

Journal of the Senate

SECOND REGULAR SESSION

SEVENTY-SECOND DAY—TUESDAY, MAY 14, 2002

The Senate met pursuant to adjournment.

President Pro Tem Kinder in the Chair.

Reverend Carl Gauck offered the following prayer:

(May God) "...forgive us for thinking that prayer is a waste of time, and help us to see that without prayer our work is a waste of time." (Peter Marshall, Chaplain, U.S. Senate)

Gracious God, this day is filled with tension; the clock keeps ticking away these final four days, and important decisions have yet to be made. So we come to You in prayer to calm our hearts, de-stress our bodies and to guide our decisions so what we do here is not a waste of time. In Your Holy Name we pray. Amen.

The Pledge of Allegiance to the Flag was recited.

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

The Journal of the previous day was read and approved.

Photographers from KRCG-TV and KOMU-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

The Lieutenant Governor was present.

RESOLUTIONS

Senator Gross moved that **SR 1719** be taken up for adoption, which motion prevailed.

On motion of Senator Gross, **SR 1719** was adopted.

Senator Bentley offered Senate Resolution No. 1752, regarding Toni Hendricks, which was adopted.

Senator Westfall offered Senate Resolution No. 1753, regarding Sheryl Morehouse, Bolivar, which was adopted.

Senator Westfall offered Senate Resolution No. 1754, regarding Ash Grove High School FFA Program, Ash Grove, which was adopted.

Senator Westfall offered Senate Resolution

No. 1755, regarding Jered Brown, Pleasant Hope, which was adopted.

Senator Westfall offered Senate Resolution No. 1756, regarding Pleasant Hope High School, Pleasant Hope, which was adopted.

Senator Westfall offered Senate Resolution No. 1757, regarding Josh Norton, Pleasant Hope, which was adopted.

Senator Westfall offered Senate Resolution No. 1758, regarding Cindy Wilson, Pleasant Hope, which was adopted.

Senator Westfall offered Senate Resolution No. 1759, regarding Willard High School, Willard, which was adopted.

Senator Westfall offered Senate Resolution No. 1760, regarding Scott Hill, Miller, which was adopted.

HOUSE BILLS ON THIRD READING

HB 1988, introduced by Representative Kelly (144), entitled:

An Act to amend chapter 10, RSMo, by adding thereto one new section relating to the establishment of an official state horse.

Was called from the Informal Calendar and taken up by Senator Westfall.

On motion of Senator Westfall, **HB 1988** was read the 3rd time and passed by the following vote:

YEAS—Senators

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

NAYS—Senator Singleton—1

Absent—Senator Bland—1

Absent with leave—Senators

DePasco Jacob Schneider—3

The President Pro Tem declared the bill passed.

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

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

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

CONFERENCE COMMITTEE REPORTS

Senator Bentley, on behalf of the conference committee appointed to act with a like committee from the House on **HCS** for **SB 758**, as amended, moved that the following conference committee report be taken up, which motion prevailed.

CONFERENCE COMMITTEE REPORT ON HOUSE COMMITTEE SUBSTITUTE FOR SENATE BILL NO. 758

The Conference Committee appointed on House Committee Substitute for Senate Bill No. 758, begs leave to report that we, after free and fair discussion of the differences, have agreed to recommend and do recommend to the respective bodies as follows:

1. The House recede from its position on House Committee Substitute for Senate Bill No. 758;
2. The Senate recede from its position on Senate Bill No. 758;
3. That the attached Conference Committee Substitute for House Committee Substitute for Senate Bill No. 758, be Third Read and Finally Passed.

FOR THE SENATE:

- /s/ Roseann Bentley
- /s/ Doyle Childers
- /s/ Betty Sims

FOR THE HOUSE:

- /s/ W. Craig Hosmer
- /s/ Phillip M. Britt
- /s/ Cathy Jolly

/s/ Pat Dougherty /s/ Mike Reid
/s/ Stephen Stoll /s/ Matt Bartle

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

YEAS—Senators

Bentley	Caskey	Cauthorn	Childers
Coleman	Dougherty	Foster	Gibbons
Goode	Gross	House	Johnson
Kennedy	Kenney	Kinder	Klindt
Loudon	Mathewson	Quick	Rohrbach
Russell	Sims	Singleton	Steelman
Stoll	Westfall	Wiggins	Yeckel—28

NAYS—Senators—None

Absent—Senators

Bland Klarich Staples—3

Absent with leave—Senators

DePasco Jacob Schneider—3

On motion of Senator Bentley, **CCS for HCS for HB 758**, entitled:

CONFERENCE COMMITTEE SUBSTITUTE FOR HOUSE COMMITTEE SUBSTITUTE FOR HOUSE BILL NO. 758

An Act to repeal sections 43.540, 547.170, 589.400 and 589.410, RSMo, and to enact in lieu thereof four new sections relating to registration of offenders.

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
Johnson	Kennedy	Kenney	Kinder
Klarich	Klindt	Loudon	Rohrbach
Russell	Schneider	Sims	Singleton
Staples	Steelman	Stoll	Westfall
Wiggins	Yeckel—30		

NAYS—Senators—None

Absent—Senators

Mathewson Quick—2

Absent with leave—Senators

DePasco Jacob—2

Senator Westfall assumed the Chair.

The President declared the bill passed.

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

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

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

HOUSE BILLS ON THIRD READING

HCS for HBs 1344 and 1944, with **SCS**, entitled:

An Act to repeal sections 571.030 and 571.070, RSMo, and to enact in lieu thereof four new sections relating to firearms, with penalty provisions.

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

SCS for HCS for HBs 1344 and 1944, entitled:

SENATE COMMITTEE SUBSTITUTE FOR HOUSE COMMITTEE SUBSTITUTE FOR HOUSE BILLS NOS. 1344 and 1944

An Act to repeal section 571.030, RSMo, relating to firearms and to enact in lieu thereof four new sections relating to the same subject.

Was taken up.

Senator Caskey moved that **SCS for HCS for HBs 1344 and 1944** be adopted.

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

SENATE AMENDMENT NO. 1

Amend Senate Committee Substitute for

House Committee Substitute for House Bills Nos. 1344 and 1944, Page 4, Section 571.030, Line 61, by striking the word “ten” and inserting in lieu thereof the following: “**fifteen**”.

Senator Dougherty moved that the above amendment be adopted.

Senator Rohrbach offered **SSA 1** for **SA 1**, which was read:

**SENATE SUBSTITUTE AMENDMENT NO. 1
FOR SENATE AMENDMENT NO. 1**

Amend Senate Committee Substitute for House Committee Substitute for House Bills Nos. 1344 and 1944, Pages 3 and 4, Section 571.030, Lines 54-73, by deleting all of said lines.

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

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

SENATE AMENDMENT NO. 2

Amend Senate Committee Substitute for House Committee Substitute for House Bills Nos. 1344 and 1944, Pages 1 to 27, Section A, et al, by striking all said pages and sections and substitute:

“50.535. The Missouri General Assembly hereby declares that the second amendment rights of all Missouri citizens shall include the right to own and possess firearms which shall include the right to carry firearms upon their person or in their vehicles in an open unconcealed manner.”.

Senator Schneider moved that the above amendment be adopted.

Senator Caskey requested a roll call vote be taken on the adoption of **SA 2** and was joined in his request by Senators Cauthorn, Childers, Kennedy and Schneider.

SA 2 failed of adoption by the following vote:

YEAS—Senators

Bentley	Bland	Coleman	Dougherty
Goode	Kennedy	Schneider	Sims

Wiggins—9

NAYS—Senators

Caskey	Cauthorn	Childers	Foster
Gibbons	Gross	House	Johnson
Kenney	Kinder	Klindt	Loudon
Mathewson	Rohrbach	Russell	Singleton
Staples	Steelman	Stoll	Westfall
Yeckel—21			

Absent—Senators

Klarich Quick—2

Absent with leave—Senators

DePasco Jacob—2

Senator Staples offered **SA 3**:

SENATE AMENDMENT NO. 3

Amend Senate Committee Substitute for House Committee Substitute for House Bills Nos. 1344 and 1944, Page 27, Section B, Line 8, by inserting immediately after said line the following:

“Section C. This act is hereby submitted to the qualified voters of this state for approval or rejection at an election which is hereby ordered and which shall be held and conducted on Tuesday next following the first Monday in November, 2002, pursuant to the laws and constitutional provisions of this state for the submission of referendum measures by the general assembly, and this act shall become effective when approved by a majority of the votes cast thereon at such election and not otherwise.”; and

Further amend the title and enacting clause accordingly.

Senator Staples moved that the above amendment be adopted.

Senator Caskey requested a roll call vote be taken on the adoption of **SA 3** and was joined in his request by Senators Russell, Schneider, Staples and Stoll.

SA 3 failed of adoption by the following vote:

YEAS—Senators

Bentley	Bland	Coleman	Dougherty
Gibbons	Goode	House	Johnson
Kennedy	Mathewson	Quick	Schneider
Sims	Staples	Wiggins—15	

NAYS—Senators

Caskey	Cauthorn	Childers	Foster
Gross	Kenney	Kinder	Klarich
Klindt	Rohrbach	Russell	Singleton
Steelman	Stoll	Westfall	Yeckel—16

Absent—Senator Loudon—1

Absent with leave—Senator

DePasco Jacob—2

Senator Kennedy offered SA 4, which was read:

SENATE AMENDMENT NO. 4

Amend Senate Committee Substitute for House Committee Substitute for House Bills Nos. 1344 and 1944, Page 20, Section 571.094, Line 519, by inserting after all of said line the following:

“(10) A live firing exercise of sufficient duration under nighttime conditions for each applicant to fire a handgun, from a standing position or its equivalent, a minimum of fifty rounds at a distance of seven yards, and twenty-five rounds at a distance of fifteen yards, from a B-27 silhouette target or an equivalent target;”; and further amend line 520, by striking “(10)” and inserting in lieu thereof the following: “(11)”.

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

Senator Childers offered SA 5:

SENATE AMENDMENT NO. 5

Amend Senate Committee Substitute for House Committee Substitute for House Bills Nos. 1344 and 1944, Page 26, Section 571.094, Line 730, by inserting after all of said line, the following:

“38. The provisions of this section shall not apply to any city not within a county and any county with more than two hundred thousand inhabitants.

39. The provisions of section 571.094 are hereby submitted to the qualified voters of this state for approval or rejection at an election which is hereby ordered and which shall be held and conducted on Tuesday next following the first Monday in November, 2002, pursuant to the laws and constitutional provisions of this state for the submission of referendum measures by the general assembly, and this act shall become effective when approved by a majority of the votes cast thereon at such election and not otherwise.”; and

Further amend the title and enacting clause accordingly.

Senator Childers moved that the above amendment be adopted.

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

SENATE AMENDMENT NO. 1 TO

SENATE AMENDMENT NO. 5

Amend Senate Amendment No. 5 to Senate Committee Substitute for House Committee Substitute for House Bills Nos. 1344 and 1944, Page 1, Section 571.094, Line 7, by inserting after the word “inhabitants” the following: “, with the exception of any county of the first classification with more than 250,000 but less than 350,000 inhabitants”.

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

SA 5, as amended, was again taken up.

Senator Childers moved that the above amendment, as amended, be adopted and requested a roll call vote be taken. He was joined in his request by Senators Bentley, Caskey, Foster and Sims.

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

YEAS—Senators

Bentley	Bland	Childers	Coleman
Dougherty	Foster	Goode	Gross
Johnson	Kennedy	Quick	Rohrbach
Sims	Staples	Wiggins—15	

NAYS—Senators

Caskey	Cauthorn	Gibbons	House
Kenney	Kinder	Klarich	Klindt
Russell	Singleton	Steelman	Stoll
Westfall	Yeckel—14		

Absent—Senators

Loudon	Mathewson	Schneider—3
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Absent with leave—Senators

DePasco	Jacob—2
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Senator Dougherty offered **SA 6**, which was read:

SENATE AMENDMENT NO. 6

Amend Senate Committee Substitute for House Committee Substitute for House Bills Nos. 1344 and 1944, Page 4, Section 571.030, Line 70, by striking the word “and”; and further amend line 73, by inserting immediately after the word “state” the following: “;

(h) Has not pled guilty to or been convicted of domestic assault; and

(i) Does not have an active order of protection pending against them”.

Senator Dougherty moved that the above amendment be adopted.

At the request of Senator Caskey, **HCS for HBs 1344 and 1944**, with **SCS and SA 6** (pending) was placed on the Informal Calendar.

HCS for HJR 47, with **SCS**, entitled:

Joint Resolution submitting to the qualified voters of Missouri an amendment repealing section 27 of article VI of the Constitution of Missouri, and adopting one new section in lieu thereof relating to political subdivision revenue bonds for

utility, industrial, and airport purposes.

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

SCS for HCS for HJR 47, entitled:

SENATE COMMITTEE SUBSTITUTE FOR
HOUSE COMMITTEE SUBSTITUTE FOR
HOUSE JOINT RESOLUTION NO. 47

Joint Resolution submitting to the qualified voters of Missouri, an amendment repealing section 27 of article VI of the Constitution of Missouri relating to political subdivision revenue bonds for utility, industrial and airport purposes, and adopting one new section in lieu thereof relating to the same subject.

Was taken up.

Senator Gibbons moved that **SCS for HCS for HJR 47** be adopted.

Senator Rohrbach assumed the Chair.

Senator Gibbons offered **SS for SCS for HCS for HJR 47**, entitled:

SENATE SUBSTITUTE FOR
SENATE COMMITTEE SUBSTITUTE FOR
HOUSE COMMITTEE SUBSTITUTE FOR
HOUSE JOINT RESOLUTION NO. 47

Joint Resolution submitting to the qualified voters of Missouri, an amendment repealing section 27 of article VI of the Constitution of Missouri relating to political subdivision revenue bonds for utility, industrial and airport purposes, and adopting one new section in lieu thereof relating to the same subject.

Senator Gibbons moved that **SS for SCS for HCS for HJR 47** be adopted, which motion prevailed.

On motion of Senator Gibbons, **SS for SCS for HCS for HJR 47** was read the 3rd time and passed by the following vote:

YEAS—Senators

Bentley	Caskey	Cauthorn	Childers
Coleman	Dougherty	Foster	Gibbons

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

NAYS—Senator Bland—1

Absent—Senators

Schneider Yeckel—2

Absent with leave—Senator DePasco—1

The President 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.

