSE BILL NO. 2120

An Act to repeal section 570.020, RSMo, and to enact in lieu thereof one new section relating to the method of ascertaining the value of property.

Was taken up.

Senator Gibbons moved that **SCS** for **HB 2120** be adopted, which motion prevailed.

On motion of Senator Gibbons, **SCS** for **HB 2120** was read the 3rd time and passed by the following vote:

YEAS—Senators

Bentley	Bland	Caskey	Cauthorn
Childers	Coleman	Dougherty	Foster
Gibbons	Goode	Gross	House
Jacob	Johnson	Kennedy	Kenney
Kinder	Klarich	Klindt	Mathewson
Rohrbach	Russell	Sims	Singleton
Staples	Steelman	Westfall	Wiggins
Yeckel—29			

NAYS—Senators—None

Absent—Senators

Quick	Stoll—2
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Absent with leave—Senators

DePasco	Loudon	Schneider—3
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The President Pro Tem declared the bill passed.

On motion of Senator Gibbons, title to the bill

was agreed to.

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

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

**HB 1659**, introduced by Representative Kelly (27), et al, entitled:

An Act to repeal section 488.005, RSMo, and to enact in lieu thereof one new section relating to surcharges.

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

On motion of Senator Dougherty, **HB 1659** was read the 3rd time and passed by the following vote:

YEAS—Senators

Bland	Caskey	Cauthorn	Childers
Dougherty	Foster	Gibbons	Goode
Gross	House	Jacob	Kennedy
Kenney	Kinder	Klarich	Klindt
Loudon	Quick	Rohrbach	Russell
Sims	Singleton	Staples	Steelman
Stoll	Westfall	Wiggins	Yeckel—28

NAYS—Senators—None

Absent—Senators

Bentley	Coleman	Johnson	Mathewson—4
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Absent with leave—Senators

DePasco	Schneider—2
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The President Pro Tem declared the bill passed.

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

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

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

**HB 1537**, with **SCS**, introduced by Represen-

tative Clayton, entitled:

An Act to repeal section 473.097, RSMo, relating to administration of small estates, and to enact in lieu thereof one new section relating to the same subject.

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

**SCS** for **HB 1537**, entitled:

SENATE COMMITTEE SUBSTITUTE FOR HOUSE BILL NO. 1537

An Act to repeal sections 214.330, 362.011 and 473.097, RSMo, relating to administration of small estates, and to enact in lieu thereof three new sections relating to the same subject.

Was taken up.

Senator Klarich moved that **SCS** for **HB 1537** be adopted.

Senator Klarich requested unanimous consent of the Senate to suspend the rules for the purpose of offering an amendment, which request was granted.

Senator Klarich offered **SA 1**:

SENATE AMENDMENT NO. 1

Amend Senate Committee Substitute for House Bill No. 1537, Page 1, In the Title, Line 2, by striking the words “administration of small”; and further amend line 3 of said title, by inserting after the word “estates” the following: “and trusts”; and

Further amend said bill, Page 4, Section 362.011, Line 25, by striking the numeral “362.245” and inserting in lieu thereof the numeral “**362.425**”.

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

Senator Klarich moved that **SCS** for **HB 1537**, as amended, be adopted, which motion prevailed.

On motion of Senator Klarich, **SCS** for **HB 1537**, as amended, was read the 3rd time and passed by the following vote:

## YEAS—Senators

Bland	Caskey	Cauthorn	Childers
Coleman	Dougherty	Foster	Gibbons
Goode	Gross	House	Jacob
Kennedy	Kenney	Kinder	Klarich
Klindt	Loudon	Mathewson	Quick
Rohrbach	Russell	Sims	Singleton
Steelman	Stoll	Westfall	Wiggins

Yeckel—29

## NAYS—Senators—None

## Absent—Senators

Bentley	Johnson	Staples—3
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## Absent with leave—Senators

DePasco	Schneider—2
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The President Pro Tem declared the bill passed.

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

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

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

**HB 1814**, with **SCA 1**, introduced by Representative Monaco, et al, entitled:

An Act to repeal sections 455.027, 455.060, 455.067, 455.075, 455.504 and 455.508, RSMo, and to enact in lieu thereof five new sections relating to orders of protection.

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

Senator Gross assumed the Chair.

**SCA 1** was taken up.

Senator Klarich moved that the above amendment be adopted.

At the request of Senator Klarich, his motion was withdrawn which placed **HB 1814**, with **SCA 1** (pending), back on the Calendar.

**HB 1955**, with **SCS**, introduced by Representative Hilgemann, et al, entitled:

An Act to repeal section 595.209, RSMo, and to enact in lieu thereof one new section relating to victims' rights.

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

**SCS** for **HB 1955**, entitled:

SENATE COMMITTEE SUBSTITUTE FOR  
HOUSE BILL NO. 1955

An Act to repeal section 595.209, RSMo, relating to victims' rights, and to enact in lieu thereof one new section relating to the same subject.

Was taken up.

Senator Coleman moved that **SCS** for **HB 1955** be adopted.

At the request of Senator Coleman, her motion was withdrawn, which placed **HB 1955**, with **SCS** (pending), back on the Calendar.

## REPORTS OF STANDING COMMITTEES

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

Mr. President: Your Committee on State Budget Control, to which was referred **HCS** for **HB 1711**, begs leave to report that it has considered the same and recommends that the bill do pass.

## HOUSE BILLS ON THIRD READING

**HCS** for **HB 1711**, entitled:

An Act to repeal section 163.011, RSMo, and to enact in lieu thereof one new section relating to state school aid, with an emergency clause.

Was taken up by Senator Jacob.

Senator Klarich offered **SA 1**:

**SENATE AMENDMENT NO. 1**

Amend House Committee Substitute for House Bill No. 1711, Page 5, Section 163.011, Line 154, by adding the following language:

“163.031. 1. School districts which meet the requirements of section 163.021 shall be entitled to an amount computed as follows: an amount determined by multiplying the number of eligible pupils by the lesser of the district's equalized operating levy for school purposes as defined in section 163.011 or two dollars and seventy-five cents per one hundred dollars assessed valuation multiplied by the guaranteed tax base per eligible pupil times the proration factor plus an amount determined by multiplying the number of eligible pupils by the greater of zero or the district's equalized operating levy for school purposes as defined in section 163.011 minus two dollars and seventy-five cents per one hundred dollars assessed valuation multiplied by the guaranteed tax base per eligible pupil times the proration factor. For the purposes of this section, the proration factor shall be equal to the sum of the total appropriation for distribution [under] **pursuant to** subsections 1 and 2 of this section; and the state total of the deductions as calculated in subsection 2 of this section which do not exceed the district entitlements as adjusted by the same proration factor; divided by the amount of the state total of district entitlements before proration as calculated pursuant to this subsection; provided that, if the proration factor so calculated is greater than one, the proration factor for line 1(b) shall be the greater of one or the proration factor for line 1(a) minus five hundredths, and provided that if the proration factor so calculated is less than one, the proration factor for line 1(a) shall be the lesser of one or the proration factor for line 1(b) plus five hundredths.

2. From the district entitlement for each district there shall be deducted the following amounts: an amount determined by multiplying the district equalized assessed valuation by the

district's equalized operating levy for school purposes times the district income factor plus ninety percent of any payment received the current year of protested taxes due in prior years no earlier than the 1997 tax year minus the amount of any protested taxes due in the current year and for which notice of protest was received during the current year; one hundred percent of the amount received the previous year for school purposes from intangible taxes, fines, forfeitures and escheats, payments in lieu of taxes and receipts from state assessed railroad and utility tax, except that any penalty paid after July 1, 1995, by a concentrated animal feeding operation as defined by the department of natural resources rule shall not be included; one hundred percent of the amounts received the previous year for school purposes from federal properties pursuant to sections 12.070 and 12.080, RSMo; federal impact aid received the previous year for school purposes pursuant to P.L. 81-874 less fifty thousand dollars multiplied by ninety percent or the maximum percentage allowed by federal regulation if that percentage is less than ninety; fifty percent, or the percentage otherwise provided in section 163.087 of Proposition C revenues received the previous year for school purposes from the school district trust fund pursuant to section 163.087; one hundred percent of the amount received the previous year for school purposes from the fair share fund pursuant to section 149.015, RSMo; and one hundred percent of the amount received the previous year for school purposes from the free textbook fund, pursuant to section 148.360, RSMo.

3. School districts which meet the requirements of section 163.021 shall receive categorical add-on revenue as provided in this subsection. There shall be individual proration factors for each categorical entitlement provided for in this subsection, and each proration factor shall be determined by annual appropriations, but no categorical proration factor shall exceed the entitlement proration factor established pursuant to subsection 1 of this section, except that the

vocational education entitlement proration factor established pursuant to line 16 of subsection 6 of this section and the educational and screening program entitlements proration factor established pursuant to line 17 of subsection 6 of this section may exceed the entitlement proration factor established pursuant to subsection 1 of this section. The categorical add-on for the district shall be the sum of: seventy-five percent of the costs of adopting and providing a violence prevention program pursuant to section 161.650, RSMo, multiplied by the proration factor; seventy-five percent of the district allowable transportation costs pursuant to section 163.161 multiplied by the proration factor; the special education approved or allowed cost entitlement for the district, provided for by section 162.975, RSMo, multiplied by the proration factor; seventy-five percent of the district gifted education approved or allowable cost entitlement as determined pursuant to section 162.975, RSMo, multiplied by the proration factor; the free and reduced lunch eligible pupil count for the district, as defined in section 163.011, multiplied by twenty percent, for a district with an operating levy in excess of two dollars and seventy-five cents per one hundred dollars assessed valuation, or twenty-two percent, otherwise times the guaranteed tax base per eligible pupil times two dollars and seventy-five cents per one hundred dollars assessed valuation times the proration factor plus the free and reduced lunch eligible pupil count for the district, as defined in section 163.011, times thirty percent times the guaranteed tax base per eligible pupil times the following quantity: ((the greater of zero or the district's operating levy for school purposes minus two dollars and seventy-five cents per one hundred dollars assessed valuation) times one or, beginning in the fifth year following the effective date of this section, the quotient of the district's fiscal instructional ratio of efficiency for the prior year divided by the fiscal year 1998 statewide average fiscal instructional ratio of efficiency, if the district's prior year fiscal instructional ratio of efficiency is at least five

percent below the fiscal year 1998 statewide average) times the proration factor, minus court-ordered state desegregation aid received by the district for operating purposes **provided that an increase in the payment amount of line 14(a) shall be made by the department of elementary and secondary education, if needed, to ensure that a district receives no less total revenue from lines 14(a) and 14(b) than the district would receive if it levied an operating levy no greater than two dollars and seventy-five cents per one hundred dollars assessed valuation**; the career ladder entitlement for the district, as provided for in sections 168.500 to 168.515, RSMo, multiplied by the proration factor; the vocational education entitlement for the district, as provided for in section 167.332, RSMo, multiplied by the proration factor and the district educational and screening program entitlements as provided for in sections 178.691 to 178.699, RSMo, times the proration factor.

4. Each district's apportionment shall be the prorated categorical add-ons plus the greater of the district's prorated entitlement minus the total deductions for the district or zero.

5. (1) In the 1993-94 school year and all subsequent school years, pursuant to section 10(c) of article X of the state constitution, a school district shall adjust upward its operating levy for school purposes to the extent necessary for the district to at least maintain the current operating expenditures per pupil received by the district from all sources in the 1992-93 school year, except that its operating levy for school purposes shall not exceed the highest tax rate in effect subsequent to the 1980 tax year, or the minimum rate required by subsection 2 of section 163.021, whichever is less.

(2) The revenue per eligible pupil received by a district from the following sources: line 1 minus line 10, or zero if line 1 minus line 10 is less than zero, plus line 14 of subsection 6 of this section, shall not be less than the revenue per eligible pupil received by a district in the 1992-93 school year



from the foundation formula entitlement payment amount plus the amount of line 14 per eligible pupil that exceeds the line 14 per pupil amount from the 1997-98 school year, or the revenue per eligible pupil received by a district in the 1992-93 school year from the foundation formula entitlement payment amount plus the amount of line 14(a) per eligible pupil times the quotient of line 1 minus line 10, divided by the number of eligible pupils, or zero if line 1 minus line 10 is less than zero, divided by the revenue per eligible pupil received by the district in the 1992-93 school year from the foundation formula entitlement payment amount, whichever is greater. The department of elementary and secondary education shall make an addition in the payment amount of line 19 of subsection 6 of this section to assure compliance with the provisions contained in this section. **The line 14 per eligible pupil amount for 1997-98 will be recalculated to exclude the voluntary transfer students originally in the calculation.**

(3) For any school district which meets the eligibility criteria for state aid as established in section 163.021, but which [under] **pursuant to** subsections 1 to 4 of this section, receives no state aid for two successive school years, other than categorical add-ons, by August first following the second such school year, the commissioner of education shall present a plan to the superintendent of the school district for the waiver of rules and the duration of said waivers, in order to promote flexibility in the operations of the district and to enhance and encourage efficiency in the delivery of instructional services. The provisions of other law to the contrary notwithstanding, the plan presented to the superintendent shall provide a summary waiver, with no conditions, for the pupil testing requirements pursuant to section 160.257, RSMo. Further, the provisions of other law to the contrary notwithstanding, the plan shall detail a means for the waiver of requirements otherwise imposed on the school district related to the authority of the state board of education to classify school districts

pursuant to section 161.092, RSMo, and such other rules as determined by the commissioner of education, except that such waivers shall not include the provisions established pursuant to sections 160.514 and 160.518, RSMo.

(4) In the 1993-94 school year and each school year thereafter for two years, those districts which are entitled to receive state aid [under] **pursuant to** subsections 1 to 4 of this section, shall receive state aid in an amount per eligible pupil as provided in this subsection. For the 1993-94 school year, the amount per eligible pupil shall be twenty-five percent of the amount of state aid per eligible pupil calculated for the district for the 1993-94 school year pursuant to subsections 1 to 4 of this section plus seventy-five percent of the total amount of state aid received by the district from all sources for the 1992-93 school year for which the district is entitled and which are distributed in the 1993-94 school year pursuant to subsections 1 to 4 of this section. For the 1994-95 school year, the amount per eligible pupil shall be fifty percent of the amount of state aid per eligible pupil calculated for the district for the 1994-95 school year pursuant to subsections 1 to 4 of this section plus fifty percent of the total amount of state aid received by the district from all sources for the 1992-93 school year for which the district is entitled and which are distributed in the 1994-95 school year pursuant to subsections 1 to 4 of this section. For the 1995-96 school year, the amount of state aid per eligible pupil shall be seventy-five percent of the amount of state aid per eligible pupil calculated for the district for the 1995-96 school year pursuant to subsections 1 to 4 of this section plus twenty-five percent of the total amount of state aid received by the district from all sources for the 1992-93 school year for which the district is entitled and which are distributed in the 1995-96 school year pursuant to subsections 1 to 4 of this section. Nothing in this subdivision shall be construed to limit the authority of a school district to raise its district operating levy pursuant to subdivision (1) of this subsection.

(5) If the total of state aid apportionments to

all districts pursuant to subdivision (3) of this subsection is less than the total of state aid apportionments calculated pursuant to subsections 1 to 4 of this section, then the difference shall be deposited in the outstanding schools trust fund. If the total of state aid apportionments to all districts pursuant to subdivision (1) of this subsection is greater than the total of state aid apportionments calculated pursuant to subsections 1 to 4 of this section, then funds shall be transferred from the outstanding schools trust fund to the state school moneys fund to the extent necessary to fund the district entitlements as modified by subdivision (4) of this subsection for that school year with a district entitlement proration factor no less than one and such transfer shall be given priority over all other uses for the outstanding schools trust fund as otherwise provided by law.

6. State aid shall be determined as follows:

District Entitlement

1(a). Number of eligible pupils x  
 (lesser of district's equalized  
 operating levy for school  
 purposes or two dollars and  
 seventy-five cents per one  
 hundred dollars assessed valuation)  
 x (proration x GTB per EP) . . . . . \$ . . . .

1(b). Number of eligible pupils x (greater  
 of: 0, or district's equalized  
 operating levy for school purposes  
 minus two dollars and seventy-five cents  
 per one hundred dollars assessed  
 valuation) x (proration x GTB  
 per EP) . . . . . \$ . . . .

Deductions

2. District equalized assessed valuation x  
 district income factor x district's

equalized operating levy for school  
 purposes plus ninety percent  
 of any payment received the current  
 year of protested taxes due in prior  
 years no earlier than the 1997 tax  
 year minus the amount of any protested  
 taxes due in the current year and for  
 which notice of protest was received  
 during the current year . . . . . \$ . . . .

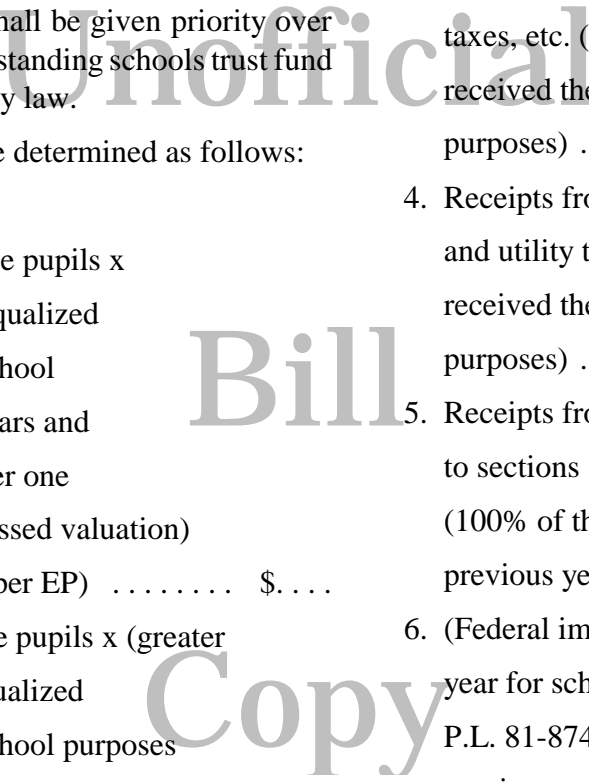
3. Intangible taxes, fines, forfeitures,  
 escheats, payments in lieu of  
 taxes, etc. (100% of the amount  
 received the previous year for school  
 purposes) . . . . . \$ . . . .

4. Receipts from state assessed railroad  
 and utility tax (100% of the amount  
 received the previous year for school  
 purposes) . . . . . \$ . . . .

5. Receipts from federal properties pursuant  
 to sections 12.070 and 12.080, RSMo  
 (100% of the amount received the  
 previous year for school purposes) . . . \$ . . . .

6. (Federal impact aid received the previous  
 year for school purposes pursuant to  
 P.L. 81-874 less \$50,000) x 90% or the  
 maximum percentage allowed by federal  
 regulations if less than 90% . . . . . \$ . . . .

7. Fifty percent or the percentage otherwise  
 provided in section 163.087 of Proposition  
 C receipts from the school district trust  
 fund received the previous year for  
 school purposes pursuant to section



- 163.087 ..... \$. . . .
- 8. One hundred percent of the amount received the previous year for school purposes from the fair share fund pursuant to section 149.015, RSMo ..... \$. . . .
- 9. One hundred percent of the amount received the previous year for school purposes from the free textbook fund pursuant to section 148.360, RSMo ..... \$. . . .
- 10. Total deductions (sum of lines 2-9) . . . \$. . . .  
Categorical Add-ons
- 11. The amount distributed pursuant to section 163.161 x proration ..... \$. . . .
- 12. Special education approved or allowed cost entitlement for the district pursuant to section 162.975, RSMo, x proration ..... \$. . . .
- 13. Seventy-five percent of the gifted education approved or allowable cost entitlement as determined pursuant to section 162.975, RSMo, x proration ..... \$. . . .
- 14(a). Free and reduced lunch eligible pupil count for the district, as defined in section 163.011, x .20, if operating levy in excess of \$2.75, or .22, otherwise x GTB per EP x \$2.75 per \$100 AV x proration ..... \$. . . .
- 14(b). Free and reduced lunch eligible pupil count for the district, as defined in section 163.011 x .30 x GTB x ((the greater of zero or the district's
- adjusted operating levy minus \$2.75 per \$100 AV) x (1.0 or, beginning in the fifth year following the effective date of this section, the district's FIRE for the prior year/statewide average FIRE for FY 1998, if the district's prior year FIRE is at least five percent below the FY 1998 statewide average FIRE) x proration) - court-ordered state desegregation aid received by the district for operating purposes ..... \$. . . .
- 15. Career ladder entitlement for the district as provided for in sections 168.500 to 168.515, RSMo, x proration ..... \$. . . .
- 16. Vocational education entitlements for the district as provided in section 167.332, RSMo, x proration ..... \$. . . .
- 17. Educational and screening program entitlements for the district as provided in sections 178.691 to 178.699, RSMo, x proration ..... \$. . . .
- 18. Sum of categorical add-ons for the district (sum of lines 11-17) ..... \$. . . .
- 19. District apportionment (line 18 plus the greater of line 1 minus line 10 or zero) ..... \$. . . .
- 7. Revenue received for school purposes by each school district pursuant to this section shall be placed in each of the incidental and teachers' funds based on the ratio of the property tax rate in the district for that fund to the total tax rate in the district for the two funds.
- 8. In addition to the penalty for line 14 described in subsection 6 of this section, beginning in school year 2004-05, any increase in a school district's funds received pursuant to line 14 of

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subsection 6 of this section over the 1997-98 school year shall be reduced by one percent for each full percentage point the percentage of the district's pupils scoring at or above five percent below the statewide average level on either mathematics or reading is less than sixty-five percent.

9. If a school district's annual audit discloses that students were inappropriately identified as eligible for free or reduced-price lunch and the district does not resolve the audit finding, the department of elementary and secondary education shall require that the amount of line 14 aid paid on the inappropriately identified pupils be repaid by the district in the next school year and shall additionally impose a penalty of one hundred percent of the line 14 aid paid on such pupils, which penalty shall also be paid within the next school year. Such amounts may be repaid by the district through the withholding of the amount of state aid.”.

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

Senator Caskey offered **SA 2**:

**SENATE AMENDMENT NO. 2**

Amend House Committee Substitute for House Bill No. 1711, Page 2, Section 163.011, Lines 40-42, by striking said lines; and further amend said section by renumbering the remaining subdivisions accordingly.

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

Senator Bentley offered **SA 3**:

**SENATE AMENDMENT NO. 3**

Amend House Committee Substitute for House Bill No. 1711, Page 1, Section A, Line 2, by inserting after all of said line the following:

“160.011. As used in chapters 160, 161, 162, 163, 164, 165, 167, 168, 170, 171, 177 and 178, RSMo, the following terms mean:

(1) “District” or “school district”, when used alone, may include seven-director, urban, and metropolitan school districts;

(2) “Elementary school”, a public school giving instruction in a grade or grades not higher than the eighth grade;

**(3) “Family literacy programs”, services of sufficient intensity in terms of hours, and of sufficient duration, to make sustainable changes in families that include:**

**(a) Interactive literacy activities between parents and their children;**

**(b) Training of parents regarding how to be the primary teacher of their children and full partners in the education of their children;**

**(c) Parent literacy training that leads to high school completion and/or economic self sufficiency; and**

**(d) An age-appropriate education to prepare children of all ages for success in school;**

~~[(3)]~~ **(4)** “Graduation rate”, the quotient of the number of graduates in the current year as of June thirtieth divided by the sum of the number of graduates in the current year as of June thirtieth plus the number of twelfth graders who dropped out in the current year plus the number of eleventh graders who dropped out in the preceding year plus the number of tenth graders who dropped out in the second preceding year plus the number of ninth graders who dropped out in the third preceding year;

~~[(4)]~~ **(5)** “High school”, a public school giving instruction in a grade or grades not lower than the ninth nor higher than the twelfth grade;

~~[(5)]~~ **(6)** “Metropolitan school district”, any school district the boundaries of which are coterminous with the limits of any city which is not within a county;

~~[(6)]~~ **(7)** “Public school” includes all

elementary and high schools operated at public expense;

[(7)] (8) “School board”, the board of education having general control of the property and affairs of any school district;

[(8)] (9) “School term”, a minimum of one hundred seventy-four school days, as that term is defined in section 160.041, and one thousand forty-four hours of actual pupil attendance as scheduled by the board pursuant to section 171.031, RSMo, during a twelve-month period in which the academic instruction of pupils is actually and regularly carried on for a group of students in the public schools of any school district. A “school term” may be within a school year or may consist of parts of two consecutive school years, but does not include summer school. A district may choose to operate two or more terms for different groups of children;

[(9)] (10) “Secretary”, the secretary of the board of a school district;

[(10)] (11) “Seven-director district”, any school district which has seven directors and includes urban districts regardless of the number of directors an urban district may have unless otherwise provided by law;

[(11)] (12) “Taxpayer”, any individual who has paid taxes to the state or any subdivision thereof within the immediately preceding twelve-month period or the spouse of such individual;

[(12)] (13) “Town”, any town or village, whether or not incorporated, the plat of which has been filed in the office of the recorder of deeds of the county in which it is situated;

[(13)] (14) “Urban school district”, any district which includes more than half of the population or land area of any city which has not less than seventy thousand inhabitants, other than a city which is not within a county.

160.051. 1. A system of free public schools is

established throughout the state for the gratuitous instruction of persons between the ages of five and twenty-one years. Any child whose fifth birthday occurs before the first day of August shall be deemed to have attained the age of five years at the commencement of the school year beginning in that calendar year or at the commencement of the summer school session immediately prior to the school term beginning in the school year beginning in that calendar year, whichever is earlier, for the purpose of apportioning state school funds and for all other purposes.

**2. Public schools may establish family literacy programs for children of all ages and their families.**

[2.] 3. The department of elementary and secondary education shall not use school for kindergarten pupils in the summer preceding such pupils' regular fall starting date as an element of the standards of the Missouri school improvement program.

160.518. 1. Consistent with the provisions contained in section 160.526, the state board of education shall develop a statewide assessment system that provides maximum flexibility for local school districts to determine the degree to which students in the public schools of the state are proficient in the knowledge, skills and competencies adopted by such board pursuant to subsection 1 of section 160.514. The statewide assessment system shall assess problem solving, analytical ability, evaluation, creativity and application ability in the different content areas and shall be performance-based to identify what students know, as well as what they are able to do, and shall enable teachers to evaluate actual academic performance. The assessment system shall neither promote nor prohibit rote memorization and shall not include existing versions of tests approved for use pursuant to the provisions of section 160.257, nor enhanced versions of such tests. The statewide assessment shall measure, where appropriate by grade level, a

student's knowledge of academic subjects including, but not limited to, reading skills, writing skills, mathematics skills, world and American history, forms of government, geography and science.

2. The assessment system shall only permit the academic performance of students in each school in the state to be tracked against prior academic performance in the same school.

3. The state board of education shall suggest criteria for a school to demonstrate that its students learn the knowledge, skills and competencies at exemplary levels worthy of imitation by students in other schools in the state and nation. "Exemplary levels" shall be measured by the assessment system developed pursuant to subsection 1 of this section, or until said assessment is available, by indicators approved for such use by the state board of education. The provisions of other law to the contrary notwithstanding, the commissioner of education may, upon request of the school district, present a plan for the waiver of rules and regulations to any such school, to be known as "Outstanding Schools Waivers", consistent with the provisions of subsection 4 of this section.

4. For any school that meets the criteria established by the state board of education for three successive school years pursuant to the provisions of subsection 3 of this section, by August first following the third such school year, the commissioner of education shall present a plan to the superintendent of the school district in which such school is located for the waiver of rules and regulations to promote flexibility in the operations of the school and to enhance and encourage efficiency in the delivery of instructional services. The provisions of other law to the contrary notwithstanding, the plan presented to the superintendent shall provide a summary waiver, with no conditions, for the pupil testing requirements pursuant to section 160.257, in the school. Further, the provisions of other law to the contrary notwithstanding, the plan shall detail a

means for the waiver of requirements otherwise imposed on the school related to the authority of the state board of education to classify school districts pursuant to subdivision (9) of section 161.092, RSMo, and such other rules and regulations as determined by the commissioner of education, excepting such waivers shall be confined to the school and not other schools in the district unless such other schools meet the criteria established by the state board of education consistent with subsection 3 of this section and the waivers shall not include the requirements contained in this section and section 160.514. Any waiver provided to any school as outlined in this subsection shall be void on June thirtieth of any school year in which the school fails to meet the criteria established by the state board of education consistent with subsection 3 of this section.

5. The score on any assessment test developed pursuant to this section or this chapter of any student for whom English is a second language shall not be counted until such time as such student has been educated for three full school years in a school in this state, or in any other state, in which English is the primary language.

**6. The state board of education shall identify or, if necessary, establish one or more developmentally appropriate alternate assessments for students who receive special educational services, as that term is defined pursuant to section 162.675, RSMo. In the development of such alternate assessments, the state board shall establish an advisory panel consisting of a majority of active special education teachers and other education professionals as appropriate to research available assessment options. The advisory panel shall attempt to identify preexisting developmentally appropriate alternate assessments but shall, if necessary, develop alternate assessments and recommend one or more alternate assessments for adoption by the state board. The state board shall consider the recommendations of the advisory council in**

**establishing such alternate assessment or assessments. Any student who receives special educational services, as that term is defined pursuant to section 162.675, RSMo, shall be assessed by an alternate assessment established pursuant to this subsection upon a determination by the student's individualized education program team that such alternate assessment is more appropriate to assess the student's knowledge, skills and competencies than the assessment developed pursuant to subsection 1 of this section. The alternative assessment shall evaluate the student's independent living skills, which includes how effectively the student addresses common life demands and how well the student meets standards for personal independence expected for someone in the student's age group, sociocultural background, and community setting.**

160.530. 1. Beginning with fiscal year 1994 and for all fiscal years thereafter, in order to be eligible for state aid distributed pursuant to section 163.031, RSMo, a school district shall allocate one percent of moneys received pursuant to section 163.031, RSMo, exclusive of categorical add-ons, to the professional development committee of the district as established in subdivision (1) of subsection 4 of section 168.400, RSMo. Of the moneys allocated to the professional development committee in any fiscal year as specified by this subsection, seventy-five percent of such funds shall be spent in the same fiscal year for purposes determined by the professional development committee after consultation with the administrators of the school district and approved by the local board of education as meeting the objectives of a school improvement plan of the district that has been developed by the local board. Moneys expended for staff training pursuant to any provisions of this act shall not be considered in determining the requirements for school districts imposed by this subsection.