MESSAGES FROM THE HOUSE

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

Mr. President: I am instructed by the House of Representatives to inform the Senate that the House has adopted **SCS** for **HBs 1141, 1400, 1645, 1745** and **2026** and has taken up and passed **SCS** for **HBs 1141, 1400, 1645, 1745** and **2026**.

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 **HB 1402** and requests the Senate to recede from its position and failing to do so grant the House a conference thereon.

CONFERENCE COMMITTEE APPOINTMENTS

President Pro Tem Kinder appointed the

following conference committee to act with a like committee from the House on **HS** for **HCS** for **SS** for **SS** for **SCS** for **SBs 970, 968, 921, 867, 868** and **738**, as amended: Senators Westfall, Russell, Klindt, Staples and Goode.

PRIVILEGED MOTIONS

Senator Steelman moved that the Senate refuse to recede from its position on **SCS** for **HB 1402**, as amended, and grant the House a conference thereon, which motion prevailed.

On motion of Senator Kenney, the Senate recessed until 12:45 p.m.

RECESS

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

PRIVILEGED MOTIONS

Senator Bentley moved that **SCS** for **SB 722**, with **HS** for **HCS**, be taken up for 3rd reading and final passage, which motion prevailed.

HS for **HCS** for **SCS** for **SB 722**, entitled:

HOUSE SUBSTITUTE FOR
HOUSE COMMITTEE SUBSTITUTE FOR
SENATE COMMITTEE SUBSTITUTE FOR
SENATE BILL NO. 722

An Act to repeal sections 168.071 and 168.081, RSMo, and to enact in lieu thereof three new sections relating to certificates of license to teach, with an expiration date for a certain section.

Was taken up.

Senator Bentley moved that **HS** for **HCS** for **SCS** for **SB 722** be adopted, which motion prevailed by the following vote:

YEAS—Senators

Bentley	Caskey	Cauthorn	Childers
Dougherty	Foster	Gibbons	Goode
Gross	House	Jacob	Johnson
Kennedy	Kenney	Kinder	Klarich
Klindt	Loudon	Rohrbach	Russell

Sims Singleton Steelman Stoll
Westfall Wiggins—26

NAYS—Senators—None

Absent—Senators

Bland Coleman Mathewson Quick
Schneider Staples Yeckel—7

Absent with leave—Senator DePasco—1

Senator Mathewson requested unanimous consent of the Senate to suspend the rules to allow the conferees on **HS** for **HCS** for **SS** for **SB 1248**, as amended, to meet in the Senate Lounge while the Senate is in session, which request was granted.

On behalf of Senator Singleton, Senator Kenney requested unanimous consent of the Senate to suspend the rules to allow the conferees on **HS** for **HCS** for **SCS** for **SB 712**, as amended, to meet in the West Gallery while the Senate is in session, which requested was granted.

On motion of Senator Bentley, **HS** for **HCS** for **SCS** for **SB 722** was read the 3rd time and passed by the following vote:

YEAS—Senators

Bentley Caskey Cauthorn Childers
Coleman Dougherty Foster Goode
Gross House Johnson Kennedy
Kenney Kinder Klindt Loudon
Rohrbach Russell Sims Staples
Steelman Stoll Westfall Wiggins—24

NAYS—Senators—None

Absent—Senators

Bland Gibbons Jacob Klarich
Mathewson Quick Schneider Singleton
Yeckel—9

Absent with leave—Senator DePasco—1

The President declared the bill passed.

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

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

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

Bill ordered enrolled.

HOUSE BILLS ON THIRD READING

Senator Childers moved that **HB 1041**, with **SCS** and **SS** for **SCS**, as amended (pending), be called from the Informal Calendar and again taken up for 3rd reading and final passage, which motion prevailed.

SS for **SCS** for **HB 1041**, as amended, was again taken up.

Senator Gibbons offered **SA 4**:

SENATE AMENDMENT NO. 4

Amend Senate Substitute for Senate Committee Substitute for House Bill No. 1041, Page 8, Section 94.875, Line 15 of said page, by inserting after all of said line the following:

“407.610. 1. Any person who intends to use any promotional device or promotional program, including any sweepstakes, gift award, drawing or display booth, or any other such award or prize inducement items, to advertise, solicit sales or sell any time-share period, time-share plan, or time-share property in the state of Missouri **or sell any tourist-related services as defined pursuant to subsection 8 of this section where a consumer is required to provide any consideration other than monetary for such tourist-related services**, shall notify the Missouri attorney general in writing of this intention not less than fourteen days prior to release of such materials to the public. Included with such notice shall be an exact copy of each promotional device and promotional program to be used. Each promotional device, promotional program, and the notice thereof shall include the following information:

(1) A statement that the promotional device or promotional program is being used for the purpose

of soliciting sales of a time-share period, time-share plan or time-share property;

(2) The date by which all such awards or other prize inducement items will be awarded;

(3) The method by which all such items will be awarded;

(4) The odds of being awarded such items;

(5) The manufacturer's suggested retail price of such items; and

(6) The names and addresses of each time-share plan or business entity participating in the promotional device or promotional program.

2. Any material change in a promotional device or promotional program previously submitted to the attorney general shall constitute a new promotional device or promotional program and shall be resubmitted to the attorney general with the notice thereof.

3. It shall be a violation of section 407.020 for any person to:

(1) Fail to comply with the provisions of the notice requirements of this section;

(2) Provide to the attorney general in the notice required by this section any information that is false or misleading in a material manner;

(3) Represent to any person that the filing of the notice of the promotional device or the promotional program constitute an endorsement or approval of the promotional device or promotional program by the attorney general;

(4) Engage in any act or practice declared to be unlawful by section 407.020 in connection with the use of any promotional device or promotional program or any advertisement, or sale of time-share plans, time-share periods or time-share property.

4. At least one of each prize featured in a promotional program shall be awarded by the day and year specified in the promotion. When a promotion promises the award of a certain number of each prize, such number of prizes shall be

awarded by the date and year specified in the promotion. A record shall be maintained containing the names and addresses of winners of the prizes and the record shall be made available, upon request, to the public, upon the payment of reasonable reproduction costs. If a seller for any reason does not provide, at the time of a site visitation or visitation to a time-share sales office, the inducement gift which was promised, the seller shall deliver the gift, or an acceptable substitute therefor agreed upon in writing, to the prospective purchaser or purchaser no later than ten days following such visitation, or shall deliver instead of such gift cash in an amount equal to the retail value of the gift.

5. If a prospective purchaser or purchaser does not receive the gift or the cash as provided in subsection 4 of this section, he may bring an action under the provisions of section 407.025. For purposes of actions brought pursuant to this section, the term "actual damages", as used in section 407.025, shall mean at least five times the cash retail value of the most expensive gift offered, but shall not exceed one thousand dollars, in addition to such other actual damages as may be determined by the evidence.

6. The provisions of sections 407.600 to 407.630 shall not apply to a person who has acquired a time-share period for his own occupancy and later offers it for resale.

7. If the sale of a time-share plan or of time-share property is subject to the provisions of sections 407.600 to 407.630, such sale shall not be subject to the provisions of chapter 339, RSMo.

8. For the purposes of this section, the term "Tourist-related services" includes but is not limited to, selling or entering into contracts or other arrangements under which a purchaser receives a premium, coupon or contract for car rentals, lodging, transfers, entertainment, sightseeing or any service reasonably related to air, sea, rail, motor coach or other medium of transportation directly to the consumer.;" and

Further amend said bill, Page 8, Section 407.1375, Lines 16-23 of said page, by striking said section from the bill; and

Further amend said bill, Pages 8-9, Section 407.1378, by striking said section from the bill; and

Further amend said bill, Pages 9-10, Section 407.1381, by striking said section from the bill; and

Further amend said bill, Page 10, Section 407.1384, Lines 7 to 20 of said page, by striking said section from the bill; and

Further amend said bill, Pages 10-11, Section 407.1387, by striking said section from the bill; and

Further amend said bill, Pages 11-12, Section 407.1390, by striking said section from the bill; and

Further amend the title and enacting clause accordingly.

Senator Gibbons moved that the above amendment be adopted.

Senator Goode raised the point of order that **SCS** and **SS** for **SCS** for **HB 1041** are out of order, as they both exceed the original purpose of the bill.

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

SA 4 was again taken up.

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

Senator Goode offered **SA 5**, which was read:

SENATE AMENDMENT NO. 5

Amend Senate Substitute for Senate Committee Substitute for House Bill No. 1041, Pages 12-15, Section 620.467, by striking said section from the bill; and

Further amend the title and enacting clause accordingly.

Senator Goode moved that the above amendment be adopted.

President Maxwell assumed the Chair.

A quorum was established by the following vote:

Present—Senators

Bentley	Caskey	Cauthorn	Childers
Coleman	Dougherty	Foster	Goode
House	Johnson	Kennedy	Kenney
Kinder	Klindt	Loudon	Rohrbach
Russell	Sims	Staples	Steelman
Stoll	Westfall	Wiggins	Yeckel—24

Absent—Senators

Bland	Gibbons	Gross	Jacob
Klarich	Mathewson	Quick	Schneider
Singleton—9			

Absent with leave—Senator DePasco—1

SA 5 was again taken up.

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

Senator Childers moved that **SS** for **SCS** for **HB 1041**, as amended, be adopted, which motion prevailed.

On motion of Senator Childers, **SS** for **SCS** for **HB 1041**, as amended, was read the 3rd time and passed by the following vote:

YEAS—Senators

Bentley	Bland	Caskey	Cauthorn
Childers	Dougherty	Foster	Gross
House	Jacob	Johnson	Kennedy
Kenney	Kinder	Klindt	Loudon
Russell	Schneider	Sims	Staples
Steelman	Stoll	Westfall	Wiggins
Yeckel—25			

NAYS—Senators

Goode	Rohrbach—2
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Absent—Senators

Coleman	Gibbons	Klarich	Mathewson
Quick	Singleton—6		

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	Cauthorn	Childers
Dougherty	Foster	Gibbons	Gross
House	Jacob	Johnson	Kennedy
Kenney	Kinder	Klindt	Loudon
Rohrbach	Sims	Singleton	Staples
Steelman	Stoll	Westfall	Wiggins
Yeckel—25			

NAYS—Senators

Caskey	Goode	Russell	Schneider—4
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Absent—Senators

Coleman	Klarich	Mathewson	Quick—4
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Absent with leave—Senator DePasco—1

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

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

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

REPORTS OF STANDING COMMITTEES

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

Mr. President: Your Committee on State Budget Control, to which was referred **HS** for **HCS** for **HBs 1654** and **1156**, with **SCS**; **SS** for **SCS** for **HB 1270** and **HB 2032**; and **HS** for **HCS** for **HB 1650**, with **SCS**, begs leave to report that it has considered the same and recommends that the bills do pass.

PRIVILEGED MOTIONS

Having voted on the prevailing side, Senator Westfall moved that the vote by which **SS** for **SCS**

for **HB 1270** and **HB 2032**, as amended, was adopted, be reconsidered, which motion prevailed by the following vote:

YEAS—Senators

Bentley	Bland	Caskey	Cauthorn
Childers	Dougherty	Foster	Gibbons
Goode	Gross	House	Jacob
Johnson	Kennedy	Kenney	Kinder
Klarich	Klindt	Rohrbach	Russell
Sims	Steelman	Stoll	Westfall
Wiggins			
Yeckel—26			

NAYS—Senators—None

Absent—Senators

Coleman	Loudon	Mathewson	Quick
Schneider	Singleton	Staples—7	

Absent with leave—Senator DePasco—1

Senator Rohrbach assumed the Chair.

Having voted on the prevailing side, Senator Klarich moved that the vote by which **SA 4** was adopted, be reconsidered, which motion prevailed by the following vote:

YEAS—Senators

Bentley	Bland	Cauthorn	Childers
Coleman	Dougherty	Foster	Gibbons
Goode	Gross	House	Jacob
Johnson	Kennedy	Kenney	Kinder
Klarich	Klindt	Loudon	Rohrbach
Russell	Schneider	Sims	Steelman
Stoll	Westfall	Wiggins	Yeckel—28

NAYS—Senator Caskey—1

Absent—Senators

Mathewson	Quick	Singleton	Staples—4
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Absent with leave—Senator DePasco—1

SA 4 was again taken up.

At the request of Senator Klarich, **SA 4** was withdrawn.

Senator Westfall moved that **SS** for **SCS** for **HB 1270** and **HB 2032**, as amended, be adopted, which motion prevailed.

On motion of Senator Westfall, **SS** for **SCS** for **HB 1270** and **HB 2032**, as amended, was read the 3rd time and passed by the following vote:

YEAS—Senators

Bentley	Caskey	Cauthorn	Childers
Coleman	Dougherty	Foster	Gibbons
Goode	House	Jacob	Johnson
Kennedy	Kenney	Kinder	Klindt
Loudon	Rohrbach	Russell	Schneider
Sims	Steelman	Stoll	Westfall
Wiggins	Yeckel—26		

NAYS—Senators

Bland	Gross—2
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Absent—Senators

Klarich	Mathewson	Quick	Singleton
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Staples—5

Absent with leave—Senator DePasco—1

The President declared the bill passed.

The emergency clause was adopted by the following vote:

YEAS—Senators

Bentley	Caskey	Cauthorn	Childers
Coleman	Dougherty	Foster	Goode
House	Jacob	Johnson	Kennedy
Kenney	Kinder	Klindt	Loudon
Rohrbach	Russell	Sims	Steelman
Stoll	Westfall	Wiggins	Yeckel—24

NAYS—Senators—None

Absent—Senators

Bland	Gibbons	Gross	Klarich
Mathewson	Quick	Schneider	Singleton

Staples—9

Absent with leave—Senator DePasco—1

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

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

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

REFERRALS

President Pro Tem Kinder referred **HCS** for **HB 1695**, with **SCS**; and **HS** for **HCS** for **HBs 1729, 1589** and **1435**, to the Committee on State Budget Control.

President Pro Tem Kinder referred **HCR 40** to the Committee on Rules, Joint Rules, Resolutions and Ethics.

HOUSE BILLS ON THIRD READING

HB 1748, introduced by Representative Ransdall, et al, entitled:

An Act to repeal section 640.100, RSMo, and to enact in lieu thereof one new section relating to drinking water primacy fees.

Was called from the Informal Calendar and taken up by Senator Steelman.

Senator Steelman offered **SS** for **HB 1748**, entitled:

SENATE SUBSTITUTE FOR HOUSE BILL NO. 1748

An Act to repeal sections 247.040, 393.705, 393.847, 640.100, 640.620, 644.016, 644.036, 644.051 and 644.052, RSMo, and to enact in lieu thereof seventeen new sections relating to water resources, with an emergency clause.