2. Beginning with fiscal year 1994 and for all

fiscal years thereafter, ninety percent of one percent of moneys appropriated to the department of elementary and secondary education otherwise distributed to the public schools of the state pursuant to the provisions of section 163.031, RSMo, exclusive of categorical add-ons, shall be distributed by the commissioner of education to address statewide areas of critical need for learning and development as determined by rule and regulation of the state board of education with the advice of the commission established by section 160.510 and the advisory council provided by subsection 1 of section 168.015, RSMo. The moneys described in this subsection may be distributed by the commissioner of education to colleges, universities, private associations, professional education associations, statewide associations organized for the benefit of members of boards of education, public elementary and secondary schools, and other associations and organizations that provide professional development opportunities for teachers, administrators, **family literacy personnel** and boards of education for the purpose of addressing statewide areas of critical need, provided that subdivisions (1), [and] (2) and (3) of this subsection shall constitute priority uses for such moneys. "Statewide areas of critical need for learning and development" shall include:

(1) Funding the operation of state management teams in districts with academically deficient schools and providing resources specified by the management team as needed in such districts;

(2) Funding for grants to districts, upon application to the department of elementary and secondary education, for resources identified as necessary by the district, for those districts which are failing to achieve assessment standards;

**(3) Funding for family literacy programs;**

[3] (4) Ensuring that all children, especially children at risk, children with special needs, and gifted students are successful in school;

[(4)] (5) Increasing parental involvement in the education of their children;

[(5)] (6) Providing information which will assist public school administrators and teachers in understanding the process of site-based decision making;

[(6)] (7) Implementing recommended curriculum frameworks as outlined in section 160.514;

[(7)] (8) Training in new assessment techniques for students;

[(8)] (9) Cooperating with law enforcement authorities to expand successful antidrug programs for students;

[(9)] (10) Strengthening existing curricula of local school districts to stress drug and alcohol prevention;

[(10)] (11) Implementing and promoting programs to combat gang activity in urban areas of the state;

[(11)] (12) Establishing family schools, whereby such schools adopt proven models of one-stop state services for children and families;

[(12)] (13) Expanding adult literacy services; and

[(13)] (14) Training of members of boards of education in the areas deemed important for the training of effective board members as determined by the state board of education.

3. Beginning with fiscal year 1994 and for all fiscal years thereafter, ten percent of one percent of moneys appropriated to the department of elementary and secondary education otherwise distributed to the public schools of the state pursuant to the provisions of section 163.031, RSMo, exclusive of categorical add-ons, shall be distributed in grant awards by the state board of education, by rule and regulation, for the "Success Leads to Success" grant program, which is hereby created. The purpose of the success leads to

success grant program shall be to recognize, disseminate and exchange information about the best professional teaching practices and programs in the state that address student needs, and to encourage the staffs of schools with these practices and programs to develop school-to-school networks to share these practices and programs.

**160.531. 1. Beginning with fiscal year 2005 and for all fiscal years thereafter, an amount, as specified in subsection 2 of this section, of the appropriation to the department of elementary and secondary education otherwise distributed to the public schools of the state pursuant to the provisions of section 163.031, RSMo, shall be distributed by the department of elementary and secondary education to establish and fund family literacy programs in school attendance centers declared academically deficient by the state board of education as authorized by section 160.538 or school districts declared unaccredited or provisionally accredited by the state board of education pursuant to section 161.092, RSMo.**

**2. The amount to be distributed by the department of elementary and secondary education to establish and fund family literacy programs pursuant to subsection 1 of this section shall be the lesser of either:**

**(1) Five percent of any increase from the total line 14 revenue compared to the total line 14 revenue amount distributed to all school districts in fiscal year 2004; or**

**(2) One and one-half percent of the total line 14 distribution.**

**3. The department of elementary and secondary education shall promulgate rules for the distribution of family literacy funds.**

**4. Any rule or portion of a rule, as that term is defined in section 536.010, RSMo, that is created under the authority delegated in this section shall become effective only if it complies with and is subject to all of the provisions of**



chapter 536, RSMo, and, if applicable, section 536.028, RSMo. This section and chapter 536, RSMo, are nonseverable and if any of the powers vested with the general assembly pursuant to chapter 536, RSMo, to review, to delay the effective date or to disapprove and annul a rule are subsequently held unconstitutional, then the grant of rulemaking authority and any rule proposed or adopted after August 28, 2002, shall be invalid and void.

160.720. 1. The department of elementary and secondary education shall identify for recognition by the governor schools demonstrating high student achievement to be designated as performance schools. In addition, the department of elementary and secondary education shall identify those waivers of administrative rule authorized under state law appropriate for the recognized school district or school. The department of elementary and secondary education shall endeavor to identify waivers of administrative rule that result in a meaningful reduction in administrative burden on the districts recognized in this section.

2. The department of elementary and secondary education shall identify priority school districts and priority schools based upon the following criteria:

(1) School attendance centers declared academically deficient by the state board of education as authorized by section 160.538;

(2) School districts declared unaccredited or provisionally accredited by the state board of education pursuant to section 161.092, RSMo; or

(3) School districts or school attendance centers that do not meet any of the accreditation standards on student performance established by the state board of education based upon the statewide assessment system authorized pursuant to section 160.518.

3. The board of education of any priority

school district or priority school shall submit, as a part of a comprehensive school improvement plan, an accountability compliance statement that shall:

(1) Identify and analyze areas of deficiency in student performance by school, grade and academic content area;

(2) Provide a comprehensive strategy for addressing these areas of deficiency;

(3) Assure disclosure of these areas of deficiency in the school accountability report card required pursuant to section 160.522;

(4) Permit a metropolitan district that is implementing a program of academic improvement in a school or schools identified pursuant to a settlement agreement for a desegregation lawsuit to submit the elements of the accountability compliance statement required in subdivisions (1) to (3) of this subsection for review for possible waiver solely in regard to the schools identified for academic improvement pursuant to the settlement agreement; provided, however, that the department of elementary and secondary education shall meet with any district covered by the provisions of this subdivision prior to the district submitting any element of an accountability compliance statement, so that the department may identify elements of the settlement agreement academic improvement plan that are substantially similar to the requirements contained in this section, and the department shall advise such district if, based on its review, any further plan or reporting of such plans or elements is required; and

(5) Require school boards of each district to annually review the school discipline provisions contained in section 160.261, and sections 167.023, 167.026, 167.117, 167.161 to 167.171 and 167.335, RSMo, and ensure that the district's discipline policies are consistent with the above listed sections.

**4. The comprehensive strategy for addressing areas of deficiency required pursuant to this section shall address the following areas:**

**(1) Align curriculum to address areas of deficiency in student achievement;**

**(2) Develop, for any student who is not receiving special education services under an individualized education plan pursuant to sections 162.670 to 162.699, RSMo, who is performing at a level not determined or at the lowest level of proficiency in any subject area under the statewide assessment established pursuant to section 160.518, an individual performance plan in that subject area which shall:**

**(a) Be developed by the teacher or teachers in consultation with the child's parents or guardian;**

**(b) Outline responsibilities for the student, parent or guardian, teachers and administrators in implementing the plan. Such plans shall not require the level of documentation and procedural complexities of an individualized education plan pursuant to sections 162.670 to 162.699, RSMo, but shall contain sufficient detail for all parties to understand their responsibilities in the implementation of the student's performance plan; and**

**(c) Require those students performing at a level not determined or at the lowest level of proficiency in any subject area under the statewide assessment established pursuant to section 160.518 to be provided with additional instruction time and for students in grade nine to eleven to retake the assessment;**

**(3) Focus state and local professional development funds on the areas of greatest academic need, including a statement relating to accessing the resources and services of the regional professional development center and support from state professional development**

**funds;**

**(4) Create programs to improve teacher and administrator effectiveness;**

**(5) Establish school accountability councils consistent with the procedures stated in subsection 5 of section 160.538 or align any existing parent advisory council with the requirements of subsection 5 of section 160.538;**

**(6) Develop a resource reallocation plan for the district; and**

**(7) Consider the need to implement strategies pursuant to this subsection for feeder schools of any priority school.**

**5. The school district shall include in any program for improvement of teacher and administrator effectiveness in an accountability compliance statement policies that will:**

**(1) Require school administrators and teachers, including teachers who are provisionally or temporarily certified, to participate in one of the following programs of professional development:**

**(a) A mentoring program meeting standards established by the state board of education or supervised by an individual previously designated by the department of elementary and secondary education as a regional resource teacher;**

**(b) Successful completion of a training program for certification as a scorer under the statewide assessment program authorized pursuant to section 160.518; or**

**(c) Enrollment and making adequate progress towards national board certification;**

**(2) Provide one additional year of intensive professional development assistance to teachers and administrators who do not complete or make adequate progress in the professional development activities described in subdivision (1) of this subsection;**

(3) Exempt from the professional development requirements accountability compliance statement as provided in subdivision (1) of this subsection any individual who:

(a) Holds qualifying scores in the appropriate professional assessment as determined by the state board of education or who elects to take and receive a qualifying score of that assessment;

(b) Holds national board certification;

(c) Is certified as a scorer under the statewide assessment program;

(d) Is designated by the department of elementary and secondary education as a regional resource teacher;

(e) Serves as a mentor teacher for one school year in a program meeting standards adopted by the state board of education; or

(f) Successfully completes an appropriate administrator academy program offered pursuant to section 168.407, RSMo;

6. Any resource reallocation plan shall include at least one of the following elements:

(1) Reduce class size in areas of academic concern;

(2) Establish full-day kindergarten or preschool programs;

(3) Establish after-school, tutoring and other programs offering extended time for learning;

(4) Employ regional resource teachers designated by the department of elementary and secondary education or national board-certified teachers, along with appropriate salary enhancements for such teachers;

(5) Establish programs of teacher home visitation to encourage parental support of student learning; and

(6) Create “school within a school”

programs to achieve smaller learning communities within priority schools.

7. The state board of education shall establish by administrative rule standards to evaluate accountability compliance statements, based upon the following criteria:

(1) An accountability compliance statement shall be submitted to the department of elementary and secondary education on or before August fifteenth following any school year in which a school district meets the criteria established under subsection 2 of this section;

(2) The department of elementary and secondary education shall review and identify areas of deficiency in the plan within thirty days of receipt; and

(3) Changes to the plan shall be forwarded to the department of elementary and secondary education within thirty days of notice to the district of the areas of deficiency.

8. The department of elementary and secondary education shall withhold funds to be paid to the school district, as authorized in section 163.031, RSMo, until such time as the district submits an accountability compliance statement meeting the standards authorized pursuant to this section within the timelines established herein.

9. The department of elementary and secondary education shall develop within three years of the adoption of this section a program of administrator mentoring focusing on the need of priority schools and priority school districts and meeting standards established by the state board of education.

10. Any rule or portion of a rule, as that term is defined in section 536.010, RSMo, that is created under the authority delegated in this section shall become effective only if it complies with and is subject to all of the provisions of chapter 536, RSMo, and, if applicable, section 536.028, RSMo. This section and chapter 536,

**RSMo, are nonseverable and if any of the powers vested with the general assembly pursuant to chapter 536, RSMo, to review, to delay the effective date or to disapprove and annul a rule are subsequently held unconstitutional, then the grant of rulemaking authority and any rule proposed or adopted after August 28, 2002, shall be invalid and void.**

161.092. The state board of education shall:

(1) Adopt rules governing its own proceedings and formulate policies for the guidance of the commissioner of education and the department of elementary and secondary education;

(2) Carry out the educational policies of the state relating to public schools that are provided by law and supervise instruction in the public schools;

(3) Direct the investment of all moneys received by the state to be applied to the capital of any permanent fund established for the support of public education within the jurisdiction of the department of elementary and secondary education and see that the funds are applied to the branches of educational interest of the state that by grant, gift, devise or law they were originally intended, and if necessary institute suit for and collect the funds and return them to their legitimate channels;

(4) Cause to be assembled information which will reflect continuously the condition and management of the public schools of the state;

(5) Require of county clerks or treasurers, boards of education or other school officers, recorders and treasurers of cities, towns and villages, copies of all records required to be made by them and all other information in relation to the funds and condition of schools and the management thereof that is deemed necessary;

(6) Provide blanks suitable for use by officials in reporting the information required by the board;

(7) When conditions demand, cause the laws relating to schools to be published in a separate volume, with pertinent notes and comments, for the

guidance of those charged with the execution of the laws;

(8) Grant, without fee, certificates of qualification and licenses to teach in any of the public schools of the state, **including provisional certification to a person with more than five years teaching experience in that curriculum area and approximate grade level in another state, and permit full certification upon the satisfactory completion of five years teaching in Missouri public schools**, establish requirements therefor, formulate regulations governing the issuance thereof, and cause the certificates to be revoked for the reasons and in the manner provided in section 168.071, RSMo;

(9) Classify the public schools of the state, subject to limitations provided by law, establish requirements for the schools of each class, and formulate rules governing the inspection and accreditation of schools preparatory to classification;

(10) Make an annual report on or before the first Wednesday after the first day of January to the general assembly or, when it is not in session, to the governor for publication and transmission to the general assembly. The report shall be for the last preceding school year, and shall include: (a) a statement of the number of public schools in the state, the number of pupils attending the schools, their sex, and the branches taught; (b) a statement of the number of teachers employed, their sex, their professional training, and their average salary; (c) a statement of the receipts and disbursements of public school funds of every description, their sources, and the purposes for which they were disbursed; (d) suggestions for the improvement of public schools; and (e) any other information relative to the educational interests of the state that the law requires or the board deems important;

**(11) Make an annual report to the general assembly and the governor concerning coordination with other agencies and departments of government that support family**

**literacy programs and other services which influence educational attainment of children of all ages;**

[(11)] (12) Require from the chief officer of each division of the department of elementary and secondary education, on or before the thirty-first day of August of each year, reports containing information the board deems important and desires for publication;

[(12)] (13) Cause fifty copies of its annual report to be reserved for the use of each division of the state department of elementary and secondary education, and ten copies for preservation in the state library;

[(13)] (14) Have other powers and duties prescribed by law.”; and

Further amend said bill, Page 5, Section 163.011, Line 154, by inserting after all of said the following:

“166.260. There is hereby created the “Children At-Risk in Education Program” which shall be administered by the commissioner of education. The program shall be funded by moneys provided to school districts pursuant to line 14 of subsection 6 of section 163.031, RSMo, and used solely as determined by local boards of education for: reductions of class size in schools containing high concentrations of children who are least advantaged or who have specially identified educational needs according to rule and regulation of the state board of education; or the following:

(1) The program of half-day instruction for developmentally delayed and at-risk children established pursuant to section 167.260, RSMo;

(2) The program to provide teacher assistants in grades kindergarten through three established pursuant to section 167.263, RSMo;

**(3) The program of family literacy for children and families of children at risk of dropping out of school pursuant to sections 160.531, RSMo;**

[(3)] (4) The program to provide guidance counselors in grades kindergarten through nine established pursuant to section 167.265, RSMo;

[(4)] (5) The programs for pupils at risk of becoming high school dropouts established pursuant to section 167.270, RSMo, including specialized courses of instruction, alternative education programs for pregnant teens and teen mothers and supplemental services for teen mothers;

[(5)] (6) The program of support services to pupils identified as having a high risk of dropping out of school established pursuant to section 167.280, RSMo;

[(6)] (7) The program of professional development committees for in-service training on teaching children identified as at risk of failing in school pursuant to section 168.400, RSMo;

[(7)] (8) A program to contract for mental health services to meet the needs of children who are identified as being at risk of failing school as a result of emotional or environmental factors. Eligible contractors shall be approved by the department of mental health;

[(8)] (9) The program of special education and other special services for at-risk and handicapped children in grades kindergarten through third grade emphasizing prevention and early intervention, rather than remediation, known as the “Success for All Program”;

[(9)] (10) Paying for building site operating costs in the proportion that the free and reduced-price meal eligible student count is to the total enrollment in that building; and

[(10)] (11) Other programs as approved by the commissioner of education that are exclusively targeted to provide educational services for students who are least advantaged or who have specially identified educational needs.

168.400. 1. Sections 168.400 to 168.415 shall be known and may be cited as the “Missouri

Professional Teacher and Administrator Act". This section shall become effective September 1, 1988, and shall establish programs for the following public school personnel:

- (1) The preservice teacher or student in training;
- (2) The beginning teacher;
- (3) The practicing teacher; and
- (4) The administrator.