Senator Steelman moved that **SS** for **HB 1748** be adopted.

Senator Cauthorn offered **SA 1**:

SENATE AMENDMENT NO. 1

Amend Senate Substitute for House Bill No. 1748, Page 1, Section A, Line 6, of said page, by inserting immediately after said line the following:

“247.030. 1. Territory that may be included in a district sought to be incorporated or enlarged may be wholly within one or in more than one county, may take in school districts or parts thereof, and cities that do not have a waterworks

system or cities whose governing body has by a majority vote requested that the city or part thereof be included within the boundaries of a public water supply district. For the purpose of this section, "city" means any city, town or village. The territory, however, shall be contiguous, and proceedings to incorporate shall be in the circuit court of the county in which the largest acreage is located. No two districts shall overlap.

2. Any two or more contiguous districts or any city and a contiguous district may, if there are no outstanding general obligation bonds relating to drinking water supply projects in either entity, by a majority vote of the governing body of each entity, provide for territory located in one entity to be annexed and served by the entity contiguous to the annexed territory. Notice of the proposed annexation shall be filed with the circuit court that originally issued the decree of incorporation for a district which is detaching territory through the proposed annexation or with the circuit court that originally issued the decree of incorporation for a district which is including a city or part thereof through the proposed annexation. The court shall set a date for a hearing on the proposed annexation and shall cause notice to be published in the same manner as for the filing of the original petition for incorporation; except that publication of notice shall not be required if a majority of the landowners in the territory proposed to be annexed consent in writing, and if notice of the hearing is posted in three public places within the territory proposed to be annexed at least seven days before the date of the hearing. If publication of the notice is not required pursuant to this section, the court shall only approve the proposed annexation if there is sworn testimony by at least five landowners in the area of the proposed annexation, or a majority of the landowners, if there are fewer than ten landowners in the area. If the court, after the hearing, finds that the proposed annexation would not be in the public interest, it shall order that the annexation not be allowed. If the court finds the proposed annexation to be in the public interest, it

shall approve the annexation and the territory shall be detached from the one entity and annexed to the other. After the annexation is approved, the circuit court in which each district involved in the proceedings was incorporated shall amend the decree of incorporation for each district to reflect the change in the boundaries as a result of the annexation and to redivide each district into five subdistricts, fixing their boundary lines so that each of the five subdistricts have approximately the same area. A certified copy of the amended decree showing the boundary change and the new subdistricts shall be filed in the office of the recorder of deeds and in the office of the county clerk in each county having territory in the district and in the office of the secretary of state of the state of Missouri.

3. The boundaries of any district may be extended or enlarged from time to time upon the filing, with the clerk of the circuit court having jurisdiction, of a petition by either:

(1) The board of directors of the district and five or more voters **or landowners** within the territory proposed to be annexed by the district; or

(2) **The board of directors of the district and** a majority of the landowners within the territory proposed to be annexed to the district.

If the petition is filed by the board of directors of the district and five or more voters or landowners within the territory proposed to be annexed by the district, the same proceedings shall be followed as are provided in section 247.040 for the filing of a petition for the organization of the district, except that no election shall be held. Upon entry of a final order declaring the court's decree of annexation to be final and conclusive, the court shall modify or rearrange the boundary lines of the subdistricts as may be necessary or advisable. If the petition is filed by **the board of directors of the district and** a majority of the landowners within the territory proposed to be annexed, the publication of notice shall not be required,

provided notice is posted in three public places within the territory proposed to be annexed at least seven days before the date of the hearing and provided that there is sworn testimony by at least five landowners in the territory proposed to be annexed, or a majority of the landowners if the total landowners in the area are fewer than ten. **If the court finds that the annexation of such territory would be in the public interest, the court shall enter its order granting such annexation.** Upon the entry of [a final] **such** order [declaring the court's decree of annexation to be final and conclusive], the court shall modify or rearrange the boundary lines of the subdistricts as may be necessary or advisable. The costs incurred in the enlargement or extension of the district shall be taxed to the district, if the district be enlarged or extended, otherwise against the petitioners; provided, however, that no costs shall be taxed to the directors of the district.

4. Should any [voter] **landowner** who owns real estate that abuts upon a district once formed desire to have such real estate incorporated in the district, the [voter] **landowner** shall first petition the board of directors thereof for its approval. If such approval be granted, the clerk of the board shall endorse a certificate of the fact of approval by the board upon the petition. The petition so endorsed shall be filed with the clerk of the circuit court in which the district is incorporated. It shall then be the duty of the court to amend the boundaries of such district by a decree incorporating the real estate in the same. A certified copy of this decree including the real estate in the district shall then be filed in the office of the recorder and in the office of the county clerk of the county in which the real estate is located, and in the office of the secretary of state. The costs of this proceeding shall be borne by the petitioning property owner.

247.031. 1. Territory included in a district that is not being served by such district may be detached from such district provided that there are no outstanding general obligation or special obligation bonds and no contractual obligations of

greater than twenty-five thousand dollars for debt that pertains to infrastructure, fixed assets or obligations for the purchase of water. If any such bonds or debt is outstanding, and the written consent of the holders of such bonds or the creditors to such debt is obtained, then such territory may be detached in spite of the existence of such bonds or debt, except such consent shall not be required for special obligation bonds if the district has no water lines or other facilities located within any of the territory detached. Detachment may be made by the filing of a petition with the circuit court in which the district was incorporated. The petition shall contain a description of the tract to be detached and a statement that the detachment is in the best interest of the district or the inhabitants and property owners of the territory to be detached, together with the facts supporting such allegation. The petition may be submitted by the district acting through its board of directors, in which case the petition shall be signed by a majority of the board of directors of the district. The petition may also be submitted by voters residing in **or by landowners owning land in** the territory sought to be detached. If there are more than ten voters **and landowners** in such territory, the petition shall be signed by five or more voters [residing in] **or landowners within** the territory; if there are less than ten voters [residing in] **and landowners within** such territory, the petition shall be signed by fifty percent or more of the voters [residing in] **and landowners within** the territory. In the event there are no voters living within such territory proposed to be detached, then the petition may be submitted by owners of more than fifty percent of the land in the territory proposed to be detached, in which case said petition shall be signed by the owners so submitting the petition.

2. Such petition shall be filed in the circuit court having jurisdiction and the court shall set a date for hearing on the proposed detachment and the clerk shall give notice thereof in three consecutive issues of a weekly newspaper in each county in which any portion of the territory

proposed to be detached lies, or in lieu thereof, in [twenty consecutive issues of] a daily newspaper in each county in which any portion of the tract proposed to be detached lies; the last insertion of the notice to be made not less than seven nor more than twenty-one days before the hearing. Such notice shall be substantially as follows:

IN THE CIRCUIT COURT OF

..... COUNTY, MISSOURI

NOTICE OF THE FILING OF A PETITION FOR TERRITORIAL DETACHMENT FROM PUBLIC WATER SUPPLY DISTRICT NO.

OF COUNTY, MISSOURI.

To all voters and landowners of land within the boundaries of the above-described district:

You are hereby notified:

1. That a petition has been filed in this court for the detachment of the following tracts of land from the above-named public water supply district, as provided by law: (Describe tracts of land).

2. That a hearing on said petition will be held before this court on the day of, 20 .., at,m.

3. Exceptions or objections to the detachment of said tracts from said public water supply district may be made by any voter or landowner of land within the district from which territory is sought to be detached, provided such exceptions or objections are in writing not less than five days prior to the date set for hearing on the petition.

4. The names and addresses of the attorneys for the petitioner are:

.....

Clerk of the Circuit Court of

..... County, Missouri

3. The court, for good cause shown, may continue the case or the hearing thereon from time to time until final disposition thereof.

4. Exceptions or objections to the detachment

of such territory may be made by any voter or landowner within the boundaries of the district, including the territory to be detached. The exceptions or objections shall be in writing and shall specify the grounds upon which they are made and shall be filed not later than five days before the date set for hearing the petition. If any such exceptions or objections are filed, the court shall take them into consideration when considering the petition for detachment and the evidence in support of detachment. If the court finds that the detachment will be in the best interest of the district and the inhabitants and landowners of the area to be detached will not be adversely affected or if the court finds that the detachment will be in the best interest of the inhabitants and landowners of the territory to be detached and will not adversely affect the remainder of the district, it shall approve the detachment and grant the petition.

5. If the court approves the detachment, it shall make its order detaching the territory described in the petition from the remainder of the district, or in the event it shall find that only a portion of said territory should be detached, the court shall order such portion detached from the district. The court shall also make any changes in subdistrict boundary lines it deems necessary to meet the requirements of sections 247.010 to 247.220. Any subdistrict line changes shall not become effective until the next annual election of a member of the board of directors

6. A certified copy of the court's order shall be filed in the office of the recorder and in the office of the county clerk in each county in which any of the territory of the district prior to detachment is located, and in the office of the secretary of state. Costs of the proceeding shall be borne by the petitioner or petitioners.”; and

Further amend said bill, Pages 1 to 6, Section 247.040, by striking all of said section and inserting in lieu thereof the following:

“247.040. 1. Proceedings for the formation of a public water supply district shall be

substantially as follows: a petition in duplicate describing the proposed boundaries of the district sought to be formed, accompanied by a plat of the proposed district, shall be filed with the clerk of the circuit court of the county wherein the proposed district is situate, or with the clerk of the circuit court of the county having the largest acreage proposed to be included in the proposed district, in the event that the proposed district embraces lands in more than one county. Such petition, in addition to such boundary description, shall set forth an estimate of the number of customers of the proposed district, the necessity for the formation of the district, the probable cost of the improvement, an approximation of the assessed valuation of taxable property within the district and such other information as may be useful to the court in determining whether or not the petition should be granted and a decree of incorporation entered. Such petition shall be accompanied by a cash deposit of fifty dollars as an advancement of the costs of the proceeding, and the petition shall be signed by not less than fifty voters **or owners of real property** within the proposed district and shall pray for the incorporation of the territory therein described into a public water supply district. The petition shall be verified by at least one of the signers thereof.

2. Upon the filing of the petition, the same shall be presented to the circuit court, and such court shall fix a date for a hearing on such petition, as herein provided for. Thereupon the clerk of the court shall give notice of the filing of the petition in some newspaper of general circulation in the county in which the proceedings are pending, and if the district extends into any other county or counties, such notice shall also be published in some newspaper of general circulation in such other county or counties. The notice shall contain a description of the proposed boundary lines of the district and the general purposes of the petition, and shall set forth the date fixed for the hearing on the petition, which shall not be less than [fifteen] **seven** nor more than twenty-one days after the date of the last publication of the notice and shall be on

some regular judicial day of the court wherein the petition is pending. Such notice shall be signed by the clerk of the circuit court and shall be published in three successive issues of a weekly newspaper or in [twenty successive issues of] a daily newspaper **once a week for three consecutive weeks.**

3. The court, for good cause shown, may continue the case or the hearing thereon from time to time until final disposition thereof.

4. Exceptions to the formation of a district, or to the boundaries outlined in the petition for the incorporation thereof, may be made by any voter **or owner of real property** in the proposed district; provided, such exceptions are filed not less than five days prior to the date set for the hearing on the petition. Such exceptions shall specify the grounds upon which the exceptions are being made.

If any such exceptions be filed, the court shall take them into consideration in passing upon the petition and shall also consider the evidence in support of the petition and in support of the exceptions made. Should the court find that the petition should be granted but that changes should be made in the boundary lines, it shall make such changes in the boundary lines as set forth in the petition as to the court may seem meet and proper, and thereupon enter its decree of incorporation, with such boundaries as changed.

5. Should the court find that it would not be to the public interest to form such a district, the petition shall be dismissed at the costs of the petitioners. If, however, the court should find in favor of the formation of such district, the court shall enter its decree of incorporation, setting forth the boundaries of the proposed district as determined by the court pursuant to the aforesaid hearing. The decree of incorporation shall also divide the district into five subdistricts and shall fix their boundary lines, all of which subdistricts shall have approximately the same area and shall be numbered. The decree shall further contain an appointment of one voter from each of such subdistricts, to constitute the first board of directors of the district. No two members of such board so

appointed or hereafter elected or appointed shall reside in the same subdistrict, except as provided in section 247.060. If no qualified person who lives in the subdistrict is willing to serve on the board, the court may appoint, or the voters may elect, an otherwise qualified person who lives in the district but not in the subdistrict. The court shall designate two of such directors so appointed to serve for a term of two years and one to serve for a term of one year. And the directors thus appointed by the court shall serve for the terms thus designated and until their successors shall have been appointed or elected as herein provided. The decree shall further designate the name and number of the district by which it shall hereafter be officially known.

6. The decree of incorporation shall not become final and conclusive until it shall have been submitted to the voters residing within the boundaries described in such decree and until it shall have been assented to by a majority of the voters as provided in subsection 9 of this section or by two-thirds of the voters of the district voting on the proposition. The decree shall provide for the submission of the question and shall fix the date thereof. The returns shall be certified by the judges and clerks of election to the circuit court having jurisdiction in the case and the court shall thereupon enter its order canvassing the returns and declaring the result of such election.

7. If, upon canvass and declaration, it is found and determined that the question shall have been assented to by a majority of two-thirds of the voters of the district voting on such proposition, then the court shall, in such order declaring the result of the election, enter a further order declaring the decree of incorporation to be final and conclusive. In the event, however, that the court should find that the question had not been assented to by the majority above required, the court shall enter a further order declaring such decree of incorporation to be void and of no effect. No appeal shall lie from any such decree of incorporation nor from any of the aforesaid orders. In the event that the court declares the decree of incorporation to be final, as herein

provided for, the clerk of the circuit court shall file certified copies of such decree of incorporation and of such final order with the secretary of state of the state of Missouri, and with the recorder of deeds of the county or counties in which the district is situate and with the clerk of the county commission of the county or counties in which the district is situate.

8. The costs incurred in the formation of the district shall be taxed to the district, if the district be incorporated otherwise against the petitioners.

9. If petitioners seeking formation of a public water supply district specify in their petition that the district to be organized shall be organized without authority to issue general obligation bonds, then the decrees relating to the formation of the district shall recite that the district shall not have authority to issue general obligation bonds and the vote required for such a decree of incorporation to become final and conclusive shall be a simple majority of the voters of the district voting on such proposition.”; and

Further amend said bill, Page 6, Section 247.040, Line 12 of said page, by inserting after all of said line the following:

“247.217. 1. Any two or more contiguous public water supply districts organized under the provisions of sections 247.010 to 247.220 may be consolidated into a single district by a decree of the circuit court in which the district with the largest acreage was originally incorporated and organized.