2. Preservice teacher programs established under this section shall include, but need not be limited to, the following provisions:

(1) A program of entry-level testing of all prospective teacher education students shall be established at all colleges and universities offering approved teacher education programs and, with the advice of the advisory council as provided in section 168.015, shall be administered by the commissioner of education, who shall cause the department of elementary and secondary education to develop or select such tests to establish abilities necessary to receive a satisfactory rating, and to establish procedures for the administering of the test;

(2) The entry-level tests developed under this subsection shall include, but need not be limited to, an examination of basic oral and written communication skills and of basic mathematics skills, and may include both oral and written examinations;

(3) Each prospective teacher education student shall be required to obtain a satisfactory rating prior to admission into the approved teacher education program;

(4) The department of elementary and secondary education, with the advice of the advisory council as provided in section 168.015, shall establish and monitor exit requirements from approved teacher education programs which shall be met by all preservice teacher education students seeking certification in Missouri, and specific

criteria for a preservice teacher assessment that all candidates for certification shall meet. The preservice teacher assessment established under this subdivision shall include, but need not be limited to, classroom achievement, practice teaching evaluation and observation, successful participation in assessment centers, interviews, tests and other evaluation measures. **The department of elementary and secondary education shall promulgate rules to allow all preservice teacher education students who have been employed for at least two years as teacher assistants to utilize their teacher assistant experience to bypass the practice teaching evaluation and observation process. These rules shall allow the certified teacher working with the teacher assistant to observe and evaluate the teacher assistants practice teaching. Any rule or portion of a rule, as that term is defined in section 536.010, RSMo, that is created under the authority delegated in this section shall become effective only if it complies with and is subject to all of the provisions of chapter 536, RSMo, and, if applicable, section 536.028, RSMo. This section and chapter 536, RSMo, are nonseverable and if any of the powers vested with the general assembly pursuant to chapter 536, RSMo, to review, to delay the effective date or to disapprove and annul a rule are subsequently held unconstitutional, then the grant of rulemaking authority and any rule proposed or adopted after August 28, 2002, shall be invalid and void.** The preservice teacher assessment shall be reviewed by the certifying authority prior to issuance of a certificate. An unsatisfactory assessment shall result in the nonissuance of a certificate. Persons who are aggrieved by the nonissuance of a certificate may appeal such nonissuance in the manner provided in section 168.071. Any costs associated with the entry-level tests or the exit requirements established under this subsection shall be borne by each institution and costs defrayal included in the incidental fees charged to the student.

3. Each approved teacher education program shall require the faculty teaching preservice teacher education courses to further their professional development through direct personal involvement in the public schools in grades kindergarten through twelve on a periodic basis. As used in this subsection, the term “faculty” shall include, but need not be limited to, full- and part-time classroom instructors, and supervisors of practice teaching at institutions offering an approved teacher education program.

4. Beginning teacher assistance programs established under this section shall include, but need not be limited to, the following provisions:

(1) Such programs shall require each school district to provide a plan of professional development for the first two years of teaching for any teacher who does not have prior teaching experience. The professional development plan shall include assistance from a professional development committee, which is hereby established in each school district, which committee shall work with beginning teachers and experienced teachers in identifying instructional concerns and remedies; serve as a confidential consultant upon a teacher's request; assess faculty needs and develop in-service opportunities for school staff; and present to the proper authority faculty suggestions, ideas and recommendations pertaining to classroom instruction within the school district. The members of each professional development committee shall be selected by the teachers employed by the school district in question. The professional development plan may include guidance from a district-designated faculty member employed at a grade level comparable to the instructional grade level of the beginning teacher, and such other forms of assistance which the school district may choose to offer. The professional development committee may apply to the state board of education for a grant, which shall be in addition to any state aid provided to the committee for activities identified in this subdivision. The grant thus awarded shall be used

by the committee to provide in-service training to the teachers of the district on teaching children identified as at risk of failing in school as defined in section 167.273. The department of elementary and secondary education shall provide resource materials and assist the committee if such assistance is requested;

(2) Such programs shall include assistance from the teacher education program which provided the teacher's training if such training was provided in a Missouri college or university. Such assistance from the college or university may include retraining, internships, counseling, and in-service training.

5. The practicing teacher assistance programs established under this section shall include, but need not be limited to, programs of professional development and improvement as provided for experienced teachers by the professional development committee established under subsection 4 of this section, and in-service opportunities as provided by the local school district for all practicing teachers.

6. (1) The administrator assistance programs established under this section shall include, but shall not be limited to, programs of professional development and improvement for superintendents, principals, assistant principals, and other school district personnel charged with administrative duties.

(2) Establishment of programs by local districts and organizations for the training of school board members are encouraged and recommended.

**170.014. 1. This section shall be known as the “Reading Instruction Act” and is enacted to ensure that all public schools establish reading programs based in scientific research and offer explicit systematic phonics instruction in grades kindergarten through three as a significant component of a program of balanced reading instruction and that all new teachers who teach**

reading in grades kindergarten through three receive adequate training in the teaching of explicit systematic phonics.

2. As used in this section, “explicit systematic phonics”, means the methodology of pronouncing and reading words by learning the phonetic sound association of individual letters, letter groups and syllables and the principles governing these associations. Reading instruction using implied recognition of words or partial words through the use of pictures or other references other than explicit pronunciation of phonetic letter combinations shall not be admitted as a substitute in compliance with this provisions.

3. Explicit systematic phonics instruction shall be offered in every public school in the state in grades kindergarten through three as a significant component of a program of balanced reading instruction. Nothing in this section shall be construed to allow for implicit phonics methodology as a substitute for the teaching of explicit systematic phonics as defined by this section.

4. On and after July 1, 2005, no teacher shall be certified to teach reading in the public schools of this state in grades kindergarten through three, either as a reading specialist or as a classroom teacher, unless the teacher has successfully completed instruction in explicit systematic phonics at the university or college level.”; and

Further amend the title and enacting clause accordingly.

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

Senator Westfall offered SA 4:

SENATE AMENDMENT NO. 4

Amend House Committee Substitute for House Bill No. 1711, Page 5, Section 163.011, Line 154, by inserting after all of said line the

following:

“171.053. 1. The general assembly hereby finds and declares that:

(1) The Future Farmers of America (FFA), Future Homemakers of America (FHA/HERO), Family, Career and Community Leaders of America (FCCLA) and 4-H programs in the state and the organized competitions held as a part of the Missouri state fair involve an education and learning process that is not otherwise available in the regular curriculum of secondary education in Missouri;

(2) The principles and practices learned by school students in such programs are highly beneficial to students;

(3) Participation in such programs should be encouraged; and

(4) One method of encouraging participation in such programs is to allow such participation to be counted as school attendance for the purpose of determining state school aid.

2. It is the purpose and intent of this section to assure that participation of students in sanctioned activities of such programs be allowed to such extent as may be determined appropriate by the school boards of the various school districts.

3. A school board shall allow, pursuant to its written policy and with the approval of the responsible sponsoring school employee, any student enrolled in the district to use such regularly scheduled instructional time as is reasonably necessary for such student to participate in an officially-sanctioned activity of any such program; provided, if the program is not a part of the Missouri state fair or 4-H, that such program has a local chapter which is officially recognized by the student's school.

4. For the purpose of distributing state school aid pursuant to section 163.031, RSMo, a student who is participating in an officially-



**sanctioned activity of any such program, as provided pursuant to subsection 3 of this section, shall be considered to be attending regularly scheduled instruction in the district and such hours of participation occurring during the regular school day shall be included in the district's calculation of average daily attendance, as defined in section 163.011, RSMo.”; and**

Further amend the title and enacting clause accordingly.

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

Senator Stoll offered **SA 5**:

**SENATE AMENDMENT NO. 5**

Amend House Committee Substitute for House Bill No. 1711, Page 5, Section 163.011, Line 154, by inserting after all of said line the following:

“163.036. 1. In computing the amount of state aid a school district is entitled to receive under section 163.031, a school district may use an estimate of the number of eligible pupils for the ensuing year, the number of eligible pupils for the immediately preceding year or the number of eligible pupils for the second preceding school year, whichever is greater. Except as otherwise provided in subsection 3 of this section, any error made in the apportionment of state aid because of a difference between the actual number of eligible pupils and the estimated number of eligible pupils shall be corrected as provided in section 163.091, except that if the amount paid to a district estimating eligible pupils exceeds the amount to which the district was actually entitled by more than five percent, interest at the rate of six percent shall be charged on the excess and shall be added to the amount to be deducted from the district's apportionment the next succeeding year.

2. Notwithstanding the provisions of subsection 1 of this section or any other provision of law, the state board of education shall make an

adjustment for the immediately preceding year for any increase in the actual number of eligible pupils above the number on which the state aid in section 163.031 was calculated. Said adjustment shall be made in the manner providing for correction of errors under subsection 1 of this section.

3. (1) For any district which has, for at least five years immediately preceding the year in which the error is discovered, adopted a calendar for the school term in which elementary schools are in session for twelve months of each calendar year, any error made in the apportionment of state aid to such district because of a difference between the actual number of eligible pupils and the estimated number of eligible pupils shall be corrected as provided in section 163.091 and subsection 1 of this section, except that if the amount paid exceeds the amount to which the district was actually entitled by more than five percent and the district provides written application to the state board requesting that the deductions be made pursuant to subdivision (2) of this subsection, then the amounts shall be deducted pursuant to subdivision (2) of this subsection.

(2) For deductions made pursuant to this subdivision, interest at the rate of six percent shall be charged on the excess and shall be included in the amount deducted and the total amount of such excess plus accrued interest shall be deducted from the district's apportionment in equal monthly amounts beginning with the succeeding school year and extending for a period of months specified by the district in its written request and no longer than sixty months.

4. For the purposes of distribution of state school aid pursuant to section 163.031, a school district may elect to use the district's equalized assessed valuation for the preceding year, or an estimate of the current year's assessed valuation if the current year's equalized assessed valuation is estimated to be more than ten percent less than the district's equalized assessed valuation for the preceding year. A district shall give prior notice to

the department of its intention to use the current year's assessed valuation pursuant to this subsection. Any error made in the apportionment of state aid because of a difference between the actual equalized assessed valuation for the current year and the estimated equalized assessed valuation for the current year shall be corrected as provided in section 163.091, except that if the amount paid to a district estimating current equalized assessed valuation exceeds the amount to which the district was actually entitled, interest at the rate of six percent shall be charged on the excess and shall be added to the amount to be deducted from the district's apportionment the next succeeding year.

**5. For the purposes of distribution of state school aid pursuant to section 163.031, a school district with ten percent or more of its assessed valuation owned by one person or corporation as commercial and/or personal property and this person or corporation is delinquent in its property tax payment, may elect, after receiving notice from the county clerk on or before March fifteenth, except in the year enacted, that more than ten percent of its current taxes due the preceding December thirty-first by a single property owner are delinquent, to use on line 2 of the state aid formula the district's equalized assessed valuation for the preceding year or the actual assessed valuation of the year for which the taxes are delinquent less the assessed valuation of property for which the current year's property tax is delinquent. To qualify for use of the actual assessed valuation of the year for which the taxes are delinquent less the assessed valuation of property for which the current year's property tax is delinquent, a district must notify the department of elementary and secondary education on or before April first, except in the year enacted, of the current year amount of delinquent taxes, the assessed valuation of such property for which delinquent taxes are owed and the total assessed valuation of the district for the year in which the taxes were due but not paid. Any district**

**giving such notice to the department of elementary and secondary education shall present verification of the accuracy of such notice obtained from the clerk of the county levying delinquent taxes. When any of the delinquent taxes identified by such notice are paid during a four year period following the due date the county clerk shall give notice to the district and the department of elementary and secondary education and state aid paid to the district shall be reduced by an amount equal to the delinquent taxes received plus interest. The reduction in state aid shall occur over a period not to exceed five years and the interest rate on excess state aid not refunded shall be six percent annually.**

**6. If a district receives state aid based on equalized assessed valuation as determined by subsection 5 of this section and if prior to such notice the district was paid state aid pursuant to subdivision (2) of subsection 5 of section 163.031, the amount of state aid paid during the year of such notice and the first year following shall equal the sum of state aid paid pursuant to line 1 minus line 10 as defined in subsections 1, 2, 3 and 6 of section 163.031 plus the difference between the state aid amount being paid after such notice minus the amount of state aid the district would have received pursuant to line 1 minus line 10 as defined in subsections 1, 2, 3 and 6 of section 163.031 before such notice. To be eligible to receive state aid based on this provision the district must levy during the first year following such notice at least the maximum levy permitted school districts by article X, section 11(b) of the Missouri Constitution and have a voluntary rollback of its tax rate which is no greater than one cent per one hundred dollars assessed valuation.”; and**

Further amend the title and enacting clause accordingly.

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

Senator Kenney offered **SA 6**:

SENATE AMENDMENT NO. 6

Amend House Committee Substitute for House Bill No. 1711, Page 1, Section A, Line 2, by inserting immediately after said line the following:

**“82.293. Absent explicit statutory authority, no such city shall enact any ordinance, regulation or resolution that would impose a surcharge or other fee to compensate any political subdivision organized pursuant to chapter 162, RSMo.”**; and

Further amend the title and enacting clause accordingly.

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

Senator Singleton offered **SA 7**:

SENATE AMENDMENT NO. 7

Amend House Committee Substitute for House Bill No. 1711, Page 6, Section 163.011, Line 6, by adding:

**“Section C. Notwithstanding any other provisions of law, the provisions of this Act will be null and void July 1, 2004.”**

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

Senator Childers assumed the Chair.

Senator Caskey offered **SA 8**:

SENATE AMENDMENT NO. 8

Amend House Committee Substitute for House Bill No. 1711, Page 1, Section A, Line 2, by inserting after all of said line the following:

**“108.140. 1. The various counties in this state for themselves, as well as for and on behalf of any township, or other political subdivision for which the counties may have issued any general obligation bonds, and the several cities, school districts or other political corporations or subdivisions of the state, are hereby authorized to**

**refund, extend, and unify the whole or part of their valid general obligation bonded indebtedness, or judgment indebtedness, and for such purpose may issue, negotiate, sell and deliver refunding general obligation bonds and with the proceeds therefrom pay costs and expenses related to issuing such refunding general obligation bonds and pay off, redeem and cancel the bonds to be refunded in advance of their maturity or redemption or as the same mature or are called for redemption, or pay and cancel such judgment indebtedness, or such refunding general obligation bonds may be issued and delivered in exchange for and upon surrender and cancellation of the bonds refunded thereby, or such judgment indebtedness. In no case shall the refunding general obligation bonds exceed the amount of the principal of the outstanding bond or judgment indebtedness to be refunded and the interest accrued thereon to the date of such refunding bonds. No refunding bond issued as provided in this subsection shall be payable in more than twenty years from the date thereof and such refunding bonds shall bear interest not to exceed the same rate as the bonds refunded, or judgment indebtedness; provided, that nothing in this section shall be so construed as to prohibit any county, city, school district, or other political corporation or subdivision of the state from refunding its general obligation bonded indebtedness without the submission of the question to a popular vote.**

**2. The various counties in this state for themselves, as well as for and on behalf of any township, or other political subdivision for which the counties may have issued any revenue bonds, notes or other obligations, and the several cities, school districts or other political corporations or subdivisions of the state, are hereby authorized to refund, extend, and unify the whole or part of their valid outstanding revenue bonds, notes or other obligations, and for such purpose may issue, negotiate, sell and deliver refunding revenue bonds, notes or other obligations and with the proceeds therefrom pay off, redeem and cancel the**

obligations to be refunded in advance of their maturity or redemption or as the same mature or are called for redemption, or such refunding revenue bonds, notes or other obligations may be issued and delivered in exchange for and upon surrender and cancellation of the obligations refunded thereby. In no case shall the refunding revenue bonds, notes or other obligations exceed the amount determined by the governing body of the issuing political corporation or subdivision to be necessary to pay or provide for the payment of the principal of the outstanding obligations to be refunded, together with the interest accrued thereon to the date of such refunding obligations and the interest to accrue thereon to the date of maturity or redemption of such obligations to be refunded and any premium which may be due under the terms of such obligations to be refunded and any amounts necessary for the payment of costs and expenses related to issuing such refunding obligations and to fund a debt service reserve fund for the obligations. All such refunding revenue bonds, notes or other obligations shall bear interest at such rates as the governing body of the issuing political subdivision shall provide, which rates of interest may exceed the rates of interest on the obligations being refunded but shall not exceed the maximum legal rate established by section 108.170. The refunding revenue bonds, notes or other obligations may be payable from the same sources as were pledged to the payment of the obligations refunded and, in the discretion of the governing body of the issuing political subdivision, may be payable from any other source which may be pledged to the payment of revenue bonds, notes or other obligations under any provision of law relating to the issuance of the obligations refunded. Nothing in this section shall be so construed as to prohibit any county, city, school district, or other political corporation or subdivision of the state from refunding its revenue bonded indebtedness without the submission of the question to a popular vote.”; and

Further amend the title and enacting clause accordingly.