2. Proceedings for consolidation of such districts shall be substantially as follows: The board of directors of each of the districts to be consolidated shall authorize, by resolution passed at a regular meeting or a special meeting called for such purpose, its president, on behalf of the district, to petition the circuit court having jurisdiction for consolidation with any one or more other contiguous public water supply districts.

3. Such petition shall be filed in the circuit court having jurisdiction and the court shall set a

date for a hearing thereon and the clerk shall give notice thereof in some newspaper of general circulation in each county in which each of the districts proposed to be consolidated is located.

4. Such notice shall be substantially as follows:

IN THE CIRCUIT COURT OF
COUNTY, MISSOURI
NOTICE OF THE FILING OF A PETITION
FOR CONSOLIDATION OF
PUBLIC WATER SUPPLY
DISTRICT NO., OF COUNTY,
MISSOURI, AND PUBLIC WATER
SUPPLY DISTRICT
NO., OF COUNTY, MISSOURI
(Additional districts may be named as required.)

To all voters, **landowners, and interested persons** within the boundaries of the above-described public water supply districts:

You are hereby notified:

1. That a petition has been filed in this court for the consolidation of the above-named public water supply districts into one public water supply district, as provided by law.

2. That a hearing on said petition will be held before this court on the..... day of....., [19] 20...., at.....,m.

3. Exceptions or objections to the consolidation of said districts may be made by any voters **or landowners** of any of such districts proposed to be consolidated, provided such exceptions or objections are filed in writing not less than five days prior to the date set for the hearing on the petition.

4. The names and addresses of the attorneys for the petitioner are:

.....
Clerk of the Circuit Court of

..... County, Missouri

5. The notice shall be published in three consecutive issues of a weekly newspaper in each county in which any portion of any district proposed to be consolidated lies, or in lieu thereof, in twenty consecutive issues of a daily newspaper in each county in which any portion of any district proposed to be consolidated lies; the last insertion of such notice to be made not less than seven nor more than twenty-one days before the hearing.

6. The court, for good cause shown, may continue the case or the hearing thereon from time to time until final disposition thereof.

7. Exceptions or objections to the consolidation of such districts may be made by any voter **or landowner** within the boundaries of the proposed district. The exceptions or objections shall be in writing and shall specify the grounds upon which the same are made and shall be filed not later than five days before the date set for hearing the petition. If any such exceptions or objections are filed, the court shall take them into consideration in passing upon the petition for consolidation and shall also consider the evidence in support of the petition. If the court finds that the consolidation will provide for the rendering of necessary water service in the districts, and is in the best interest of the voters **and the landowners** of the district, it shall, by its decree, approve such consolidation. The decree of consolidation shall set an effective date for the consolidation of the districts and shall provide that the proposed consolidated district shall be divided into five subdistricts and shall fix boundary lines of each subdistrict, all of which subdistricts shall have approximately the same area and shall be numbered.

8. The decree of consolidation shall not become final and conclusive until it has been submitted to voters in each of the districts proposed to be included in the consolidated district.

9. If, upon canvass and declaration of the

results, it is found and determined that the question has been assented to by a majority of the voters of each district voting on the question, the court shall issue its order declaring the results of the elections, declaring its previous decree of consolidation to be final and conclusive, and in addition, the decree shall provide for an election of a director from each of the subdistricts set forth in the decree of the court as specified in subsection 7 of this section. The terms of office for the directors elected at such election shall be as follows: The director elected from the subdistrict designated by the circuit court as number one shall serve until the next regular election, or until his successor has been elected and qualified; those directors elected from the subdistricts designated by the circuit court as numbers two and three shall serve until the regular election following the next regular election or until their successors have been elected and qualified; those directors elected from the subdistricts designated by the circuit court as numbers four and five shall serve until the annual regular election following the next two regular elections, or until their successors have been elected and qualified. Thereafter all directors shall be elected as provided by sections 247.010 to 247.220. The election shall be held at least thirty days before the effective date of the consolidation. The returns shall be certified by the judges and clerks of election to the circuit court having jurisdiction and the court shall thereupon enter its order naming the directors from each subdistrict.

10. The eligibility and requirements for a director for a consolidated district shall be identical with those set forth in section 247.060 and no two members of the board shall reside in the same subdistrict. Any candidate shall have his name imprinted upon the ballot, provided he shall file a declaration of intention to become such a candidate with the clerk of the circuit court.

11. In its final decree, the court shall designate a name for the consolidated district which shall be as follows: Consolidated Public Water Supply District No., of..... County, Missouri.

12. On the effective date of the consolidation of the districts, the newly elected directors shall organize in the same manner as is provided in sections 247.010 to 247.220, and all of such provisions shall apply to consolidated public water supply districts in the same manner as to other public water supply districts.

13. At the time of the effective date of the consolidation, all the property of the original districts shall be combined and administered as one unit, which shall be subject to the liens, liabilities and obligations of the original districts, provided that if any district included in the consolidated district has issued general obligation bonds which are outstanding at the time of the consolidation, any taxes to be levied to pay the bonds and interest thereon shall be levied only upon the property within the original district issuing the bonds as it existed on the date of such issuance. All special obligation or revenue bonds issued by any district included in the consolidated district shall be paid in accordance with the terms thereof, without preference, from the revenue received by the consolidated district.

14. A certified copy of the decrees of the court shall be filed in the office of the recorder and in the office of the county clerk in each county in which any part of the consolidated district is located, and in the office of the secretary of state. Such copies shall be filed by the clerk of the circuit court and the filing fees shall be taxed as costs.

247.220. 1. Proceedings for the dissolution of a public water supply district shall be substantially the same as proceedings for the formation of such a district, as follows: A petition describing the boundaries of the district sought to be dissolved shall be filed with the clerk of the circuit court of the county wherein the subject district is situate, or with the clerk of the circuit court of the county having the largest acreage within the boundaries of the subject district, in the event that the subject district embraces lands in more than one county. Such petition, in addition to such boundary

description, shall allege that further operation of the subject district is inimicable to the best interests of the inhabitants of the district, that the district should, in the interest of the public welfare and safety, be dissolved, that an alternative water supplier is available and better able to supply water to the inhabitants of the district, and such other information as may be useful to the court in determining whether [or not] the petition should be granted and a decree of dissolution entered. Such petition shall **also include a detailed plan for payment of all debt and obligations of the district at the time of dissolution. Such petition shall** be accompanied by a cash deposit of fifty dollars as an advancement of the costs of the proceeding and the petition shall be signed by not less than one-fifth of the registered voters from each subdistrict, or fifty registered voters from each subdistrict, whichever is less, within the subject district. The petition shall be verified by at least one of the signers thereof **and shall be served upon the board of directors of the district as provided by law. The district shall be a party, and if the board of directors in its discretion determines that such dissolution is not in the public interest, the district shall oppose such petition and pay all cost and expense thereof.**

2. Upon the filing of the petition, the same shall be presented to the circuit court, and such court shall fix a date for a hearing on such petition, as provided in this section. Thereupon, the clerk of the court shall give notice of the filing of the petition in some newspaper of general circulation in the county in which the proceedings are pending, and if the district extends into any other county or counties, such notice shall also be published in some newspaper of general circulation in such other county or counties. The notice shall contain a description of the subject boundary lines of the district and the general purposes of the petition, and shall set forth the date fixed for the hearing on the petition, which shall not be less than [fifteen] **seven** nor more than twenty-one days after the date of the last publication of the notice and shall be on

some regular judicial day of the court wherein the petition is pending. Such notice shall be signed by the clerk of the circuit court and shall be published in three successive issues of a weekly newspaper or in twenty successive issues of a daily newspaper.

3. The court, for good cause shown, may continue the case or the hearing thereon from time to time until final disposition thereof.

4. Exceptions to the dissolution of a district may be made by any voter **or landowner** of the [subject] district[;], **and by the district as herein provided[.];** such exceptions [are] **shall be** filed not less than five days prior to the date set for the hearing on the petition. Such exceptions shall specify the grounds upon which the exceptions are filed and the court shall take them into consideration in passing upon the petition and shall also consider the evidence in support of the petition and in support of the exceptions made. **Unless petitioners prove that all debts and financial obligations of the district can be paid in full upon dissolution, the petition shall be dismissed at the cost of the petitioners.**

5. Should the court find that it would not be to the public interest to dissolve a district, the petition shall be dismissed at the costs of the petitioners. If, however, the court should find in favor of the petitioners, the court shall enter its interlocutory decree of dissolution which decree shall provide for the submission of the question to the voters of the district in substantially the following form:

Shall Public Water Supply District be dissolved?

6. The decree of dissolution shall not become final and conclusive until it shall have been submitted to the voters residing within the boundaries described in such decree and until it shall have been assented to by a majority of [four-sevenths] **two-thirds** of the voters of the district voting on the proposition. The decree shall provide for the submission of the question and shall fix the date thereof. The returns shall be

certified by the election authority to the circuit court having jurisdiction in the case and the court shall thereupon enter its order canvassing the returns and declaring the result of such election.

7. If, upon canvass and declaration, it is found and determined that the question shall have been assented to by a majority of [four-sevenths] **two-thirds** of the voters of the district voting on such proposition then the court shall, in such order declaring the result of the election, enter a further order declaring the decree of dissolution to be final and conclusive. In the event, however, that the court should find that the question had not been assented to by the majority required, the court shall enter a further order declaring such decree of dissolution to be void and of no effect. No appeal shall lie from any of the aforesaid orders. In the event that the court declares the decree of dissolution to be final, as provided in this section, the clerk of the circuit court shall file certified copies of such decree of dissolution and of such final order with the secretary of state of the state of Missouri, and with the recorder of deeds of the county or counties in which the district is situate and with the clerk of the county commission of the county or counties in which the district is situate.

8. Notwithstanding anything in this section to the contrary, no district shall be dissolved until after all of its debts shall have been paid, and the court, in its decree of dissolution, shall provide for the disposition of the property of the district.”; and

Further amend the title and enacting clause accordingly.

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

Senator Westfall assumed the Chair.

Senator Gross offered **SA 2**:

SENATE AMENDMENT NO. 2

Amend Senate Substitute for House Bill No. 1748, Page 40, Section 1, Line 5, by inserting after all of said line the following:

“Section 2. Notwithstanding the provisions of chapter 34, RSMo, to the contrary, any levee district in a county with a charter form of government and a population of at least two hundred fifty thousand but less than three hundred thousand inhabitants, when a grant is approved pursuant to sections 644.006 to 644.141, RSMo, the grant funds have not been distributed, and such levee district requests a waiver of the bidding requirements of chapter 34, RSMo, pursuant to section 644.061, RSMo, such district shall receive the waiver from the department of natural resources to exempt the contract from such bidding requirements, provided that such levee district meets the requirements of the Federal Acquisition Regulation Part 19.000. When the levee district completes the requirements under the Federal Acquisition Regulation Part 19.000, and to the satisfaction of the U.S. Army Corp of Engineers, the department shall release the grant award. The provisions of this section shall expire on December 31, 2002.”; and

Further amend the title and enacting clause accordingly.

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

Senator Caskey offered **SA 3**:

SENATE AMENDMENT NO. 3

Amend Senate Substitute for House Bill No. 1748, Page 21, Section 644.036, Line 23, by inserting after all of said line the following:

“6. Any classification of a stream segment or the assignment of any standard or designated use to a stream segment shall be adopted by rule pursuant to chapter 536, RSMo, and be based on clear and convincing evidence that the benefits of stream segment classification and associated water quality standards outweigh the social, economic or regulatory costs to the state and the regulated community.

7. For any classified stream segment

assigned the designated use of whole body contact, the commission must demonstrate by clear and convincing evidence that during the period from April first through October thirty-first of each year; such stream segment is open to and accessible by the public and is capable of supporting the whole body contact activities of swimming, skin diving and water-skiing where the body is intended to be completely immersed in surface water to the extent that some inadvertent ingestion of water is probable.”

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

Senator Goode offered SA 4:

SENATE AMENDMENT NO. 4

Amend Senate Substitute for House Bill No. 1748, Page 9, Section 393.847, Line 11, by inserting after all of said line the following:

“393.1012. 1. As used in sections 393.1012 to 393.1014, the following terms mean:

(1) “Appropriate pretax revenues”, the revenues necessary to:

(a) Produce net operating income equal to the water corporation's weighted cost of capital multiplied by the net original cost of eligible infrastructure system replacements; and

(b) Include state, federal and local income or excise taxes applicable to such income;

(2) “Commission”, shall refer to the Missouri public service commission;

(3) “ISRC”, infrastructure system replacement charge;

(4) “ISRC costs”, depreciation expense and appropriate pretax revenues associated with eligible infrastructure system replacements;

(5) “ISRC revenues”, revenues produced through an ISRC exclusive of revenues from all other rates and charges;

(6) “Eligible infrastructure system

replacements”, new water utility plant projects that are used and useful and that:

(a) Do not increase revenues by directly connecting the infrastructure replacement to new customers;

(b) Are in service;

(c) Were not included in the water corporation's rate base in its most recent general rate case; and

(d) Replace an existing infrastructure;

(7) “Water corporation”, includes every corporation, company, association, joint stock company or association, partnership and person, their lessees, trustees or receivers appointed by any court whatsoever, owning, operating, controlling or managing any plant or property, dam or water supply, canal, or power station, distributing or selling for distribution, or selling or supplying for gain any water as defined in section 386.020, RSMo.

2. Immediately upon effectuation of this statute, a water corporation providing water service in a county of the first classification having a population of over nine hundred thousand inhabitants may file a petition with the commission to establish or change ISRC rate schedules that will allow for the adjustment of the water corporation's rates and charges per a separate line billing item to provide for the recovery of prudently incurred ISRC costs for eligible infrastructure system replacements. This charge shall not apply to those customers classified as “industrial” by the public service commission. The commission may not approve an ISRC to the extent it would produce total ISRC revenues exceeding ten percent of the water corporation's base revenue level approved by the commission in the water corporation's most recent general rate proceeding. This charge and any future changes shall be implemented in accordance with section 393.1014. The ISRC shall be subject to a refund

based upon a finding and order of the commission.

393.1014. 1. The water corporation shall serve the office of the public counsel a copy of its filing at the time of its filing with the commission.

2. (1) When a petition is filed pursuant to sections 393.1012 to 393.1014, the commission shall conduct an examination of the proposed rate.

(2) The staff of the commission may examine information of the water corporation to confirm that the underlying costs are in accordance with this section, to confirm proper calculation of the proposed charge, and may submit a report to the commission not later than sixty days after the petition is filed.