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

Senator House offered SA 9:

SENATE AMENDMENT NO. 9

Amend House Committee Substitute for House Bill No. 1711, Page 1, Section A, Line 2, by inserting after all of said line the following:

“160.400. 1. A charter school is an independent, publicly supported school.

2. **Except as otherwise provided in this section**, charter schools may be operated only in a metropolitan school district or in an urban school district containing most or all of a city with a population greater than three hundred fifty thousand inhabitants **or any school district containing territory formerly contained in any school district in which charter schools were authorized to be established pursuant to this section** and may be sponsored by any of the following:

(1) The school board of the district;

(2) A public four-year college or university with its primary campus in the school district **or in a county containing all or a portion of the district** or in a county adjacent to the county in which the district is located, with an approved teacher education program that meets regional or national standards of accreditation; [or]

(3) A community college located in the district; **or**

(4) **Any campus of the state university system located in a county of the third classification.**

3. A maximum of [five] **ten** percent of the school buildings [currently in use] **used for public school** instructional purposes in a district **during the preceding school year may, at the discretion of the local school board**, be converted to charter schools. This limitation does not apply to vacant buildings or buildings not used for instructional

purposes. **An urban school district which leases vacant building space to charter schools shall lease all such vacant building space to charter schools on substantially equivalent terms and for substantially equivalent compensation. An urban school district shall negotiate, in good faith, a fair market price for any property that is vacant and make it available for lease to any charter school located within said district. Nothing in this subsection shall be construed to affect any contract in force and effect on or prior to January 1, 2002.**

4. No sponsor shall receive from an applicant for a charter school any fee of any type for the consideration of a charter, nor may a sponsor condition its consideration of a charter on the promise of future payment of any kind.

5. The charter school shall be a Missouri nonprofit corporation incorporated pursuant to chapter 355, RSMo. The charter provided for herein shall constitute a contract between the sponsor and the charter school.

6. As a nonprofit corporation incorporated pursuant to chapter 355, RSMo, the charter school shall select the method for election of officers pursuant to section 355.326, RSMo, based on the class of corporation selected. Meetings of the governing board of the charter school shall be subject to the provisions of sections 610.010 to 610.030, RSMo, the open meetings law.

7. A sponsor of a charter school, its agents and employees are not liable for any acts or omissions of a charter school that it sponsors, including acts or omissions relating to the charter submitted by the charter school, the operation of the charter school and the performance of the charter school.

8. A charter school may affiliate with a four-year college or university, including a private college or university, or a community college as otherwise specified in subsection 2 of this section when its charter is granted by a sponsor other than such college, university or community college.

Affiliation status recognizes a relationship between the charter school and the college or university for purposes of teacher training and staff development, curriculum and assessment development, use of physical facilities owned by or rented on behalf of the college or university, and other similar purposes. The primary campus of the college or university must be located within the county in which the school district lies wherein the charter school is located or in a county adjacent to the county in which the district is located. A university, college or community college may not charge or accept a fee for affiliation status.

9. No university, college or community college shall grant a charter to a nonprofit corporation if an employee of the university, college or community college is a member of the corporation's board of directors.

**10. No sponsor shall grant a charter pursuant to sections 160.400 to 160.420 without ensuring that a criminal background check through the Missouri state highway patrol's criminal record check system pursuant to section 43.540, RSMo, and a child abuse registry check pursuant to sections 210.109 and 210.110, RSMo, are conducted for all members of the board of directors of the charter schools or the incorporators of the charter school if initial directors are not named in the articles of incorporation, nor shall a sponsor renew a charter without ensuring that a criminal background check through the Missouri state highway patrol's criminal record check system and child abuse registry check are conducted for each member of the board of directors of the charter school.**

**11. No member of the board of directors of a charter school shall hold any office or employment from the board or the charter school while a member of the board nor have any substantial interest, as defined pursuant to section 105.450, RSMo, in any entity employed by or contracting with the board.**

**12. A sponsor shall provide timely submission to the state board of education of all data necessary to demonstrate that the sponsor is in compliance with all requirements of sections 160.400 to 160.420. Any sponsor found to have violated a material provision of sections 160.400 to 160.420 may, for the first violation and shall, for all subsequent violations, have its authority to approve new charters suspended pursuant to rule of the state board of education for a period of up to four years.**

160.405. 1. A person, group or organization seeking to establish a charter school shall submit the proposed charter, as provided in this section, to a sponsor. **A separate charter must be obtained for each school that a sponsor seeks to establish. The proposed charter shall specify a proposed starting date which shall be no earlier than eleven months following the date the proposed charter is submitted.** If the sponsor is not a school board, the applicant shall give a copy of its application to the school board of the district in which the charter school is to be located **and the state board of education, [when] within five business days of the date** the application is filed with the proposed sponsor. The school board may file objections with the proposed sponsor, and, if a charter is granted, the school board may file objections with the state board of education. The charter shall include a mission statement for the charter school, a description of the charter school's organizational structure and bylaws of the governing body, which will be responsible for the policy and operational decisions of the charter school, a financial plan for the first three years of operation of the charter school including provisions for annual audits, a description of the charter school's policy for securing personnel services, its personnel policies, personnel qualifications, and professional development plan, a description of the grades or ages of students being served, the school's calendar of operation, which shall include at least the equivalent of a full school term as defined in section 160.011, and an outline of

criteria specified in this section designed to measure the effectiveness of the school. The charter shall also state:

(1) The educational goals and objectives to be achieved by the charter school;

(2) A description of the charter school's educational program and curriculum;

(3) The term of the charter, which shall be not less than five years, nor greater than ten years and shall be renewable;

(4) A description of the charter school's pupil performance standards, which must meet the requirements of subdivision (6) of subsection 5 of this section. The charter school program must be designed to enable each pupil to achieve such standards; and

(5) A description of the governance and operation of the charter school, including the nature and extent of parental, professional educator, and community involvement in the governance and operation of the charter school.

2. Proposed charters shall be subject to the following requirements:

**(1) A charter application shall be provided to a proposed sponsor at least eleven months prior to the proposed starting date for the charter school to begin operation. Within five business days of receipt of the application, the proposed sponsor shall forward a copy of the charter application to the state board of education and to the school board of the district if the proposed sponsor is not a school board;**

(2) A charter may be approved when the sponsor determines that the requirements of this section are met and determines that the applicant is sufficiently qualified to operate a charter school. The sponsor's decision of **approval or denial** shall be made within [sixty] **ninety** days of the filing of the proposed charter;

[2] (3) If the charter is denied, the proposed sponsor shall notify the applicant in writing as to

the reasons for its denial **and forward a copy to the state board of education within five business days following the denial;**

[(3)] (4) If a proposed charter is denied by a sponsor, the proposed charter may be submitted to the state board of education, along with the sponsor's written reasons for its denial. If the state board determines that the applicant meets the requirements of this section and that granting a charter to the applicant would be likely to provide educational benefit to the children of the district, the state board may grant a charter and act as sponsor of the charter school. **The state board shall review the proposed charter and make a determination of whether to deny or grant the proposed charter within sixty days of receipt of the proposed charter and shall notify the applicant in writing as to the reasons for its denial, if applicable; [and]**

[(4)] (5) The sponsor of a charter school shall give priority to charter school applicants that propose a school oriented to high-risk students and to the reentry of dropouts into the school system. If a sponsor grants three or more charters, at least one-third of the charters granted by the sponsor shall be to schools that actively recruit dropouts or high-risk students as their student body and address the needs of dropouts or high-risk students through their proposed mission, curriculum, teaching methods, and services. For purposes of this subsection, a "high-risk" student is one who is at least one year behind in satisfactory completion of course work or obtaining credits for graduation, pregnant or a parent, homeless or has been homeless sometime within the preceding six months, has limited English proficiency, has been suspended from school three or more times, **is eligible for free or reduced price school lunch**, or has been referred by the school district for enrollment in an alternative program. "Dropout" shall be defined through the guidelines of the school core data report. The provisions of this subsection do not apply to charters sponsored by the state board of education.

3. If a charter is approved by a sponsor, it shall be submitted to the state board of education which may, within [forty-five] **sixty** days, disapprove the granting of the charter. The state board of education may disapprove a charter only on grounds that the application fails to meet the requirements of sections 160.400 to 160.420.

4. Any disapproval of a charter pursuant to subsection 3 of this section shall be subject to judicial review pursuant to chapter 536, RSMo.

5. A charter school shall, as provided in its charter:

(1) Be nonsectarian in its programs, admission policies, employment practices, and all other operations;

(2) Comply with laws and regulations of the state relating to health, safety, and minimum educational standards;

(3) Except as provided in sections 160.400 to 160.420, be exempt from all laws and rules relating to schools, governing boards and school districts;

(4) Be financially accountable, use practices consistent with the Missouri financial accounting manual, provide for an annual audit by a certified public accountant, **publish audit reports and annual financial reports as provided pursuant to chapter 165, RSMo. The annual financial report may be published via the Internet on the secretary of state's website in addition to other publishing requirements; [and]**

(5) Provide liability insurance to indemnify the school, its board, staff and teachers against tort claims. For the purposes of securing such insurance, a charter school shall be eligible for the Missouri public entity risk management fund pursuant to section 537.700, RSMo. A charter school that incurs debt must include a repayment plan in its financial plan;

[(5)] (6) Provide a comprehensive program of instruction for at least one grade or age group from kindergarten through grade twelve, which may

include early childhood education if funding for such programs is established by statute, as specified in its charter;

[(6)] (7) Design a method to measure pupil progress toward the pupil academic standards adopted by the state board of education pursuant to section 160.514, collect baseline data during at least the first three years for determining how the charter school is performing and to the extent applicable, [participate in] **employ** the statewide system of assessments, comprised of the essential skills tests and the nationally standardized norm-referenced achievement tests, as designated by the state board pursuant to section 160.518, complete and distribute an annual report card as prescribed in section 160.522, **which shall also include a statement that background checks have been completed on the charter school's board members**, report to its sponsor, the local school district, and the state board of education as to its teaching methods and any educational innovations and the results thereof, and provide data required for the study of charter schools pursuant to subsection 3 of section 160.410. No charter school will be considered in the Missouri school improvement program review of the district in which it is located for the resource or process standards of the program. Nothing in this paragraph shall be construed as permitting a charter school to be held to lower performance standards than other public schools within a district; however, the charter of a charter school may permit students to meet performance standards on a different time frame as specified in its charter;

[(7)] (8) Assure that the needs of special education children are met in compliance with all applicable federal and state laws and regulations;

**(9) Provide, in a timely fashion, all information necessary to confirm on-going compliance with all provisions of the charter and sections 160.400 to 160.420.**

6. The charter of a charter school may be amended at the request of the governing body of

the charter school and on the approval of the sponsor. The sponsor and the governing board and staff of the charter school shall jointly review the school's performance, management and operations at least once every two years.

7. (1) A sponsor may revoke a charter at any time if the charter school commits a serious breach of one or more provisions of its charter or on any of the following grounds: failure to meet academic performance standards as set forth in its charter, failure to meet generally accepted standards of fiscal management, **failure to provide information necessary to confirm compliance with all provisions of the charter and sections 160.400 to 160.420 within forty-five days following receipt of written notice requesting such information** or violation of law.

(2) The sponsor may place the charter school on probationary status to allow the implementation of a remedial plan, after which, if such plan is unsuccessful, the charter may be revoked. **The sponsor may require the remedial plan to provide for a change in methodology or leadership, or both.**

(3) At least sixty days before acting to revoke a charter, the sponsor shall notify the board of directors of the charter school of the proposed action in writing. The notice shall state the grounds for the proposed action. The school's board of directors may request in writing a hearing before the sponsor within two weeks of receiving the notice.

(4) The sponsor of a charter school shall establish procedures to conduct administrative hearings upon determination by the sponsor that grounds exist to revoke a charter. Final decisions of a sponsor from hearings conducted pursuant to this subsection are subject to judicial review pursuant to chapter 536, RSMo.

(5) A termination shall be effective only at the conclusion of the school year, unless the sponsor determines that continued operation of the school



presents a clear and immediate threat to the health and safety of the children.

**8. A sponsor shall take all reasonable steps necessary to confirm each charter school sponsored by such sponsor is in material compliance and remains in material compliance with all material provisions of the charter and sections 160.400 to 160.420.**

**9.** A school district may enter into a lease with a charter school for physical facilities. [A charter school may not be located on the property of a school district unless the district governing board agrees.]

[9.] **10.** A governing board or a school district employee who has control over personnel actions shall not take unlawful reprisal against another employee at the school district because the employee is directly or indirectly involved in an application to establish a charter school. A governing board or a school district employee shall not take unlawful reprisal against an educational program of the school or the school district because an application to establish a charter school proposes the conversion of all or a portion of the educational program to a charter school. As used in this subsection, “unlawful reprisal” means an action that is taken by a governing board or a school district employee as a direct result of a lawful application to establish a charter school and that is adverse to another employee or an educational program.

**11. Charter school board members shall be subject to the same liability for acts while in office as if they were regularly and duly elected members of school boards in any other public school district in this state. The board of directors of a charter school may participate, to the same extent as a school board, in the Missouri public entity risk management fund in the manner provided pursuant to sections 557.700 to 557.755, RSMo.**

160.410. 1. A charter school shall enroll all

pupils resident in the district in which it operates or eligible to attend a district's school under an urban voluntary transfer program who submit a timely application, unless the number of applications exceeds the capacity of a program, class, grade level or building. If capacity is insufficient to enroll all pupils who submit a timely application, the charter school shall have an admissions process that assures all applicants of an equal chance of gaining admission except that:

(1) A charter school may establish a geographical area around the school whose residents will receive a preference for enrolling in the school, provided that such preferences do not result in the establishment of racially or socioeconomically isolated schools and provided such preferences conform to policies and guidelines established by the state board of education; and

(2) A charter school may also give a preference for admission of children whose siblings attend the school or whose parents are employed at the school.

2. A charter school shall not limit admission based on race, ethnicity, national origin, disability, gender, income level, proficiency in the English language or athletic ability, but may limit admission to pupils within a given age group or grade level. **A charter school's admission, recruitment and enrollment policies, curriculum and instructional methods may not result in the establishment of racially or socioeconomically isolated schools.**

3. The department of elementary and secondary education shall commission a study of the performance of students at each charter school in comparison with a comparable group and a study of the impact of charter schools upon the districts in which they are located, to be conducted by a contractor selected through a request for proposal. The department of elementary and secondary education shall reimburse the contractor from funds appropriated by the general assembly for the

purpose. The study of a charter school's student performance in relation to a comparable group shall be designed to provide information that would allow parents and educators to make valid comparisons of academic performance between the charter school's students and a group of students comparable to the students enrolled in the charter school. The impact study shall be undertaken every two years to determine the effect of charter schools on education stakeholders in the districts where charter schools are operated. The impact study may include, but is not limited to, determining if changes have been made in district policy or procedures attributable to the charter school and to perceived changes in attitudes and expectations on the part of district personnel, school board members, parents, students, the business community and other education stakeholders. The department of elementary and secondary education shall make the results of the studies public and shall deliver copies to the governing boards of the charter schools, the sponsors of the charter schools, the school board and superintendent of the districts in which the charter schools are operated.

**4. A charter school shall make available for public inspection, free of charge, and provide upon request, to the parent, guardian or other custodian of any school-age pupil resident in the district in which the school is located, the following information:**

- (1) The school's charter; and**
- (2) The school's most recent annual report card published pursuant to section 160.522; and**
- (3) The results of background checks to screen candidates seeking or renewing an appointment to the board of directors of a charter school.**

**The charter school may charge reasonable fees for furnishing copies of documents pursuant to this subsection.”; and**

Further amend the title and enacting clause accordingly.

Senator House moved that the above amendment be adopted.

Senator Jacob raised the point of order that **SA 9** is out of order as the amendment goes beyond the scope, intent and purpose of the underlying bill.

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

Senator Singleton offered **SA 10**:

**SENATE AMENDMENT NO. 10**

Amend House Committee Substitute for House Bill No. 1711, Page 5, Section 163.011, Line 154, by inserting after all of said line the following:

**“Section 1. In a year of general reassessment, a governing body whose tax rate is lower than its tax rate ceiling shall revise its tax rate pursuant to the provisions of subsection 4 of section 137.073, RSMo, as if its tax rate were at the tax rate ceiling.”; and**

Further amend the title and enacting clause accordingly.

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

Senator Westfall assumed the Chair.

Senator Rohrbach offered **SA 11**:

**SENATE AMENDMENT NO. 11**

Amend House Committee Substitute for House Bill No. 1711, Page 3, Section 163.011, Line 53, by adding immediately preceding the “;” on said line the following: “with the second count of summer school average daily attendance not to exceed three percent of the school term average daily attendance”.

Senator Rohrbach moved that the above amendment be adopted.

Senator Caskey requested a roll call vote be taken on the adoption of **SA 11** and was joined in his request by Senators Childers, House, Klarich and Mathewson.

**SA 11** was adopted by the following vote:

YEAS—Senators

Bentley	Caskey	Foster	Goode
Jacob	Johnson	Kennedy	Kinder
Klindt	Loudon	Mathewson	Quick
Rohrbach	Russell	Schneider	Sims
Singleton	Stoll	Westfall	Wiggins—20

NAYS—Senators

Bland	Cauthorn	Childers	Dougherty
Gibbons	Gross	House	Klarich
Steelman	Yeckel—10		

Absent—Senators

Coleman	Kenney	Staples—3
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Absent with leave—Senator DePasco—1

On motion of Senator Jacob, **HCS** for **HB 1711**, as amended, was read the 3rd time and passed by the following vote:

YEAS—Senators

Bentley	Bland	Caskey	Cauthorn
Childers	Dougherty	Foster	Gibbons
Goode	Gross	House	Jacob
Johnson	Kennedy	Kenney	Kinder
Klarich	Klindt	Loudon	Mathewson
Quick	Rohrbach	Russell	Schneider
Sims	Stoll	Westfall	Wiggins
Yeckel—29			

NAYS—Senators

Singleton	Steelman—2
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Absent—Senators

Coleman	Staples—2
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Absent with leave—Senator DePasco—1

The President declared the bill passed.

The emergency clause was adopted by the following vote:

YEAS—Senators

Bentley	Bland	Caskey	Cauthorn
Childers	Dougherty	Foster	Gibbons

Goode	Gross	House	Jacob
Johnson	Kennedy	Kenney	Kinder
Klarich	Klindt	Loudon	Mathewson
Quick	Rohrbach	Russell	Schneider
Sims	Singleton	Stoll	Westfall
Wiggins	Yeckel—30		

NAYS—Senator Steelman—1

Absent—Senators

Coleman	Staples—2
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Absent with leave—Senator DePasco—1

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

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

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

**SENATE BILLS FOR PERFECTION**

Senator Klarich moved that **SB 1152**, with **SCS**, **SS** for **SCS** and **SA 2** (pending), be called from the Informal Calendar and again taken up for perfection, which motion prevailed.

**SA 2** was again taken up.

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

**SS** for **SCS** for **SB 1152** was again taken up.

At the request of Senator Klarich, the above substitute was withdrawn.

Senator Klarich offered **SS No. 2** for **SCS** for **SB 1152**, entitled:

**SENATE SUBSTITUTE NO. 2 FOR  
SENATE COMMITTEE SUBSTITUTE FOR  
SENATE BILL NO. 1152**

An Act to repeal sections 27.060, 43.540, 50.333, 57.290, 59.042, 67.133, 143.782, 287.210, 429.032, 429.080, 429.090, 429.120, 429.160, 429.270, 429.460, 429.470, 429.490, 429.540, 430.225, 454.505, 455.027, 455.060, 455.067,

455.075, 455.504, 455.508, 476.058, 476.270, 476.320, 476.340, 476.385, 478.725, 483.245, 484.020, 488.005, 488.012, 488.015, 488.020, 488.610, 488.2300, 488.4014, 488.5320, 491.300, 494.410, 494.415, 494.420, 511.350, 511.510, 517.141, 517.151, 537.684, 577.051, 589.410 and 595.045, RSMo, relating to judicial and administrative procedure and practice, and to enact in lieu thereof fifty-four new sections relating to the same subject, with penalty provisions.

Senator Klarich moved that **SS No. 2** for **SCS** for **SB 1152** be adopted.

Senator Steelman offered **SA 1**:

**SENATE AMENDMENT NO. 1**

Amend Senate Substitute No. 2 for Senate Committee Substitute for Senate Bill No. 1152, Page 89, Section 595.045, Line 29, by inserting after all of said line the following:

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

**(1) “Party”, a party of record in a product liability action;**

**(2) “Product liability action”, an action or claim for damages for personal injury, wrongful death, or property damage caused by a product, that is an alleged hazard to the public and that presents an alleged risk of similar injury to other members of the public;**

**(3) “Records”, all information acquired through the process of discovery pursuant to the Missouri Rules of Civil Procedure concerning the defective product, and all settlement documents, releases and other documents terminating the litigation filed with the court or maintained by the parties.**

**2. This section shall apply exclusively to product liability actions.**

**3. Records filed with the courts of this state in product liability actions or records produced or maintained by the parties in such actions**

**shall be open and available for inspection, copying or viewing by the public, with the exception of those records which a court of competent jurisdiction orders sealed pursuant to subsection 3, 4 or 5 of this section. Access to records of the courts of this state shall be governed by the provisions of this chapter. The clerk of the court shall maintain sealed records in a restricted area apart from the case file to which the public has access. Unless the docket in the product liability action reflects prior entry of an order to file under seal or the party offering a record presents the clerk with an order of the court authorizing a filing under seal, all records received in the office of the clerk shall be filed in the public record of a product liability action.**

**4. Only upon written motion filed by any party may a court order that a record filed or to be filed, or produced or to be produced, in a product liability action be received and maintained by the court clerk or the requesting party under seal until such time as the court orders the record to be opened. The court may only seal a record, whether before or after such record is filed or produced, if the court determines that good cause exists based upon a showing that the request is narrowly tailored and that no less restrictive means exist to protect disclosure of prejudicial or confidential information and that:**

**(1) The information requested to be sealed is determined by the court to be a trade secret or other confidential research, development, or commercial information; and**

**(2) Public disclosure of the record or proceeding would subject any party to undue harassment, embarrassment, annoyance, humiliation, oppression, burden or expense; and**

**(3) An interest exists which substantially outweighs the right of public access to the information contained in the record and the**

overriding interest will be imminently compromised if the record is not sealed.

5. Upon written motion filed by any party, the court may order that any final settlement filed in a product liability action be received and maintained by the court clerk under seal until such time as the court orders the record to be opened.

6. Unless the information is sealed by the court pursuant to subsection 4 of this section, any portion of an agreement or contract in a product liability action that restricts a party from disclosing information relating to the defective product to a governmental agency with enforcement authority over the defective product is void, contrary to public policy and shall not be enforced.

7. If any sealed records are relevant to any other proceedings in another court of competent jurisdiction, or such sealed records may be reasonably calculated to lead to discovery of relevant matters in such other proceeding, the court with jurisdiction of such other proceeding shall order that such sealed records be made available to the party seeking the same, and may make such further orders as are appropriate under the circumstances regarding any further disclosure of such information.”; and

Further amend the title and enacting clause accordingly.

Senator Steelman moved that the above amendment be adopted.

Senator Kinder requested a roll call vote be taken on the adoption of SA 1 and was joined in his request by Senators Bentley, Childers, Klarich and Russell.

SA 1 failed of adoption by the following vote:

YEAS—Senators

Bland	Dougherty	Goode	House
Jacob	Kennedy	Mathewson	Schneider

Steelman      Stoll      Yeckel—11

NAYS—Senators

Bentley	Caskey	Cauthorn	Childers
Foster	Gibbons	Gross	Johnson
Kenney	Kinder	Klarich	Klindt
Loudon	Quick	Rohrbach	Russell
Sims	Singleton	Staples	Westfall

Wiggins—21

Absent—Senator Coleman—1

Absent with leave—Senator DePasco—1

Senator Bentley offered SA 2:

SENATE AMENDMENT NO. 2

Amend Senate Substitute No. 2 for Senate Committee Substitute for Senate Bill No. 1152, Page 79, Section 537.684, Line 22 of said page, by inserting after all of said line the following:

“565.020. 1. A person commits the crime of murder in the first degree if he knowingly causes the death of another person after deliberation upon the matter.

2. Murder in the first degree is a class A felony, and the punishment shall be either death or imprisonment for life without eligibility for probation or parole, or release except by act of the governor; except that, if a person has not reached his [sixteenth] **eighteenth** birthday at the time of the commission of the crime, the punishment shall be imprisonment for life without eligibility for probation or parole, or release except by act of the governor.”; and

Further amend the title and enacting clause accordingly.

Senator Bentley moved that the above amendment be adopted.

Senator Caskey raised the point of order that SA 2 is out of order as it goes beyond the scope and purpose of the bill.

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

Senator Jacob offered SA 3:

SENATE AMENDMENT NO. 3

Amend Senate Substitute No. 2 for Senate Committee Substitute for Senate Bill No. 1152, Page 89, Section 595.045, Line 29 of said page, by inserting after all of said line the following:

“610.106. [Any person as to whom imposition of sentence was suspended prior to September 28, 1981, may make a motion to the court in which the action was prosecuted after his discharge from the court's jurisdiction for closure of official records pertaining to the case. If the prosecuting authority opposes the motion, an informal hearing shall be held in which technical rules of evidence shall not apply. Having regard to the nature and circumstances of the offense and the history and character of the defendant and upon a finding that the ends of justice are so served, the court may order official records pertaining to the case to be closed, except as provided in section 610.120.] **1. In the event a person is charged with a criminal offense and subsequently enters a guilty plea or is found guilty and imposition of sentence is suspended in the case for a period of time while the person is on court-ordered probation:**

**(1) The official records of the case shall remain open until such time as the court-ordered probation is successfully completed;**

**(2) Upon successful completion of the court-ordered probation, the records of the case shall be sealed and closed for all purposes, notwithstanding any provision of the law or court order to the contrary; and**

**(3) Upon successful completion of the court-ordered probation, the person shall not thereafter be impeached by his or her arrest, charges, conviction or guilty plea in the case.**

**2. Records required to be sealed and closed pursuant to this section shall be inaccessible to all persons other than the defendant, notwithstanding any provision of law to the contrary.**

**3. Nothing in this section shall be construed, interpreted or applied to deny or abridge any person's constitutional or statutory protection against double jeopardy.**

**4. The provisions of subsections 1, 2 and 3 of this section shall apply to all cases terminating prior to, on, or after the effective date of this section, except no case which terminated before the effective date of this section shall be re-opened because of any provision of this section.**

610.110. No person as to whom such records have become **sealed or closed** [records] pursuant to **section 610.105 or 610.106** shall thereafter, under any provision of law, be held to be guilty of perjury or otherwise of giving a false statement by reason of his **or her** failure to recite [or], acknowledge [such arrest or trial], **admit or confess any aspect of any such arrest or any such case** in response to any inquiry made of him **or her** for any purpose[, except as provided in section 491.050, RSMo, and section 610.120].”; and

Further amend the title and enacting clause accordingly.

Senator Jacob moved that the above amendment be adopted.

Senator Gross raised the point of order that SA 3 is out of order as it goes beyond the scope and purpose of the bill.

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

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

SENATE AMENDMENT NO. 1 TO  
SENATE AMENDMENT NO. 3

Amend Senate Amendment No. 3 to Senate Substitute No. 2 for Senate Committee Substitute for Senate Bill No. 1152, Page 2, Section 610.106, Line 8, by adding: “except that a guilty plea entered in an alcohol related case may be plead for the

purpose of enhancement of the sanction in accordance with the statutes provided.”.

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

**SA 1**, as amended, was again taken up.

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

Senator Loudon offered **SA 4**:

SENATE AMENDMENT NO. 4

Amend Senate Substitute No. 2 for Senate Committee Substitute for Senate Bill No. 1152, Page 89, Section 595.045, Line 29, by inserting after all of said line the following:

“610.120. 1. Records required to be closed **or sealed** shall not be destroyed; they shall be inaccessible to the general public and to all persons other than the defendant except as provided in this section and section 43.507, RSMo. They shall be available to the sentencing advisory commission created in section 558.019, RSMo, for the purpose of studying sentencing practices, and only to courts, law enforcement agencies, child care agencies, department of revenue for driving record purposes, facilities as defined in section 198.006, RSMo, in-home services provider agencies as defined in section 660.250, RSMo, the division of workers' compensation for the purposes of determining eligibility for crime victims' compensation pursuant to sections 595.010 to 595.075, RSMo, and federal agencies for purposes of prosecution, sentencing, parole consideration, criminal justice employment, child care employment, nursing home employment and to federal agencies for such investigative purposes as authorized by law or presidential executive order. These records shall be made available for the above purposes regardless of any previous statutory provision which had closed **or sealed** such records to certain agencies or for certain purposes. All records which are closed **or sealed** records shall be removed from the records of the courts,

administrative agencies, and law enforcement agencies which are available to the public and shall be kept in separate records which are to be held confidential and, where possible, pages of the public record shall be retyped or rewritten omitting those portions of the record which deal with the defendant's case. If retyping or rewriting is not feasible because of the permanent nature of the record books, such record entries shall be blacked out and recopied in a confidential book.

2. As used in this section, the term “child care” includes providers and youth services agencies as those terms are defined in section 43.540, RSMo, elementary and secondary school teachers, and elementary and secondary school bus drivers, whether such drivers are employed by a school or an entity which has contracted with the school to provide transportation services.

610.122. Notwithstanding other provisions of law to the contrary, any record of arrest recorded pursuant to section 43.503, RSMo, may be expunged if the court determines that:

(1) The arrest was based on false information and the following conditions exist:

[(1)] (a) There is no probable cause, at the time of the action to expunge, to believe the individual committed the offense;

[(2)] (b) No charges will be pursued as a result of the arrest;

[(3)] (c) The subject of the arrest has no prior or subsequent misdemeanor or felony convictions **or suspended impositions of sentence and there are no pending criminal investigations regarding the arrest;**

[(4)] (d) The subject of the arrest did not receive a suspended imposition of sentence for the offense for which the arrest was made or for any offense related to the arrest; and

[(5)] (e) No civil action is pending relating to the arrest or the records sought to be expunged; **or**

**(2) No criminal charges have been filed**

against the subject of the arrest within ten years from the date of such arrest.

**610.130.** Sections 610.130 to 610.140 may be cited as the “Missouri Rehabilitation and Sealed Records Act”.

**610.132.** For the purposes of sections 610.130 to 610.140, the following terms mean:

(1) “Sex-related offense”, any crime defined in chapter 566, RSMo, section 568.020, RSMo, subdivision (2) of subsection 1 of section 568.045, RSMo, subdivision (2) of subsection 1 of section 568.060, RSMo, section 568.080, RSMo, or section 568.090, RSMo; and

(2) “Violent felony”, any crime punishable as a class A felony, any intentional act punishable as a class B felony, or any crime in which a deadly weapon, as defined in section 556.061, RSMo, was used or displayed.