(3) The commission may hold a hearing and shall issue an order not later than one hundred twenty days after the petition is filed.

(4) If the commission finds that a petition complies with the requirements of this section, the commission shall enter an order authorizing the corporation to impose a charge that is sufficient to recover appropriate pretax revenue and depreciation, as determined by the commission pursuant to the provisions of this section; provided that the commission shall only allow charges to apply to customers receiving a benefit or shall prorate the charge according to the benefit received by the customers.

3. A water corporation may file a petition for a change in its rate under this section no more often than one time every twelve months.

4. In determining the appropriate pretax revenue, the commission may consider the following factors:

(1) The current state, federal and local income tax or excise rates;

(2) The water corporation's actual regulatory capital structure as determined at

the most recent general rate proceeding of the water corporation;

(3) The actual cost rates for the water corporation's debt and preferred stock as determined at the most recent general rate proceeding of the water corporation;

(4) The water corporation's cost of common equity as determined at the most recent general rate proceeding of the water corporation.

5. The charge may be calculated based on a reasonable estimate of revenues in the period in which the charge will be in effect. At the end of each twelve month calendar period the charge is in effect, the water corporation shall reconcile the differences between the revenues resulting from the charge and the underlying costs during that period and shall submit the reconciliation and adjustment to the commission for approval to recover or refund the difference, as appropriate, through adjustment of the charge.

6. A water corporation that has implemented a charge pursuant to section 393.1012 shall file revised rate schedules to adjust the charge when new base rates and charges become effective for the water corporation following a commission order authorizing a general increase in rates and charges that includes in the utility's rate base eligible costs previously reflected in the charge.

7. The filing of a charge pursuant to this section and a change in such charge is not a general increase in base rates and charges.

8. The commission may adopt by order other procedures not inconsistent with this chapter that the commission finds reasonable or necessary to administer these charges.”; and

Further amend the title and enacting clause accordingly.

Senator Goode moved that the above amendment be adopted.

Senator Goode offered SA 1 to SA 4, which

was read:

SENATE AMENDMENT NO. 1 TO
SENATE AMENDMENT NO. 4

Amend Senate Amendment No. 4 to Senate Substitute for House Bill No. 1748, Page 2, Section 393.1012, Lines 21-23, by deleting all of said lines and inserting in lieu thereof the following: **“ISRC costs for eligible infrastructure system replacements. The commission”**.

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

Senator Goode offered SA 2 to SA 4, which was read:

SENATE AMENDMENT NO. 2 TO
SENATE AMENDMENT NO. 4

Amend Senate Amendment No. 4 to Senate Substitute for House Bill No. 1748, Page 5, Section 393.1014, Line 4, by inserting immediately after the word **“charges.”** the following: **“9. The provisions of sections 393.1012 to 393.1014 shall terminate December 31, 2007.”**

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

SA 4, as amended, was again taken up.

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

Senator Childers offered SA 5:

SENATE AMENDMENT NO. 5

Amend Senate Substitute for House Bill No. 1748, Page 38, Section 701.034, Line 5, by inserting after **“contrary,”** on said line the following: **“The department shall approve for installation any alternative technologies tested and approved for such applications by a community college or other institution of higher education or”**.

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

Senator Steelman moved that SS for HB 1748, as amended, be adopted, which motion prevailed.

On motion of Senator Steelman, SS for HB 1748, as amended, was read the 3rd time and passed by the following vote:

YEAS—Senators

Bland	Caskey	Cauthorn	Childers
Dougherty	Foster	Goode	Gross
House	Jacob	Johnson	Kennedy
Kenney	Kinder	Klindt	Loudon
Russell	Sims	Staples	Steelman
Stoll	Westfall	Wiggins	Yeckel—24

NAYS—Senator Rohrbach—1

Absent—Senators

Bentley	Coleman	Gibbons	Klarich
Mathewson	Quick	Schneider	Singleton—8

Absent with leave—Senator DePasco—1

The President declared the bill passed.

The emergency clause was adopted by the following vote:

YEAS—Senators

Bland	Caskey	Cauthorn	Childers
Dougherty	Foster	Goode	House
Jacob	Johnson	Kennedy	Kenney
Kinder	Klindt	Loudon	Russell
Sims	Staples	Steelman	Stoll
Westfall	Wiggins	Yeckel—23	

NAYS—Senator Rohrbach—1

Absent—Senators

Bentley	Coleman	Gibbons	Gross
Klarich	Mathewson	Quick	Schneider
Singleton—9			

Absent with leave—Senator DePasco—1

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

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

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

PRIVILEGED MOTIONS

Senator Russell moved that **SB 859**, with **HA 1** and **HA 2**, be taken up for 3rd reading and final passage, which motion prevailed.

HA 1 was taken up.

Senator Russell moved that the above amendment be adopted, which motion prevailed by the following vote:

YEAS—Senators

Bland	Caskey	Cauthorn	Childers
Dougherty	Foster	Goode	Gross
Jacob	Johnson	Kennedy	Kenney
Kinder	Klindt	Loudon	Rohrbach
Russell	Sims	Staples	Steelman
Stoll	Westfall	Wiggins	Yeckel—24

NAYS—Senators—None

Absent—Senators

Bentley	Coleman	Gibbons	House
Klarich	Mathewson	Quick	Schneider
Singleton—9			

Absent with leave—Senator DePasco—1

HA 2 was taken up.

Senator Russell moved that the above amendment be adopted, which motion prevailed by the following vote:

YEAS—Senators

Bentley	Bland	Caskey	Cauthorn
Dougherty	Foster	Goode	Gross
House	Jacob	Johnson	Kennedy
Kenney	Kinder	Klindt	Loudon
Rohrbach	Russell	Schneider	Sims
Singleton	Steelman	Stoll	Westfall
Wiggins—25			

NAYS—Senators—None

Absent—Senators

Childers	Coleman	Gibbons	Klarich
Mathewson	Quick	Staples	Yeckel—8

Absent with leave—Senator DePasco—1

On motion of Senator Russell, **SB 859**, as amended, was read the 3rd time and passed by the following vote:

YEAS—Senators

Bentley	Bland	Caskey	Cauthorn
Dougherty	Foster	Goode	House
Jacob	Johnson	Kennedy	Kinder
Klindt	Loudon	Rohrbach	Russell
Schneider	Sims	Singleton	Steelman
Stoll	Westfall	Wiggins—23	

NAYS—Senators—None

Absent—Senators

Childers	Coleman	Gibbons	Gross
Kenney	Klarich	Mathewson	Quick
Staples	Yeckel—10		

Absent with leave—Senator DePasco—1

The President declared the bill passed.

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

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

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

Bill ordered enrolled.

President Pro Tem Kinder assumed the Chair.

SIGNING OF BILLS

The President Pro Tem announced that all other business would be suspended and **SS** for **HB 2023**, having passed both branches of the General Assembly, would be read at length by the Secretary, and if no objections be made, the bill would be signed by the President Pro Tem to the

end that it may become law. No objections being made, the bill was so read by the Secretary and signed by the President Pro Tem.

PRIVILEGED MOTIONS

Senator Schneider, on behalf of the conference committee appointed to act with a like committee from the House on **HCS** for **SB 795**, moved that the following conference committee report no. 2 be taken up, which motion prevailed.

**CONFERENCE COMMITTEE
REPORT NO. 2 ON
HOUSE COMMITTEE SUBSTITUTE FOR
SENATE BILL NO. 795**

The Conference Committee appointed on House Committee Substitute for Senate Bill No. 795 begs leave to report that we, after free and fair discussion of the differences, have agreed to recommend and do recommend to the respective bodies as follows:

1. That the House recede from its position on House Committee Substitute for Senate Bill No. 795;
2. That the Senate recede from its position on Senate Bill No. 795;
3. That the attached Conference Committee Substitute No. 2 for House Committee Substitute for Senate Bill No. 795, be Third Read and Finally Passed.

FOR THE SENATE:	FOR THE HOUSE:
/s/ John Schneider	/s/ Joseph L. Treadway
/s/ Wayne Goode	/s/ Wes Shoemyer
/s/ David J. Klarich	/s/ Mark Hampton
/s/ Sarah Steelman	/s/ Dr. Charles Portwood
/s/ Michael R. Gibbons	/s/ Robert J. Behnen

Senator Schneider moved that the conferees be allowed to exceed the differences and that the conference committee report be adopted.

Senator Singleton raised the point of order that

the Conference Committee Report No. 2 for **HCS** for **SB 795** is out of order, as it exceeds the differences between the bodies.

President Pro Tem Kinder ruled the point of order not well taken.

Senator Loudon requested a division of the question on Senator Schneider’s motion, asking that a vote first be taken on allowing the conferees to exceed the differences and that a second vote be taken on the adoption of the Conference Committee Report, which request was granted.

Senator Schneider renewed his motion to allow the conferees to exceed the differences, which motion prevailed.

Senator Schneider moved that Conference Committee Report No. 2 for **HCS** for **SB 795** be adopted, which motion prevailed by the following vote:

YEAS—Senators

Bentley	Bland	Caskey	Cauthorn
Childers	Coleman	Foster	Goode
House	Johnson	Kennedy	Kenney
Kinder	Klindt	Rohrbach	Russell
Schneider	Sims	Steelman	Stoll
Westfall	Wiggins	Yeckel—23	

NAYS—Senators

Loudon Singleton—2

Absent—Senators

Dougherty	Gibbons	Gross	Jacob
Klarich	Mathewson	Quick	Staples—8

Absent with leave—Senator DePasco—1

On motion of Senator Schneider, **CCS No. 2** for **HCS** for **SB 795**, entitled:

**CONFERENCE COMMITTEE SUBSTITUTE
NO. 2
FOR HOUSE COMMITTEE SUBSTITUTE
FOR SENATE BILL NO. 795**

An Act to amend chapter 650, RSMo, by adding thereto nine new sections relating to emergency communication systems.

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

YEAS—Senators

Bland	Caskey	Cauthorn	Childers
Coleman	Dougherty	Foster	Goode
Gross	House	Johnson	Kennedy
Kenney	Kinder	Klindt	Loudon
Rohrbach	Russell	Schneider	Sims
Staples	Steelman	Stoll	Westfall
Wiggins	Yeckel—26		

NAYS—Senator Singleton—1

Absent—Senators

Bentley	Gibbons	Jacob	Klarich
Mathewson	Quick—6		

Absent with leave—Senator DePasco—1

The President Pro Tem declared the bill passed.

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 1143**, with **SCS**, begs leave to report that it has considered the same and recommends that the bill do pass.

HOUSE BILLS ON THIRD READING

HB 1196, with **SCS**, introduced by Representative Barnett, et al, entitled:

An Act to repeal section 226.200, RSMo, and to enact in lieu thereof one new section relating to the state highways and transportation department fund.

Was called from the Informal Calendar and taken up by Senator Westfall.

SCS for **HB 1196**, entitled:

SENATE COMMITTEE SUBSTITUTE FOR HOUSE BILL NO. 1196

An Act to repeal sections 142.803, 144.020, 144.700, 144.805, 155.080 and 226.200, RSMo, relating to measures to increase funding for transportation, and to enact in lieu there of nine new sections relating to the same subject, with a referendum clause, effective date and a contingent termination date for certain sections.

Was taken up.

Senator Westfall moved that **SCS** for **HB 1196** be adopted.

Senator Gross assumed the Chair.

Senator Westfall offered **SS** for **SCS** for **HB 1196**, entitled:

SENATE SUBSTITUTE FOR SENATE COMMITTEE SUBSTITUTE FOR HOUSE BILL NO. 1196

An Act to repeal sections 136.055, 142.803, 144.805, 155.080, 226.200, 226.540, 226.550, 226.573, 226.580, 226.585, 227.100 and 305.230, RSMo, relating to funding for transportation, and to enact in lieu thereof thirteen new sections relating to the same subject, with an emergency clause for certain sections.

Senator Westfall moved that **SS** for **SCS** for **HB 1196** be adopted.

At the request of Senator Westfall, **HB 1196**, with **SCS** and **SS** for **SCS** (pending), was placed on the Informal Calendar.

MESSAGES FROM THE HOUSE

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

Mr. President: I am instructed by the House of Representatives to inform the Senate that the House has taken up and passed **HCS** for **SS** for **SCS** for **SBs 837, 866, 972** and **990**, entitled:

An Act to repeal sections 142.028, 270.170, 275.464, 281.240, 281.260, 311.554, 348.430, 348.432, 407.750, 407.751, 407.752, 407.850,

407.860, 407.870, 407.890, 407.892, 407.893, 413.005, 413.015, 413.055, 413.065, 413.075, 413.085, 413.115, 413.125, 413.135, 413.145, 413.155, 413.165, 413.225, 413.227, and 414.032, RSMo, relating to agriculture, and to enact in lieu thereof thirty-two new sections relating to the same subject.

With House Amendments Nos. 1, 2, 3, 4, 6, House Substitute Amendment No. 1 for House Amendment No. 1 to House Amendment No. 7, House Amendment No. 2 to House Amendment No. 7, House Amendment No. 7, as amended and House Amendment No. 8.

HOUSE AMENDMENT NO. 1

Amend House Committee Substitute for Senate Substitute for Senate Committee Substitute for Senate Bills Nos. 837, 866, 972 and 990, by inserting in the appropriate location the following sections:

“261.110. 1. The department of agriculture shall develop standards and labeling for organic farming.

2. The department of agriculture shall adopt rules to implement the provisions of this section.

3. The department may cooperate with any agency of the federal government, any state, any other agency in this state, any private entity or person engaged in growing, processing, marketing of organic products, or any group of such persons in this state, in programs to effectuate such purposes. Such agreements may provide for cost and revenue sharing, and for division of duties and responsibilities under this section and may include other provisions generally to effectuate the purposes of this section.