**610.134.** A person who has pled guilty to or been found guilty of no more than one felony nor more than two misdemeanors may petition the circuit court to have such person's record, including juvenile records, sealed, if the person:

(1) Has not pled guilty to or been found guilty of a misdemeanor or pled guilty to or been found guilty of a felony for at least ten consecutive years, after being discharged from probation or released from incarceration;

(2) Is not currently on probation or parole;

(3) Has not pled guilty to or been found guilty of a violent felony;

(4) Has not pled guilty to or been found guilty of a sex-related offense;

(5) Has not pled guilty to or been found guilty of any offense of distributing a controlled substance as described in chapter 195, RSMo, and punishable as a class A or B felony;

(6) Has not previously petitioned to have such person's records sealed pursuant to the provisions of sections 610.130 to 610.140;

(7) Has not been convicted, as that term is defined in section 302.700, RSMo, for the operation of a commercial motor vehicle, as defined in section 302.700, RSMo, with a blood alcohol content of at least four-hundredths of one percent; and

(8) Is at least twenty-five years of age.

**610.136.** If the court finds that a person has met the requirements of section 610.134, the court may in the court's discretion after considering the totality of the circumstances set aside all verdicts or findings of guilty and allow the petitioner to withdraw all pleas of guilty and may dismiss with prejudice all cases against the petitioner, and may order all criminal and juvenile records of the petitioner to be sealed. Notwithstanding any other provision of law to the contrary, such petitioners waive all rights of being employed by any Missouri-licensed gambling operation. If the petitioner is arrested for committing any crime, other than minor traffic offenses, during the pendency of the action filed pursuant to the provisions of sections 610.130 to 610.140, the court shall stay such action until the resolution of any indictment or information filed pursuant to such arrest.

**610.138. 1.** A person who knowingly fails to seal, or knowingly releases records or information which have been ordered sealed pursuant to sections 610.130 to 610.140, is guilty of a class B misdemeanor.

**2.** A person who uses records or information for financial gain, knowing that such records or information have been ordered sealed pursuant to sections 610.130 to 610.140, is guilty of a class D felony.

**610.140. 1.** The sealing of any record pursuant to the provisions of sections 610.130 to 610.140 shall not reflect on the validity of the arrest or conviction and shall not be construed to indicate a lack of probable cause for the



arrest.

**2. The petitioner shall not bring any action subsequent to the sealing against any law enforcement officer or law enforcement agency relating to the arrest or conviction described in the sealed records.**

**3. Neither the public nor law enforcement agencies shall have access to records sealed pursuant to sections 610.130 to 610.140.”; and**

Further amend the title and enacting clause accordingly.

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

Senator Cauthorn offered **SA 5:**

**SENATE AMENDMENT NO. 5**

Amend Senate Substitute No. 2 for Senate Committee Substitute for Senate Bill No. 1152, Page 12, Section 59.040, Line 25, by inserting immediately after said line the following:

“59.041. [1.] Notwithstanding the provisions of this chapter or chapter 478, RSMo, or any other provision of law in conflict with the provisions of this section, in any county which becomes a county of the second class after September 28, 1987, and wherein the offices of circuit clerk and recorder of deeds are combined, such combination shall continue until the governing body of the county authorizes the separation of the offices as provided in section 59.042.

[2. Notwithstanding the provisions of this chapter or chapter 478, RSMo, or any other provision of law in conflict with the provisions of this section, in any county of the third classification without a township form of government and having a population of more than twenty-seven thousand six hundred but less than twenty-eight thousand six hundred and wherein the offices of the district I circuit clerk and recorder of deeds are combined, the circuit court shall appoint such circuit clerk ex officio recorder of deeds. The circuit court may recommend to the governing body of such county

whether the combined offices of the district I circuit clerk and recorder of deeds should be separated pursuant to subsection 1 of section 59.042; provided however, that if the governing body of such county authorizes the separation of offices and notwithstanding the provisions of subsection 2 of section 59.042, the office of district I clerk of the circuit court shall remain appointed by the circuit court.]”; and

Further amend the title and enacting clause accordingly.

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

Senator Jacob offered **SA 6:**

**SENATE AMENDMENT NO. 6**

Amend Senate Substitute No. 2 for Senate Committee Substitute for Senate Bill No. 1152, Page 5, Section 43.540, Line 7 of said page, by inserting after all of said line the following:

**“49.272. 1. The county commission of any county of the first classification which has an appointed county counselor and which adopts or has adopted rules, regulations or ordinances under authority of a statute which prescribes or authorizes a violation of such rules, regulations or ordinances to be a misdemeanor punishable as provided by law, may by rule, regulation or ordinance impose a civil fine not to exceed one thousand dollars for each violation. Any fines imposed and collected under such rules, regulations or ordinances shall be payable to the county general fund to be used to pay for the cost of enforcement of such rules, regulations or ordinances.”; and**

Further amend said bill, Page 12, Section 50.333, Line 1 of said page by inserting after all of said line the following:

**“56.640. 1. If a county counselor is appointed, he and his assistants under his direction shall represent the county and all departments, officers, institutions and agencies thereof, except as**

otherwise provided by law and shall upon request of any county department, officer, institution or agency for which legal counsel is otherwise provided by law, and upon the approval of the county commission, represent such department, officer, institution or agency. He shall commence, prosecute or defend, as the case may require, and exercise exclusive authority in all civil suits or actions in which the county or any county officer, commission or agency is a party, in his or its official capacity, he shall draw all contracts relating to the business of the county, he shall represent the county generally in all matters of civil law, and he shall upon request furnish written opinions to any county officer or department.

**2. In all cases in which a civil fine may be imposed pursuant to section 49.272, RSMo, it shall be the duty of the county counselor, rather than the county prosecuting attorney, to prosecute such violations in the associate division of the circuit court in the county where the violation occurred.**

**3. Notwithstanding any law to the contrary, the county counselor in any county of the first classification and the prosecuting attorney of such county may by mutual cooperation agreement prosecute or defend any civil action which the prosecuting attorney or county counselor of the county is authorized or required by law to prosecute or defend.”; and**

Further amend the title and enacting clause accordingly.

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

Senator Caskey offered **SA 7:**

**SENATE AMENDMENT NO. 7**

Amend Senate Substitute No. 2 for Senate Committee Substitute for Senate Bill No. 1152, Page 75, Section 517.151, by inserting after all of said section the following:

**“537.617. 1. The state of Missouri hereby**

**grants limited consent to be sued under the Americans with Disabilities Act, 42 U.S.C. Section 12101, et seq., in the state courts of Missouri. The state of Missouri does not consent to be sued under the Americans with Disabilities Act in federal courts.**

**2. The consent granted in subsection 1 of this section is for a maximum monetary award in the amounts described in section 537.610. No state court shall enter a judgment for an amount in excess of the monetary limits in section 537.610. Such monetary limits shall apply regardless of whether the state has insurance for defense of the claim. The amount may include attorneys' fees, but shall not include punitive or exemplary damages.**

**3. The provisions of this section shall apply to all actions pending or initiated on or after the effective date of this section.”; and**

Further amend the title and enacting clause accordingly.

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

Senator Rohrbach offered **SA 8:**

**SENATE AMENDMENT NO. 8**

Amend Senate Substitute No. 2 for Senate Committee Substitute for Senate Bill No. 1152, Page 79, Section 537.684, Line 22 of said page, by inserting after all of said line the following:

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

**2. Where murder in the first degree is submitted to the trier without a waiver of the death penalty, the trial shall proceed in two stages before the same trier. At the first stage the trier shall decide only whether the defendant is guilty or not**

guilty of any submitted offense. The issue of punishment shall not be submitted to the trier at the first stage. If an offense is charged other than murder in the first degree in a count together with a count of murder in the first degree, the trial judge shall assess punishment on any such offense according to law, after the defendant is found guilty of such offense and after he finds the defendant to be a prior offender pursuant to chapter 558, RSMo.

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

4. If the trier at the first stage of a trial where the death penalty was not waived finds the defendant guilty of murder in the first degree, a second stage of the trial shall proceed at which the only issue shall be the punishment to be assessed and declared. Evidence in aggravation and mitigation of punishment, including but not limited to evidence supporting any of the aggravating or mitigating circumstances listed in subsection 2 or 3 of section 565.032, may be presented subject to the rules of evidence at criminal trials. Such evidence may include, within the discretion of the court, evidence concerning the murder victim and the impact of the crime upon the family of the victim and others. Rebuttal and surrebuttal evidence may be presented. The state shall be the first to proceed. If the trier is a jury it shall be instructed on the law. The attorneys may then argue the issue of punishment to the jury, and the state shall have the right to open and close the argument. The trier shall assess and declare the punishment at life imprisonment without eligibility for probation, parole, or release except by act of the governor:

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

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

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

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

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

6. As used in this section, the terms "mental retardation" or "mentally retarded" refer to a

condition involving substantial limitations in general functioning characterized by significantly subaverage intellectual functioning with continual extensive related deficits and limitations in two or more adaptive behaviors such as communication, self-care, home living, social skills, community use, self-direction, health and safety, functional academics, leisure and work, which conditions are manifested and documented before eighteen years of age.

7. The provisions of this section shall only govern [offenses committed] **prosecutions commenced** on or after August 28, [2001] **2002.**"; and

Further amend the title and enacting clause accordingly.

Senator Rohrbach moved that the above amendment be adopted.

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

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

Senator Singleton assumed the Chair.

Senator Rohrbach offered **SA 9**, which was read:

#### SENATE AMENDMENT NO. 9

Amend Senate Substitute No. 2 for Senate Committee Substitute for Senate Bill No. 1152, Page 72, Section 494.415, Lines 12 and 13, by deleting all of said lines, and further amend Page 72, Section 494.420, Lines 24 and 25, by deleting all of said lines.

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

Senator Klarich moved that **SS No. 2** for **SCS** for **SB 1152**, as amended, be adopted, which motion prevailed.

On motion of Senator Klarich, **SS No. 2** for **SCS** for **SB 1152**, as amended, was declared

perfected and ordered printed.

### 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 refuses to adopt **SCS** for **HCS** for **HB 1101** and requests the Senate to recede from its position and failing to do so grant the House a conference thereon.

Also,

Mr. President: I am instructed by the House of Representatives to inform the Senate that the House refuses to adopt **SCS**, as amended, for **HCS** for **HB 1102** and requests the Senate to recede from its position and failing to do so grant the House a conference thereon.

Also,

Mr. President: I am instructed by the House of Representatives to inform the Senate that the House refuses to adopt **SCS**, as amended, for **HCS** for **HB 1103** and requests the Senate to recede from its position and failing to do so grant the House a conference thereon.

Also,

Mr. President: I am instructed by the House of Representatives to inform the Senate that the House refuses to adopt **SCS**, as amended, for **HCS** for **HB 1104** and requests the Senate to recede from its position and failing to do so grant the House a conference thereon.

Also,

Mr. President: I am instructed by the House of Representatives to inform the Senate that the House refuses to adopt **SCS** for **HCS** for **HB 1105** and requests the Senate to recede from its position and failing to do so grant the House a conference thereon.

Also,

Mr. President: I am instructed by the House of Representatives to inform the Senate that the House refuses to adopt **SCS for HCS for HB 1106** and requests the Senate to recede from its position and failing to do so grant the House a conference thereon.

Also,

Mr. President: I am instructed by the House of Representatives to inform the Senate that the House refuses to adopt **SCS**, as amended, for **HCS for HB 1107** and requests the Senate to recede from its position and failing to do so grant the House a conference thereon.

Also,

Mr. President: I am instructed by the House of Representatives to inform the Senate that the House refuses to adopt **SCS for HCS for HB 1108** and requests the Senate to recede from its position and failing to do so grant the House a conference thereon.

Also,

Mr. President: I am instructed by the House of Representatives to inform the Senate that the House refuses to adopt **SCS for HCS for HB 1109** and requests the Senate to recede from its position and failing to do so grant the House a conference thereon.

Also,

Mr. President: I am instructed by the House of Representatives to inform the Senate that the House refuses to adopt **SCS for HCS for HB 1110** and requests the Senate to recede from its position and failing to do so grant the House a conference thereon.

### PRIVILEGED MOTIONS

Senator Russell requested unanimous consent of the Senate to make one motion to send **SCS for HCS for HB 1101** through **SCS for HCS for HB 1110** to conference, which request was granted.

Senator Russell moved that the Senate refuse to recede from its position on **SCS for HCS for HB 1101**; **SCS for HCS for HB 1102**, as amended;

**SCS for HCS for HB 1103**, as amended; **SCS for HCS for HB 1104**, as amended; **SCS for HCS for HB 1105**; **SCS for HCS for HB 1106**; **SCS for HCS for HB 1107**, as amended; **SCS for HCS for HB 1108**; **SCS for HCS for HB 1109**; and **SCS for HCS for HB 1110** and grant the House a conference thereon, which motion prevailed.

### REFERRALS

President Pro Tem Kinder referred **HCR 4** and **SCR 69** to the Committee on Rules, Joint Rules, Resolutions and Ethics.

President Pro Tem Kinder referred **HCS for HB 1443**, with **SCS**, and **HB 1926** to the Committee on State Budget Control.

### SECOND READING OF CONCURRENT RESOLUTIONS

The following concurrent resolution was read the 2nd time and referred to the Committee indicated:

**HCR 25**—Rules, Joint Rules, Resolutions and Ethics.

### HOUSE BILLS ON SECOND READING

The following Bill was read the 2nd time and referred to the Committee indicated:

**HB 1508**—Transportation.

### 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 refuses to adopt **SCS**, as amended, for **HCS for HB 1111** and requests the Senate to recede from its position and failing to do so grant the House a conference thereon.

Also,

Mr. President: I am instructed by the House of Representatives to inform the Senate that the House refuses to adopt **SCS for HCS for HB 1112** and requests the Senate to recede from its position and failing to do so grant the House a conference

thereon.

Also,

Mr. President: I am instructed by the House of Representatives to inform the Senate that the House refuses to concur in **SAs 1, 2, 3, 4, 5, 6, 7, 8** and **11** to **HCS** for **HB 1711** and requests the Senate to recede from its position and failing to do so grant the House a conference thereon.

### PRIVILEGED MOTIONS

Senator Russell requested unanimous consent of the Senate to make one motion to send **SCS** for **HCS** for **HB 1111**, as amended; and **SCS** for **HCS** for **HB 1112** to conference, which request was granted.

Senator Russell moved that the Senate refuse to recede from its position on **SCS** for **HCS** for **HB 1111**, as amended, and **SCS** for **HCS** for **HB 1112** and grant the House a conference thereon, which motion prevailed.

### CONFERENCE COMMITTEE APPOINTMENTS

President Pro Tem Kinder appointed the following conference committees to act with like committees from the House on **SCS** for **HCS** for **HB 1101**; **SCS** for **HCS** for **HB 1102**, as amended; **SCS** for **HCS** for **HB 1103**, as amended; **SCS** for **HCS** for **HB 1104**, as amended; **SCS** for **HCS** for **HB 1105**; **SCS** for **HCS** for **HB 1106**; **SCS** for **HCS** for **HB 1107**, as amended; **SCS** for **HCS** for **HB 1108**; **SCS** for **HCS** for **HB 1109**; **SCS** for **HCS** for **HB 1110**; **SCS** for **HCS** for **HB 1111**, as amended; and **SCS** for **HCS** for **HB 1112**: Senators Russell, Westfall, Rohrbach, Goode and Wiggins.