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

261.120. There is hereby created in the state

treasury the “Organic Production and Certification Fee Fund”. Fees imposed in accordance with rules promulgated under section 261.110, shall be credited to the organic production and certification fee fund.”; and

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

HOUSE AMENDMENT NO. 2

Amend House Committee Substitute for Senate Substitute for Senate Committee Substitute for Senate Bills Nos. 837, 866, 972 and 990, Page 2, Section 142.028, Line 11, by deleting all of said line and inserting in lieu thereof the following: “located within the state of Missouri **and is at least fifty-one percent owned by agricultural producers actively engaged in agricultural production for commercial purposes** and which has made formal application, posted a bond, and”; and

Further amend said bill Page 22, section 413.115, Lines 1 to 3, by deleting all of said lines; and

Further amend said bill Page 23, section 413.115, Lines 4 to 12, by deleting all of said lines; and

Further amend said bill Page 27, Section 414.032, Lines 13 and 14, by deleting all of said lines and inserting in lieu thereof the following: “insure that these fuels conform to advertised grade and octane. In no event shall the penalty for a first violation of this section exceed a written reprimand.”; and

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

HOUSE AMENDMENT NO. 3

Amend House Committee Substitute for Senate Substitute for Senate Committee Substitute for Senate Bills Nos. 837, 866, 972 and 990, Page 5, Section 142.031, Line 68, by inserting immediately after all of said line the following:

“254.020. As used in this chapter, the following words [shall have the following meanings] **mean:**

(1) [The word “commission” shall mean] **“Best management practices”, forest management practices, as defined by the commission in consultation with the clean water commission, that ensure protection of water quality;**

(2) **“Commission”,** the conservation commission of Missouri [upon which, by the terms hereof impressed, are] **being responsible for the control, management, restoration, conservation, and regulation of the bird, fish, game, forestry, and all wildlife resources of the state are therefore** vested the responsibilities for the administration [hereof in conformity] **of this chapter in conformance** with sections 40 to 46 of article IV of the Constitution of Missouri; and the words “rules and regulations” shall mean those made by the commission pursuant thereto;

[(2)] (3) **“Conservation commission fund”** [as used in this chapter, shall mean], only the moneys arising from the additional sales and use taxes provided for in section 43(a) of article IV of the Constitution of Missouri;

[(3)] (4) **“Forest croplands”** [shall mean], those lands devoted exclusively to growing wood and timber, except for such other uses as shall be approved by the commission by regulations and which are tendered to the commission by any person and accepted and classified by the commission as such; and the commission shall prescribe the terms and conditions of such tender, acceptance and classification;

[(4)] The word “person” shall mean] (5) **“Person”,** any individual, male or female, singular or plural, of whatever age[, and this term]. **The term person** shall include and refer to any owner, grantee, lessee, licensee, permittee, firm, association, copartnership, corporation, municipality or county, as the context may require;

(6) **“Precommercial forestry activities”, proper forest management activities, as defined by the commission, that do not generate an immediate profit for the landowner;**

[(5)] The title “state forester” shall mean] (7) **“State forester”,** the administrative head of the state forestry program;

(8) **“Sustainable forestry principles”, forest management activities, as defined by the commission, that ensure efficient use and continued availability of forest resources.**

254.040. 1. Any person desiring to have lands designated as forest croplands shall submit an application [therefor] to the state forester on [form or] forms [to be] provided by the commission. The state forester [will] **shall** make or cause to be made an examination of the lands covered by [said] **such** application and shall forward a copy of [same] **such application**, together with his **or her** recommendations, to the commission. If the commission [approve and classify] **approves and classifies such** lands as forest croplands, they shall be subject to the provisions of this chapter and [such] rules and regulations **promulgated pursuant to this chapter.**

2. If the commission [refuse so] **refuses** to accept and classify [said] **such** lands, the applicant may appeal [from] the decision of the commission to the circuit court in which such lands, or major part [thereof] **of such lands**, are located and the decision of the circuit court in all such matters shall be final.

3. No application **to designate lands as forest croplands** shall be accepted for a tract of land containing less than twenty acres; and no such land shall be classified for tax relief if the value thereof shall exceed one hundred twenty-five dollars per acre or a greater value as set by regulation of the commission.

4. **No application for the cost-share incentive program established in section 254.225 shall be accepted for lands designated as forest**

croplands.

254.225. 1. The commission may administer a forest landowner cost-share incentive program to promote sustainable forestry on private lands. Such program may provide reimbursement cost share for up to fifty percent of the cost of precommercial forestry activities on eligible lands. Eligible forestry activities shall be carried out in accordance with best management practices and sustainable forestry principles.

2. Any forest landowner may submit a program application to the state forester on forms provided by the commission. Application procedures and acceptance criteria shall be specified by the commission.

3. No application for such program shall be accepted for a tract of land containing less than forty acres. The total amount of incentives provided to any person shall not exceed five thousand dollars in any calendar year.”; and

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

HOUSE AMENDMENT NO. 4

Amend House Committee Substitute for Senate Substitute for Senate Committee Substitute for Senate Bills Nos. 837, 886, 972 and 990, Page 7, Section 281.217, Lines 8 and 9, by deleting the words “and agriculture”.

HOUSE AMENDMENT NO. 6

Amend House Committee Substitute for Senate Substitute for Senate Committee Substitute for Senate Bills Nos. 837, 866, 972 and 990, Page 16, Section 348.432, Line 85 of said page, by inserting after all of said line the following:

“407.592. Sections 407.585 to 407.592 shall apply to any new farm machinery sold after January 1, 1988, but no provision of sections 407.585 to 407.592 shall operate or be construed to invalidate, impair, or otherwise infringe upon the specific requirements of any contract between a

dealer and a manufacturer entered into prior to September 28, 1987, and which is in effect on September 28, 1987; provided, however, that in any case wherein warranty repair work is performed for a consumer by a farm equipment dealer under the provisions of a manufacturer's express warranty, the manufacturer shall reimburse the dealer at an hourly labor rate that is the same or greater than the hourly labor rate the dealer currently charges consumers for nonwarranty repair work. **The dealer may accept the manufacturer's reimbursement terms and conditions in lieu of the above.”; and**

Further amend the title and enacting clause accordingly.

**HOUSE SUBSTITUTE AMENDMENT NO. 1
FOR HOUSE AMENDMENT NO. 1 TO
HOUSE AMENDMENT NO. 7**

Amend House Amendment No. 7 to House Committee Substitute for Senate Substitute for Senate Committee Substitute for Senate Bills Nos. 837, 866, 972, and 990, Page 2, Section 578.407, Line 30, by inserting in front of the word “photograph” the following:

“with the intent to commit a crime”; and

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

**HOUSE AMENDMENT NO. 2 TO
HOUSE AMENDMENT NO. 7**

Amend House Amendment No. 7 to House Committee Substitute for Senate Substitute for Senate Committee Substitute for Senate Bills Nos. 837, 866, 972, and 990, Page 3, Section 578.409, Lines 11 and 12, by striking the following: **“for a violation of subdivision (7) of section 578.407 or”.**

HOUSE AMENDMENT NO. 7

Amend House Committee Substitute for Senate Substitute for Senate Committee Substitute for Senate Bills Nos. 837, 866, 972, and 990, by inserting the following in the appropriate location:

“578.405. 1. Sections 578.405 to 578.412

shall be known and may be cited as “The Animal Research and Production Facilities Protection Act”.

2. As used in sections 578.405 to 578.412, the following terms mean:

(1) “Animal”, every living creature, domestic or wild, but not including *Homo sapiens*;

(2) “Animal facility”, any facility, **animal farming operation, business or organization** engaging in legal scientific research or agricultural production or involving the use of animals, including any organization with a primary purpose of representing livestock production or processing, any organization with a primary purpose of promoting or marketing livestock or livestock products, any person licensed to practice veterinary medicine, any organization involved in the production of pet food or pet food research, and any organization with a primary purpose of representing any such person, organization, or institution. The term shall include the owner, operator, and employees of any animal facility [and], the offices [and], **barns, buildings, or other structures, the vehicles of any such persons while engaged in duties related to the animal facility, and any [premises] private property where animals are located, including but not limited to the barns or areas where the animals are pastured, housed, or otherwise quartered;**

(3) “Director”, the director of the department of agriculture.

578.407. No person shall:

(1) Release, steal, or otherwise intentionally cause the death, injury, or loss of any animal at or from an animal facility and not authorized by that facility;

(2) Damage, vandalize, or steal any property in or on an animal facility;

(3) Obtain access to an animal facility by false pretenses for the purpose of performing acts not authorized by the facility;

(4) Enter or otherwise interfere with an animal

facility with the intent to destroy, alter, duplicate or obtain unauthorized possession of records, data, material, equipment, or animals;

(5) Knowingly obtain, by theft or deception, control over records, data, material, equipment, or animals of any animal facility for the purpose of depriving the rightful owner or animal facility of the records, material, data, equipment, or animals, or for the purpose of concealing, abandoning, or destroying such records, material, data, equipment, or animals;

(6) Enter or remain on an animal facility with the intent to commit an act prohibited by this section;

(7) Photograph, videotape, or otherwise obtain images from within a structure that an animal is housed without the express written consent of the animal facility;

(8) Intentionally or knowingly release or introduce any pathogen or disease in or near an animal facility that has the potential to cause disease in any animal at the animal facility or which otherwise threatens human health or biosecurity at the animal facility.

578.409. 1. Any person who violates section 578.407:

(1) Shall be guilty of a misdemeanor for each such violation unless the loss, theft, or damage to the animal facility exceeds three hundred dollars in value;

(2) Shall be guilty of a class D felony **for a violation of subdivision (7) of section 578.407** or if the loss, theft, or damage to the animal facility property exceeds three hundred dollars in value but does not exceed ten thousand dollars in value;

(3) Shall be guilty of a class C felony if the loss, theft, or damage to the animal facility property exceeds ten thousand dollars in value but does not exceed one hundred thousand dollars in value;

(4) Shall be guilty of a class B felony if the

loss, theft, or damage to the animal facility exceeds one hundred thousand dollars in value.

2. Any person who intentionally agrees with another person to violate section 578.407 and commits an act in furtherance of such violation shall be guilty of the same class of violation as provided in subsection 1 of this section.

3. In the determination of the value of the loss, theft, or damage to an animal facility, the court shall conduct a hearing to determine the reasonable cost of replacement of materials, data, equipment, animals, and records that were damaged, destroyed, lost, or cannot be returned, as well as the reasonable cost of lost production funds and repeating experimentation that may have been disrupted or invalidated as a result of the violation of section 578.407.

4. Any persons found guilty of a violation of section 578.407 shall be ordered by the court to make restitution, jointly and severally, to the owner, operator, or both, of the animal facility, in the full amount of the reasonable cost as determined under subsection 3 of this section.

5. Any person who has been damaged by a violation of section 578.407 may recover all actual and consequential damages, punitive damages, and court costs, including reasonable attorneys' fees, from the person causing such damage.

6. Nothing in sections 578.405 to 578.412 shall preclude any animal facility injured in its business or property by a violation of section 578.407 from seeking appropriate relief under any other provision of law or remedy including the issuance of an injunction against any person who violates section 578.407 **including any relief authorized under subsection 5 of this section.** The owner or operator of the animal facility may petition the court to permanently enjoin such persons from violating sections 578.405 to 578.412 and the court shall provide such relief.

578.412. 1. The director shall have the authority to investigate any alleged violation of

sections 578.405 to 578.412, along with any other law enforcement agency, and may [take any action within the director's authority necessary for the enforcement of sections 578.405 to 578.412] **initiate civil legal action in the circuit court of the county where the violation occurred.** The attorney general, the highway patrol, and other law enforcement officials shall provide assistance required in the conduct of an investigation.

2. The director may promulgate rules and regulations necessary for the enforcement of sections 578.405 to 578.412. No rule or portion of a rule promulgated under the authority of sections 578.405 to 578.412 shall become effective unless it has been promulgated pursuant to the provisions of section 536.024, RSMo.”; and

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

HOUSE AMENDMENT NO. 8

Amend House Committee Substitute for Senate Substitute for Senate Committee Substitute for Senate Bills Nos. 837, 866, 972 and 990, Page 4, Section 142.031, Line 9, by deleting all of said line and inserting in lieu thereof the following: **“and subject to appropriations with funds, other than general revenue funds, shall be used to”**; and

Further amend said bill Page 4, Section 142.031, Line 13, by deleting all of said line and inserting in lieu thereof the following:

“3. A Missouri qualified biodiesel producer shall be eligible for a monthly grant”; and

Further amend said bill Page 4, Section 142.031, Lines 15 to 17, by deleting all of said lines and inserting in lieu thereof the following: **“the grant for a total of sixty months unless such producer during those sixty months failed, due to a lack of appropriations, to receive the full amount from the fund for which they were eligible, in which case such producers shall continue to be eligible for up to twenty-four additional months or until they have received**

the maximum amount of funding for which they were eligible during the original sixty month time period. The amount of the grant is determined by calculating the number of gallons of qualified biodiesel produced during the preceding month from Missouri agricultural products, as certified by the department”; and

Further amend said bill Page 4, Section 142.031, Line 17, by deleting all of said line and inserting in lieu thereof the following: **“Missouri agricultural products for the succeeding calendar month, as certified by the department”;** and

Further amend said bill Page 4, Section 142.031, Lines 19 to 35, by deleting all of said lines and inserting in lieu thereof the following: **“this subsection. Each Missouri qualified biodiesel producer shall be eligible for a total grant in any fiscal year equal to thirty cents per gallon for the first fifteen million gallons of qualified biodiesel produced from Missouri agricultural products in the fiscal year. All such qualified biodiesel produced by a Missouri qualified biodiesel producer in excess of fifteen million gallons shall not be applied to the computation of a grant pursuant to this subsection. The department of agriculture shall pay all grants for a particular month by the fifteenth day after receipt and approval of the application described in subsection 4 of this section.”;** and

Further amend said bill Page 4, Section 142.031, Line 37, by deleting all of said line and inserting in lieu thereof the following: **“fund, an application for such funds shall be received no later than”;** and

Further amend said bill Page 5, Section 142.031, Line 38, by deleting all of said line and inserting in lieu thereof the following: **“fifteen days following the first day of the month for which the grant is sought. The”;** and

Further amend said bill Page 5, Section

142.031, Line 42, by deleting all of said line and inserting in lieu thereof the following: **“biodiesel producer in the preceding month, if applicable”;** and

Further amend said bill Page 5, Section 142.031, Lines 45 to 47, by deleting all of said lines and inserting in lieu thereof the following: **“month”;**

(4) The number of gallons of qualified biodiesel the producer manufactures during the month for which the grant is applied”; and

Further amend said bill Page 5, Section 142.031, Lines 56 to 60, by deleting all of said lines and inserting in lieu thereof the following: **“administration of the provisions of this section.”;** and

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

In which the concurrence of the Senate is respectfully requested.

Also,

Mr. President: I am instructed by the House of Representatives to inform the Senate that the House has taken up and passed **HS** for **HCS** for **SCS** for **SB 680**, entitled:

An act to amend chapter 192, RSMo, by adding thereto one new section relating to obesity, with an emergency clause.

With House Amendment No. 1, Part 2 of House Amendment No. 2, House Amendments Nos. 3, 4 and 5.