### PRIVILEGED MOTIONS

Senator Jacob moved that the Senate refuse to recede from its position on **SAs 1, 2, 3, 4, 5, 6, 7, 8** and **11** to **HCS** for **HB 1711** and grant the House a conference thereon, which motion prevailed.

### CONFERENCE COMMITTEE APPOINTMENTS

President Pro Tem Kinder appointed the following conference committee to act with a like committee from the House on **HCS** for **HB 1711**, as amended: Senators Jacob, Caskey, Bentley, Sims and Kenney.

### MESSAGES FROM THE GOVERNOR

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

OFFICE OF THE GOVERNOR

State of Missouri

Jefferson City, Missouri

April 26, 2002

TO THE SENATE OF THE 91st GENERAL ASSEMBLY  
OF THE STATE OF MISSOURI:

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

Michael B. Smith, Republican, 910 Southwest County Line Road, Lee's Summit, Jackson County, Missouri 64082, as a member of the Jackson County Sports Complex Authority, for a term ending July 15, 2005, and until his successor is duly appointed and qualified; vice, Richard Berkley, term expired.

Respectfully submitted,

BOB HOLDEN

Governor

President Pro Tem Kinder referred the above appointment to the Committee on gubernatorial Appointments.

### REPORTS OF STANDING COMMITTEES

Senator Kenney, Chairman of the Committee on Rules, Joint Rules, Resolutions and Ethics, submitted the following reports:

Mr. President: Your Committee on Rules, Joint Rules, Resolutions and Ethics, to which was referred **SCR 65**, begs leave to report that it has considered the same and recommends that the concurrent resolution do pass.

Also,

Mr. President: Your Committee on Rules,

Joint Rules, Resolutions and Ethics, to which was referred **SCR 66**, begs leave to report that it has considered the same and recommends that the concurrent resolution do pass.

Also,

Mr. President: Your Committee on Rules, Joint Rules, Resolutions and Ethics, to which was referred **HCR 13**, begs leave to report that it has considered the same and recommends that the concurrent resolution do pass.

Also,

Mr. President: Your Committee on Rules, Joint Rules, Resolutions and Ethics, to which was referred **HCR 16**, begs leave to report that it has considered the same and recommends that the concurrent resolution do pass.

Also,

Mr. President: Your Committee on Rules, Joint Rules, Resolutions and Ethics, to which was referred **HCR 24**, begs leave to report that it has considered the same and recommends that the concurrent resolution do pass.

### RESOLUTIONS

On behalf of Senator DePasco, Senator Kenney offered Senate Resolution No. 1625, regarding Dr. Paul T. James, Independence, which was adopted.

Senator Kennedy offered Senate Resolution No. 1626, regarding Dr. Joan E. Lampton, St. Louis, which was adopted.

Senator Kennedy offered Senate Resolution No. 1627, regarding Daniel Donald Buttig, which was adopted.

Senator Kinder offered Senate Resolution No. 1628, regarding Whitney Chasteen, Sikeston, which was adopted.

Senator Kinder offered Senate Resolution No. 1629, regarding Ashley Thurman, Sikeston, which

was adopted.

Senator Kinder offered Senate Resolution No. 1630, regarding Tara Shoemaker, Sikeston, which was adopted.

Senator Kinder offered Senate Resolution No. 1631, regarding Sarah Reaves, Sikeston, which was adopted.

Senator Bentley offered Senate Resolution No. 1632, regarding Travis Lee Singleton, Ozark, which was adopted.

Senator Westfall offered Senate Resolution No. 1633, regarding the death of Ronald Kent “Ron” Hendrickson, Bolivar, which was adopted.

### COMMUNICATIONS

The following communication was received from Senator DePasco:

April 29, 2002  
Ms. Terry Spieler  
Secretary of the Senate  
State Capitol  
Jefferson City, MO 65101

Dear Terry:

SCS for SB 1086 and 1126 is presently on the Senate Bills with House Amendments calendar. Senator Quick is the co-sponsor and will handle this bill on the Senate Floor.

Thank you for your attention to this matter.

Sincerely,

/s/ Ronnie DePasco

Senator Ronnie DePasco

District 11

### INTRODUCTIONS OF GUESTS

Senator Kennedy introduced to the Senate, John Green, St. Louis; and Erv and Linda Rhode, Affton.

On motion of Senator Kenney, the Senate adjourned until 9:30 a.m., Tuesday, April 30, 2002.

## SENATE CALENDAR

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 SIXTY-SECOND DAY—TUESDAY, APRIL 30, 2002
 

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## FORMAL CALENDAR

## HOUSE BILLS ON SECOND READING

HB 1460-Hilgemann	HCS for HB 1695
HCS for HB 1717	HS for HCS for HBs 1729,
HB 2078-Clayton	1589 & 1435-Barnitz
HCS for HB 1143	HCS for HJR 51
HS for HCS for HB 1962-Monaco	

## THIRD READING OF SENATE BILLS

SCS for SB 676-Yeckel, et al (In Budget Control)	SB 1095-Cauthorn
SB 1140-Rohrbach	SB 1232-Singleton
	SCS for SB 878-Sims

## SENATE BILLS FOR PERFECTION

SB 1266-Kenney, with SCS	SB 1035-Yeckel
SB 696-Cauthorn, et al	SB 832-Schneider, with SCS
SB 1100-Childers, et al	SJR 24-Johnson

## HOUSE BILLS ON THIRD READING

- |  |  |
|--|--|
| 1. HB 1953-Van Zandt, et al,<br>with SCS (Singleton) | 4. HBs 1270 & 2032-Gratz,<br>with SCS (Westfall) |
| 2. HB 1446-Luetkenhaus,<br>with SCS (Kenney)         | 5. HB 1712-Monaco, et al,<br>with SCS (Klarich)  |
| 3. HCS for HB 1888, with<br>SCS (Westfall)           | 6. HS for HB 1994-Hosmer<br>(Bentley)            |



- |  |   |
|--|---|
| 7. HCS for HB 1443, with<br>SCS (Gibbons)<br>(In Budget Control) | 12. HB 1348-Myers, et al,<br>with SCS (Foster)              |
| 8. HB 1041-Myers, with<br>SCS (Foster)                           | 13. HB 1402-Burton, et al,<br>with SCS                      |
| 9. HB 1600-Treadway<br>(Mathewson)                               | 14. HB 2023-Franklin,<br>with SCA 1 (Foster)                |
| 10. HB 2008-O'Connor,<br>with SCS (Kenney)                       | 15. HB 1086-Harlan, with<br>SCS (House)                     |
| 11. HS for HCS for HB 1532-Hoppe,<br>with SCS (Gross)            | 16. HB 1926-Fraser, et al<br>(Quick)<br>(In Budget Control) |

Unofficial  
INFORMAL CALENDAR  
THIRD READING OF SENATE BILLS

SCS for SB 954-Loudon

SENATE BILLS FOR PERFECTION

- |   |   |
|---|---|
| SBs 641 & 705-Russell, et<br>al, with SCS (pending)                         | SBs 766, 1120 & 1121-<br>Steelman, with SCS                       |
| SB 647-Goode, with SCS<br>(pending)   | SB 881-Steelman and<br>Yeckel, with SCS & SS<br>for SCS (pending) |
| SB 651-Singleton and<br>Russell, with SCS (pending)                         | SB 910-Gibbons  |
| SB 659-House and Kenney,<br>with SS#2, SA 3 and<br>SSA 1 for SA 3 (pending) | SB 912-Mathewson, with<br>SCS, SS for SCS & SA 4<br>(pending)     |
| SB 660-Westfall, et al,<br>with SCS (pending)                               | SB 926-Kenney, et al,<br>with SCS                                 |
| SB 668-Bentley, with SS &<br>SA 1 (pending)                                 | SB 938-Cauthorn, et al  |
| SB 689-Gibbons, et al,<br>with SCS  | SB 971-Klindt, et al, with SCS                                    |
| SB 713-Singleton  | SB 1010-Sims  |
| SB 735-Steelman and<br>Kinder, with SCS                                     | SB 1040-Gibbons, et al,<br>with SCS                               |
|   | SB 1046-Gross and House,<br>with SCS (pending)                    |

SB 1052-Sims, with SCS,  
 SS for SCS, SA 1 &  
 SA 1 to SA 1 (pending)  
 SBs 1063 & 827-Rohrbach  
 and Kenney, with SCS  
 SB 1087-Gibbons, et al,  
 with SCS  
 SB 1099-Childers, with SCS  
 SB 1103-Westfall, et al,  
 with SA 2 (pending)  
 SB 1105-Loudon  
 SB 1111-Quick, with SCS

SB 1133-Gross, with SCS  
 SB 1157-Klindt, with SCS  
 SB 1195-Steelman, et al  
 SB 1205-Yeckel  
 SB 1206-Bentley and Stoll  
 SBs 1279, 1162 & 1164-  
 Kinder and Wiggins,  
 with SCS  
 SJR 23-Singleton, with SS,  
 SA 1 & SSA 1 for SA 1  
 (pending)

# Unofficial

## CONSENT CALENDAR

### Senate Bills

Reported 2/5

SB 995-Rohrbach

# Bill

### House Bills

Reported 4/15

HB 1955-Hilgemann, et al,  
 with SCS (pending)  
 (Coleman)  
 HB 1814-Monaco, et al,  
 with SCA 1 (pending)  
 (Klarich)  
 HB 1715-Moore, et al  
 (Klarich)  
 HB 1768-Hosmer, et al,  
 with SCA 1 (Klarich)  
 HB 1895-Carnahan, et al  
 (Jacob)  
 HB 1151-Smith (Caskey)

HB 1078-Whorton, et al,  
 with SCS (Mathewson)  
 HB 1148-Ross (Kenney)  
 HB 1580-Barnett (Klindt)  
 HB 1811-Gambaro, with SCS  
 (Dougherty)  
 HB 1839-Seigfreid (Mathewson)  
 HB 1846-Scott, with SCS  
 (Rohrbach)  
 HB 1849-Barnitz and  
 Overschmidt, with SCS  
 (Steelman)  
 HB 1861-Burcham (Staples)

Copy

HB 1982-Richardson (Foster)  
 HB 2002-Farnen and Naeger  
     (Caskey)  
 HB 2018-Bartle, et al (Kenney)  
 HB 2039-Kreider (Stoll)  
 HB 2064-Walton, et al (Goode)  
 HB 2130-Boykins, et al (Coleman)  
 HB 2047-Ransdall, et al,  
     with SCS (Mathewson)  
 HB 2022-Richardson, with  
     SCS (Stoll)  
 HB 1973-Bowman (Schneider)  
 HB 1515-Burton (Bentley)  
 HB 1477-Farnen, with SCS (Klindt)  
 HB 1964-Gambaro, with SCS  
     (Yeckel)  
 HB 1635-Hoppe, with SCS  
     (Wiggins)  
 HB 2009-O'Connor, with  
     SCS (Kenney)  
 HB 1838-Hosmer (Caskey)  
 HB 1085-Mays (50) (Quick)  
 HB 1548-Barry, with SCS (Sims)  
 HB 1812-Riback Wilson (Sims)  
 HB 1781-Green (73) and  
     Ladd Baker (Russell)  
 HB 1783-Lowe, et al, with  
     SCS (Rohrbach)  
 HB 1636-Hoppe, with SCS  
     (Wiggins)  
 HB 1840-Seigfreid (Mathewson)  
 HB 1032-Portwood (Steelman)  
 HB 1313-Burton, with SCS  
     (Foster)  
 HB 1937-Barry, with SCA 1  
     (Singleton)  
 HB 1776-Harlan, with SCS  
 HB 2001-Hegeman, et al (Foster)  
 HB 1921-Green (73), with  
     SCS (Klarich)  
 HB 2117-Boucher (Caskey)  
 HB 1519-Boucher (Yeckel)  
 HB 1375-Luetkenhaus  
     (Yeckel)  
 HB 1342-Farnen (Yeckel)  
     (In Budget Control)  
 HB 1668-Holt, et al (House)  
 HB 1822-Walton (Yeckel)  
 HB 1492-Seigfreid, with  
     SCS (Mathewson)  
 HB 1495-Seigfreid, with  
     SCS (Mathewson)  
 HB 1265-Gratz and Vogel,  
     with SCS (Childers)  
 HB 2080-Britt, et al,  
     with SCS (Foster)  
 HB 1674-O'Toole and  
     Dempsey (Stoll)  
 HB 1890-Hilgemann, et al,  
     with SCS (Gross)  
 HB 1518-Luetkenhaus  
     (Rohrbach)  
 HB 1568-Luetkenhaus, with  
     SCS (Rohrbach)  
 HB 1381-Luetkenhaus, with  
     SCS (Rohrbach)  
 HB 1701-Luetkenhaus and  
     Ward, with SCS (Rohrbach)  
 HB 1468-Ward, with SCS  
     (Loudon)  
 HB 1473-Green (15), et al,  
     with SCS (House)  
 HB 1918-Koller, with SCS  
     (Staples)  
 HBs 1093, 1094, 1159, 1204,  
     1242, 1272, 1391, 1397, 1411,  
     1624, 1632, 1714, 1755, 1778,  
     1779, 1852, 1862, 2025 &  
     2123-Relford and Seigfreid,  
     with SCS (Mathewson)

HBs 1141, 1400, 1645,  
1745 & 2026-Naeger,  
with SCS (Yeckel)

HBs 1205, 1214, 1314, 1320,  
1504, 1788, 1867 & 1969-  
Seigfreid and Relford,  
with SCS (Mathewson)

HB 1075-Nordwald (House)  
HB 2062-Hosmer, et al  
(Westfall)

HB 1789-Ross, et al, with  
SCS (Klarich)  
HB 1643-Holand and Barry  
(Singleton)

### SENATE BILLS WITH HOUSE AMENDMENTS

SCS for SB 645-Mathewson,  
with HCS

SB 749-Goode, with HCS

SCS for SB 776-House,  
with HCS

SB 786-Goode, with HCS

SB 795-Schneider, with HCS

SB 961-Wiggins, et al,  
with HCS

SB 1012-Caskey, with HCS

SCS for SBs 1086 & 1126-  
DePasco, with HCS

SCS for SB 1113-Caskey,  
with HCS

SB 1213-Mathewson, with  
HCS

SB 1244-Bland, et al,  
with HCS

### BILLS IN CONFERENCE AND BILLS CARRYING REQUEST MESSAGES

#### In Conference

HCS for HB 1101, with SCS  
(Russell)

HCS for HB 1102, with SCS,  
as amended (Russell)

HCS for HB 1103, with SCS,  
as amended (Russell)

HCS for HB 1104, with SCS,  
as amended (Russell)

HCS for HB 1105, with SCS  
(Russell)

HCS for HB 1106, with SCS  
(Russell)

HCS for HB 1107, with SCS,  
as amended (Russell)

HCS for HB 1108, with SCS  
(Russell)

HCS for HB 1109, with SCS  
(Russell)

HCS for HB 1110, with SCS  
(Russell)

HCS for HB 1111, with SCS,  
as amended (Russell)

HCS for HB 1112, with SCS  
(Russell)

HCS for HB 1711, with SAs  
1, 2, 3, 4, 5, 6, 7, 8 & 11 (Jacob)

RESOLUTIONS

SR 1026-Jacob, with SA 1  
(pending)

SR 1602-Klarich, with SS  
(pending)

To be Referred

SCR 70-Singleton

SCR 71-Singleton

Reported from Committee

SCR 51-Mathewson and  
Yeckel, with SCA 1  
HCR 5-Reynolds (Schneider)  
SCR 43-Loudon, with SCS  
HCS for HCR 11 (House)  
SCR 60-Kennedy, with SCS  
SCR 64-Caskey

SCR 57-Steelman, with SCS  
SCR 65-Loudon  
SCR 66-Loudon  
HCR 13-Bowman, et al  
HCR 16-Farnen, et al  
HCR 24-Kreider

Bill

MISCELLANEOUS

REMONSTRANCE 1-Caskey

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