HOUSE AMENDMENT NO. 1

Amend House Substitute for House Committee Substitute for Senate Committee Substitute for Senate Bill No. 680, by inserting at the appropriate location the following section:

“34.375. 1. This section shall be known and may be cited as the “Missouri Calcium Initiative”.

2. The purchasing agent for any governmental entity that purchases food or beverages to be processed or served in a building or room owned or operated by such governmental entity shall give preference to foods and beverages that:

(1) Contain a higher level of calcium than products of the same type and quality; and

(2) Are equal to or lower in price than products of the same type and quality.

3. Notwithstanding the provisions of subsection 2 of this section to the contrary, if a state institution determines that a high calcium food or beverage that is preferred pursuant to subsection 2 of this section will interfere with the proper treatment and care of a patient of such institution, the purchasing agent shall not be required to purchase the high calcium food or beverage for such patient.

4. The requirements of this section shall be in addition to any requirements placed upon a governmental entity by the United States Department of Agriculture under the National School Lunch Program or the School Breakfast Program.

5. For purposes of this section, “governmental entity” means the state of Missouri, its departments, agencies, boards, commissions and institutions, and all school districts of the state. Governmental entity does not include political subdivisions of the state.

6. Notwithstanding the provisions of this section to the contrary, a purchasing agent who has entered into a contract with a supplier before July 1, 2002, to purchase food and beverages shall not be required to purchase high calcium foods and beverages if purchasing such products would change the terms of the contract.”; and

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

HOUSE AMENDMENT NO. 2

Amend House Substitute for House Committee Substitute for Senate Committee Substitute for Senate Bill No. 680, Pages 6 and 7, Section 192.975, by deleting the words [shall] on Page 6, Line 23, and Page 7, Line 2, and insert the word “**may**”; and

Further amend Page 7, Line 7, by deleting the word [shall] and inserting the word “**should**”, and delete Lines 16 and 17 of said page and renumber the remaining subsections accordingly.

HOUSE AMENDMENT NO. 3

Amend House Substitute for House Committee Substitute for Senate Committee Substitute for Senate Bill No. 680, Page 4, Section 192.975, Line 13, by deleting the words “twenty-two” and inserting in lieu thereof the following: “**twenty-three**”; and

Further amend said section, Page 6, Line 4, by inserting the following:

“(21) A representative of the Missouri State Chiropractors Association”.

HOUSE AMENDMENT NO. 4

Amend House Substitute for House Committee Substitute for Senate Committee Substitute for Senate Bill No. 680, Page 7, Section 192.975, Line 23, by inserting after all of said line the following:

“Section 1. 1. Notwithstanding any provision of the law to the contrary, until the provision of 208.151.1(25) RSMo 2001 is fully implemented at 100% of poverty, an otherwise eligible individual shall be eligible for payment of Medicaid allowable expenses in accordance with department of social services policy in effect on January 1, 2002. This section shall be null and void if after investigation, appeal and final determination, the Center for Medicare and Medicaid Services declares this policy violates the Medicaid program rules for a 209(b) state.

2. The Personal Independence Commission shall study the issue of spend down. Such study shall include but not be limited to: the effects of spend down on the population served; a comparison of Missouri's spend down program with similar programs in other states; develop alternatives that will serve the population's needs in a manner that is equitable but flexible to the needs and circumstances of the individual, encourages responsible utilization of the services and is fiscally responsible. By December 1, 2002, the Commission shall present its findings and recommendation to the Governor and General Assembly.”; and

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

HOUSE AMENDMENT NO. 5

Amend House Substitute for House Committee Substitute for Senate Committee Substitute for Senate Bill No. 680, by inserting in the appropriate location the following:

“660.099. 1. The general assembly may appropriate funds in addition to the amount currently being provided per annum for nutrition services for the elderly. Funds so designated to provide nutrition services for the elderly shall be allocated to the Missouri division of aging to be placed on the formula basis and distributed to each area agency on aging throughout the state of Missouri.

2. The general assembly may appropriate funds in addition to the amount currently being provided per annum through the Missouri elderly and handicapped transportation program. Funds so designated to provide transportation for the elderly and developmentally disabled shall be allocated to the Missouri division of aging to be placed on the formula basis and distributed to each area agency on aging throughout the state of Missouri.

3. The general assembly may appropriate funds in addition to the amount currently being provided per annum for home-delivered meals for

the elderly. Such additional funds shall be allocated to the Missouri division of aging [to be placed on the formula basis] and distributed to each area agency on aging throughout the state of Missouri **based on the actual number of meals served in each area during the previous fiscal year.”; and**

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

Emergency clause defeated.

In which the concurrence of the Senate is respectfully requested.

Also,

Mr. President: I am instructed by the House of Representatives to inform the Senate that the House has taken up and passed **HCS** for **SB 718**, entitled:

An Act to repeal section 171.021, RSMo, and to enact in lieu thereof one new section relating to reciting the Pledge of Allegiance in public schools.

In which the concurrence of the Senate is respectfully requested.

Also,

Mr. President: I am instructed by the House of Representatives to inform the Senate that the House has taken up and passed **HS No. 2** for **HCS** for **SS** for **SCS** for **SBs 969, 673 and 855**, entitled:

An Act to repeal sections 43.540, 542.261, 542.276, 556.061, 565.225, 565.253, 566.010, 566.030, 566.060, 566.090, 569.070, and 632.483, RSMo, and to enact in lieu thereof twenty-three new sections relating to the prosecution and prevention of sex crimes, with penalty provisions and an emergency clause.

With House Amendments Nos. 1 and 2.

HOUSE AMENDMENT NO. 1

Amend House Substitute No. 2 for House Committee Substitute for Senate Substitute for Senate Committee Substitute for Senate Bills Nos. 969, 673 and 855, by inserting in the appropriate

location the following:

“547.170. In all cases where an appeal or writ of error is prosecuted from a judgment in a criminal cause, except where the defendant is under sentence of death or imprisonment in the penitentiary for life, or a sentence of imprisonment for a violation of sections 195.222, RSMo, 565.021, RSMo, 565.050, RSMo, [or] subsections 1 and 2 of section 566.030, **566.032, 566.040, 566.060, 566.062, 566.070, 566.100**, RSMo, any court or officer authorized to order a stay of proceedings under the preceding provisions may allow a writ of habeas corpus, to bring up the defendant, and may thereupon let him to bail upon a recognizance, with sufficient sureties, to be approved by such court or judge.”; and

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

HOUSE AMENDMENT NO. 2

Amend House Substitute No. 2 for House Committee Substitute for Senate Substitute for Senate Committee Substitute for Senate Bills Nos. 969, 673 and 855, by inserting the following in the appropriate location:

“565.305. 1. As used in this section, the following words and phrases shall mean:

(1) “Clone a human being” or “cloning a human being”, genetic duplication or replication of a human being, whether living or deceased, regardless of the stage of development of such human being, from whom genetic material was donated or taken in order to complete such duplication or replication;

(2) “Public employee”, any person employed by the state of Missouri or any agency or political subdivision thereof;

(3) “Public facilities”, any public institution, public facility, public equipment, or any physical asset owned or leased, or controlled by the state of Missouri or any agency or political subdivision thereof;

(4) “Public funds”, any funds received or controlled by the state of Missouri or any agency or political subdivision thereof, including, but not limited to, funds derived from federal, state or local taxes, gifts or grants from any source, public or private, federal grants or payments, or intergovernmental transfers.

2. No person shall knowingly clone a human being, or participate in cloning a human being.

3. No person shall knowingly use public funds to clone a human being or attempt to clone a human being.

4. No person shall knowingly use public facilities for the purpose of cloning a human being or attempting to clone a human being.

5. No public employee shall knowingly allow any person to clone a human being or attempt to clone a human being while making use of public funds or public facilities.

6. Violation of subsections 2 to 5 of this section shall be a class B felony.”; and

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

Emergency clause adopted.

In which the concurrence of the Senate is respectfully requested.

Also,

Mr. President: I am instructed by the House of Representatives to inform the Senate that the House has taken up and passed SCS for SB 1266.

Bill ordered enrolled.

Also,

Mr. President: I am instructed by the House of Representatives to inform the Senate that the House has taken up and passed HCS for SCS for SB 892, entitled:

An Act to repeal sections 214.270 and

214.387, RSMo, and to enact in lieu thereof two new sections relating cemeteries.

In which the concurrence of the Senate is respectfully requested.

HOUSE BILLS ON THIRD READING

Senator Westfall moved that **HB 1196**, with **SCS** and **SS** for **SCS** (pending), be called from the Informal Calendar and again taken up for 3rd reading and final passage, which motion prevailed.

SS for **SCS** for **HB 1196** was again taken up.

Senator Singleton offered **SA 1**:

SENATE AMENDMENT NO. 1

Amend Senate Substitute for Senate Committee Substitute for House Bill No. 1196, Page 8, Section 226.200, Line 5, by inserting at the end of said line the following: **“Appropriations to the highway patrol from the state highways and transportation department fund shall be made in accordance with article IV, section 30(b) of the Missouri Constitution. Appropriations allocated from the state highways and transportation department fund to the highway patrol shall only be used by the highway patrol to administer and enforce state motor vehicle laws or traffic regulations. Beginning July 1, 2007, any activities or functions conducted by the highway patrol not related to enforcing or administering state motor vehicle laws or traffic regulations shall not be funded by the state highways and transportation department fund, but shall be funded from general revenue or any other applicable source. Any current funding from the highways and transportation department fund used for activities not related to enforcing state motor vehicle laws or traffic regulations shall expire on June 30, 2007. The state auditor shall annually audit and examine the appropriations made to the highway patrol to determine whether such appropriations are actually being used for administering and enforcing state motor vehicle laws and traffic**

regulations pursuant to the constitution. The state auditor shall submit its annual findings to the general assembly by January fifteenth of each year.”.

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

Senator Loudon offered **SA 2**:

SENATE AMENDMENT NO. 2

Amend Senate Substitute for Senate Committee Substitute for House Bill No. 1196, Page 1, Section A, Line 6, by inserting after all of said line the following:

“34.203. The provisions of sections 34.203 to 34.215 shall be known and may be cited as the “Open Contracting Act”.

34.206. The provisions of sections 34.203 to 34.215 are to prohibit public agencies from imposing certain labor requirements as a condition of performing public works.

34.209. The state and political subdivisions, agencies and instrumentalities thereof, when engaged in procuring products or services or letting contracts for manufacture of public works, or overseeing such procurement, construction or manufacture, shall ensure that bid specification, project agreements and other controlling documents, entered into, required or subject to approval by the subdivision, agency or instrumentality, do not:

(1) Require bidders, offerors, contractors or subcontractors to enter into or adhere to agreements with one or more labor organizations on the same or related projects;

(2) Discriminate against bidders, offerors, contractors or subcontractors for refusing to become or remain signatories or otherwise adhere to agreements with one or more labor organizations on the same or related construction projects; or

(3) Require any bidder, offeror, contractor

or subcontractor to enter into, adhere to or enforce any agreement that requires its employees as a condition of employment to:

(a) Become members of or become affiliated with a labor organization; or

(b) Pay dues or fees to a labor organization, over an employee's objection, in excess of the employee's share of labor organization costs relating to collective bargaining, contract administration or grievance adjustment.

34.212. 1. The state and political subdivisions and any agencies or instrumentalities thereof shall not issue grants or enter into cooperative agreements for construction projects a condition of which requires that bid specifications, project agreements or other controlling documents pertaining to the grant or cooperative agreement contain any of the elements specified in section 34.209.

2. The state and political subdivisions or any agencies or instrumentalities thereof shall exercise such authority as may be required to preclude a grant recipient or party to a cooperative agreement from imposing any of the elements specified in section 34.209 in connection with any grant or cooperative agreement awarded or entered into.

34.215. Any interested party, which shall include a bidder, offeror, contractor, subcontractor, or taxpayer, shall have any standing to challenge any bid specification, project agreement, controlling document, grant or cooperative agreement which violated the provisions of sections 34.203 to 34.215, and shall be awarded costs and attorney's fees in the event that the challenge prevails.”; and

Further amend the title and enacting clause accordingly.

Senator Loudon moved that the above amendment be adopted.

Senator Westfall raised the point of order that **SA 2** is out of order, as it goes beyond the scope and intent of the underlying legislation.

President Pro Tem Kinder ruled the point of order well taken.

Senator Westfall moved that **SS** for **SCS** for **HB 1196**, as amended, be adopted, which motion prevailed.

Senator Westfall moved that **SS** for **SCS** for **HB 1196**, as amended, be read the 3rd time and finally passed and was recognized to close.

President Pro Tem Kinder referred **SS** for **SCS** for **HB 1196**, as amended, to the Committee on State Budget Control.

HCS for **HB 1403**, with **SCS**, entitled:

An Act to amend chapter 436, RSMo, by adding thirteen new sections relating to retainage in private building contracts.

Was called from the Informal Calendar and taken up by Senator Foster.

SCS for **HCS** for **HB 1403**, entitled:

SENATE COMMITTEE SUBSTITUTE FOR
HOUSE COMMITTEE SUBSTITUTE FOR
HOUSE BILL NO. 1403

An Act to amend chapter 436, RSMo, by adding thereto ten new sections relating to retainage in private building contracts.

Was taken up.

Senator Foster moved that **SCS** for **HCS** for **HB 1403** be adopted.

Senator Foster offered **SS** for **SCS** for **HCS** for **HB 1403**, entitled:

SENATE SUBSTITUTE FOR
SENATE COMMITTEE SUBSTITUTE FOR
HOUSE COMMITTEE SUBSTITUTE FOR
HOUSE BILL NO. 1403

An Act to amend chapter 436, RSMo, by adding thereto thirteen new sections relating to retainage in private building contracts.

Senator Foster moved that **SS** for **SCS** for **HCS** for **HB 1403** be adopted.

Senator Cauthorn offered **SA 1**:

SENATE AMENDMENT NO. 1

Amend Senate Substitute for Senate Committee Substitute for House Committee Substitute for House Bill No. 1403, Page 6, Section 436.327, Line 5-13, by deleting such section and inserting in lieu thereof, the following:

“436.327. The project shall be deemed to have reached substantial completion upon the occurrence of the earlier of the architect or engineer issuing a certificate of substantial completion in accordance with the terms of the contract documents or the owner accepting the performance of the full contract.”

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

Senator Bentley offered **SA 2**:

SENATE AMENDMENT NO. 2

Amend Senate Substitute for Senate Committee Substitute for House Committee Substitute for House Bill No. 1403, Page 2, Section 436.306, Line 21, following the word “security” by inserting the following:

“Not to exceed five percent of the amount due pursuant to the contract or agreement between an owner and a contractor.”

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

Senator Foster moved that **SS** for **SCS** for **HCS** for **HB 1403**, as amended, be adopted, which motion prevailed.

On motion of Senator Foster, **SS** for **SCS** for **HCS** for **HB 1403**, as amended, was read the 3rd time and passed by the following vote:

YEAS—Senators

Cauthorn	Childers	Dougherty	Foster
Gibbons	Johnson	Kennedy	Kenney

Kinder	Klarich	Loudon	Mathewson
Quick	Russell	Schneider	Sims
Steelman	Stoll	Westfall	Wiggins
Yeckel—21			

NAYS—Senators

Bentley	Bland	Caskey	Coleman
Goode	Gross	Jacob	Klindt
Rohrbach	Singleton—10		

Absent—Senators

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

The President declared the bill passed.

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

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

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

Senator Singleton assumed the Chair.

HS for **HB 1455**, with **SCS**, entitled:

An Act to repeal sections 86.200, 86.213, 86.251, 86.254, 86.255, 86.256, 104.625, and 104.1024, RSMo, and to enact in lieu thereof thirteen new sections relating to public retirement systems, with an emergency clause.

Was called from the Informal Calendar and taken up by Senator Gross.

SCS for **HS** for **HB 1455**, entitled:

SENATE COMMITTEE SUBSTITUTE FOR HOUSE SUBSTITUTE FOR HOUSE BILL NO. 1455

An Act to repeal sections 87.207, 104.050, 104.095, 104.110, 104.140, 104.250, 104.254, 104.270, 104.335, 104.344, 104.350, 104.374, 104.380, 104.400, 104.436, 104.438, 104.515, 104.540, 104.601, 104.620, 104.625, 104.800, 104.1015, 104.1018, 104.1021, 104.1024,

104.1039, 104.1054, 104.1066, 104.1072, 104.1075, 104.1200, 104.1210, 104.1215 and 476.517, RSMo, and to enact in lieu thereof forty-one new sections relating to public retirement systems, with an emergency clause.

Was taken up.

Senator Gross moved that **SCS** for **HS** for **HB 1455** be adopted.

Senator Gross offered **SS** for **SCS** for **HS** for **HB 1455**, entitled:

SENATE SUBSTITUTE FOR
SENATE COMMITTEE SUBSTITUTE FOR
HOUSE SUBSTITUTE FOR
HOUSE BILL NO. 1455

An Act to repeal sections 50.1020, 50.1040, 87.207, 104.050, 104.095, 104.110, 104.140, 104.250, 104.254, 104.270, 104.335, 104.344, 104.350, 104.374, 104.380, 104.400, 104.436, 104.438, 104.515, 104.540, 104.601, 104.620, 104.625, 104.800, 104.1015, 104.1018, 104.1021, 104.1024, 104.1039, 104.1054, 104.1066, 104.1072, 104.1075, 104.1093, 104.1200, 104.1210, 104.1215, 217.665 and 476.517, RSMo, and to enact in lieu thereof forty-six new sections relating to public retirement systems, with an emergency clause.

Senator Gross moved that **SS** for **SCS** for **HS** for **HB 1455** be adopted.

Senator Caskey offered **SA 1**:

SENATE AMENDMENT NO. 1

Amend Senate Substitute for Senate Committee Substitute for House Substitute for House Bill No. 1455, Page 44, Section 104.800, Line 16 of said page, by inserting after all of said line the following:

“2. Any person who has at least eight years of service as a judge, as defined in section 476.515, RSMo, and who had at least ten years of service pursuant to the provisions of sections 56.800 to 56.840, RSMo, may elect prior to retirement and not after retirement, to make a

one-time transfer of credit for such service or such creditable service to or from the judicial retirement system pursuant to sections 476.450 to 476.690, RSMo, or the prosecuting attorneys' retirement system pursuant to sections 56.800 to 56.840, RSMo, for which the person has accumulated service or creditable service. The amount of transferred credit shall be accumulated with the amount of such creditable service or such service earned by the person in the retirement system or type of service to which the service is transferred for purposes of determining the benefits to which the person is entitled under the retirement system or type of service to which the service is transferred. The transfer of such creditable service or service shall become effective on the first day of the second month following the month in which the person files written notification of the person's election with the retirement boards affected by such service transfer. When the election to transfer creditable service or service becomes effective, the person shall thereby forfeit any claim to any benefit under the provisions of the retirement system or type of service, as the case may be, from which the service or creditable service was transferred regardless of the amount of service or creditable service previously earned in such retirement system or type of service.

Further amend said bill, Page 75, Section 476.517, Line 26 of said page, by inserting after all of said line the following:

“476.689. Any judge as defined in section 476.515, who is actively serving and has served for at least ten years may elect prior to retirement to receive additional credited service for previous public employment with the state as an employee of the juvenile court pursuant to chapter 211, RSMo, previously covered by another retirement plan as defined in section 105.691, RSMo. The person must forfeit any right to benefits to which the person may have been entitled under the previously covered

retirement plan. In no event shall the amount of service that a person shall be entitled to transfer pursuant to the provisions of this section exceed eight years.”; and

Further renumber the sections, amend the title and enacting clause accordingly.

Senator Caskey moved that the above amendment be adopted.

Senator Rohrbach requested a roll call vote be taken on the adoption of **SA 1** and was joined in his request by Senators Gibbons, Gross, Loudon and Schneider.

SA 1 failed of adoption by the following vote:

YEAS—Senators

Bentley	Bland	Caskey	Coleman
Dougherty	Jacob	Mathewson	Quick
Russell	Sims	Staples	Stoll
Westfall	Wiggins—14		

NAYS—Senators

Cauthorn	Foster	Gibbons	Goode
Gross	Kennedy	Kenney	Kinder
Klarich	Loudon	Rohrbach	Singleton
Steelman	Yeckel—14		

Absent—Senators

Childers	House	Johnson	Klindt
Schneider—5			

Absent with leave—Senator DePasco—1

Senator Dougherty offered **SA 2**:

SENATE AMENDMENT NO. 2

Amend Senate Substitute for Senate Committee Substitute for House Substitute for House Bill No. 1455, Page 6, Section 71.203, Line 25, by inserting after all of said line the following:

“86.200. The following words and phrases as used in sections 86.200 to 86.366, unless a different meaning is plainly required by the context, shall have the following meanings:

(1) “Accumulated contributions”, the sum of

all mandatory contributions deducted from the compensation of a member and credited to the member's individual account, together with members' interest thereon;

(2) “Actuarial equivalent”, a benefit of equal value when computed upon the basis of mortality tables and interest assumptions adopted by the board of trustees;

(3) “Average final compensation”:

(a) With respect to a member who earns no creditable service on or after October 1, 2001, the average earnable compensation of the member during the member's last three years of creditable service as a police officer, or if the member has had less than three years of creditable service, the average earnable compensation of the member's entire period of creditable service;

(b) With respect to a member who is not participating in the DROP pursuant to section 86.251 on October 1, 2001, who did not participate in the DROP at any time before such date, and who earns any creditable service on or after October 1, 2001, the average earnable compensation of the member during the member's last two years of creditable service as a policeman, or if the member has had less than two years of creditable service, then the average earnable compensation of the member's entire period of creditable service;

(c) With respect to a member who is participating in the DROP pursuant to section 86.251 on October 1, 2001, or whose participation in DROP ended before such date, who returns to active participation in the system pursuant to section 86.251, and who terminates employment as a police officer for reasons other than death or disability before earning at least two years of creditable service after such return, the portion of the member's benefit attributable to creditable service earned before DROP entry shall be determined using average final compensation as defined in paragraph (a) of this subdivision; and the portion of the member's benefit attributable to

creditable service earned after return to active participation in the system shall be determined using average final compensation as defined in paragraph (b) of this subdivision;

(d) With respect to a member who is participating in the DROP pursuant to section 86.251 on October 1, 2001, or whose participation in the DROP ended before such date, who returns to active participation in the system pursuant to section 86.251, and who terminates employment as a police officer after earning at least two years of creditable service after such return, the member's benefit attributable to all of such member's creditable service shall be determined using the member's average final compensation as defined in paragraph (b) of this subdivision;

(e) With respect to a member who is participating in the DROP pursuant to section 86.251 on October 1, 2001, or whose participation in DROP ended before such date, who returns to active participation in the system pursuant to section 86.251, and whose employment as a police officer terminates due to death or disability after such return, the member's benefit attributable to all of such member's creditable service shall be determined using the member's average final compensation as defined in paragraph (b) of this subdivision; and

(f) [If a member who is described in paragraph (c) or (e) of this subdivision completes less than one full year of creditable service after returning to active participation in the system, the member's earnable compensation for the period immediately prior to DROP entry shall be added to the member's earnable compensation after the member's return to active participation for purposes of determining such member's average final compensation for his or her last year of creditable service] **With respect to the surviving spouse or surviving dependent child of a member who earns any creditable service on or after October 1, 2001, the average earnable compensation of the member during the member's last two years**

of creditable service as a police officer or, if the member has had less than two years of creditable service, the average earnable compensation of the member's entire period of creditable service;

(4) "Beneficiary", any person in receipt of a retirement allowance or other benefit;

(5) "Board of police commissioners", any board of police commissioners, police commissioners and any other officials or boards now or hereafter authorized by law to employ and manage a permanent police force in such cities;

(6) "Board of trustees", the board provided in sections 86.200 to 86.366 to administer the retirement system;

(7) "Creditable service", prior service plus membership service as provided in sections 86.200 to 86.366;

(8) "DROP", the deferred retirement option plan provided for in section 86.251;

(9) "Earnable compensation", the annual salary which a member would earn during one year on the basis of the member's rank or position as specified in the applicable salary matrix in section 84.160, RSMo, plus additional compensation for academic work as provided in subsection 9 of section 84.160, RSMo, plus shift differential as provided in subdivision (4) of subsection 10 of section 84.160, RSMo. Such amount shall [be determined without regard to] **include** the member's deferrals to a deferred compensation plan pursuant to Section 457 of the Internal Revenue Code or to a cafeteria plan pursuant to Section 125 of the Internal Revenue Code **or, effective October 1, 2001, to a transportation fringe benefit program pursuant to Section 132(f)(4) of the Internal Revenue Code.** Earnable compensation shall not include a member's additional compensation for overtime, standby time, court time, nonuniform time or unused vacation time. Notwithstanding the foregoing, the earnable compensation taken into account under

the plan established pursuant to sections 86.200 to 86.366 with respect to a member who is a noneligible participant, as defined in this subdivision, for any plan year beginning on or after October 1, 1996, shall not exceed the amount of compensation that may be taken into account under Section 401(a)(17) of the Internal Revenue Code, as adjusted for increases in the cost of living, for such plan year. For purposes of this subdivision, a "noneligible participant" is an individual who first becomes a member on or after the first day of the first plan year beginning after the earlier of:

(a) The last day of the plan year that includes August 28, 1995; or

(b) December 31, 1995;

(10) "Internal Revenue Code", the federal Internal Revenue Code of 1986, as amended;

(11) "Mandatory contributions", the contributions required to be deducted from the salary of each member who is not participating in DROP in accordance with section 86.320;

(12) "Medical board", the board of physicians provided for in section 86.237;

(13) "Member", a member of the retirement system as defined by sections 86.200 to 86.366;

(14) "Members' interest", interest on accumulated contributions at such rate as may be set from time to time by the board of trustees;

(15) "Membership service", service as a policeman rendered since last becoming a member, except in the case of a member who has served in the armed forces of the United States and has subsequently been reinstated as a policeman, in which case "membership service" means service as a policeman rendered since last becoming a member prior to entering such armed service;

(16) "Plan year" or "limitation year", the twelve consecutive-month period beginning each October first and ending each September thirtieth;

(17) "Policeman" or "police officer", any member of the police force of such cities who

holds a rank in such police force for which the annual salary is listed in section 84.160, RSMo;

(18) "Prior service", all service as a policeman rendered prior to the date the system becomes operative or prior to membership service which is creditable in accordance with the provisions of sections 86.200 to 86.366;

(19) "Retirement allowance", annual payments for life as provided by sections 86.200 to 86.366 which shall be payable in equal monthly installments or any benefits in lieu thereof granted to a member upon termination of employment as a police officer and actual retirement;

(20) "Retirement system", the police retirement system of the cities as defined in sections 86.200 to 86.366;

(21) "Surviving spouse", the surviving spouse of a member who was the member's spouse at the time of the member's death.

86.213. 1. The general administration and the responsibility for the proper operation of the retirement system and for making effective the provisions of sections 86.200 to 86.366 are hereby vested in a board of trustees of ten persons. The board shall be constituted as follows:

(1) The president of the board of police commissioners of the city, ex officio. If the president is absent from any meeting of the board of trustees for any cause whatsoever, the president may be represented by any member of the board of police commissioners who in such case shall have full power to act as a member of the board of trustees;

(2) The comptroller of the city, ex officio. If the comptroller is absent from any meeting of the board of trustees for any cause whatsoever, the comptroller may be represented by either the deputy comptroller or the first assistant comptroller who in such case shall have full power to act as a member of the said board of trustees;

(3) Three members to be appointed by the mayor of the city to serve for a term of two years;

(4) Three members to be elected by the members of the retirement system of the city for a term of three years; provided, however, that the term of office of the first three members so elected shall begin immediately upon their election and one such member's term shall expire one year from the date the retirement system becomes operative, another such member's term shall expire two years from the date the retirement system becomes operative and the other such member's term shall expire three years from the date the retirement system becomes operative; provided, further, that such members shall be members of the system and hold office only while members of the system;

(5) Two members who shall be retired members of the retirement system to be elected by the retired members of the retirement system for a term of three years; except that, the term of office of the first two members so elected shall begin immediately upon their election and one such member's term shall expire two years from the date of election and the other such member's term shall expire three years from the date of election.

2. Any member elected chairman of the board of trustees may serve [a total of four years in that capacity which shall be limited to no more than two consecutive terms] **without term limitations**.

3. Each commissioned elected trustee shall be granted travel time by the St. Louis metropolitan police department to attend any and all functions that have been authorized by the board of trustees of the police retirement system of St. Louis. Travel time, **with compensation**, for a trustee shall not exceed thirty days in any board fiscal year.

86.251. 1. The board of trustees may develop and establish a deferred retirement option plan (DROP) in which members who are eligible for retirement but who have not terminated employment as police officers and who have not actually retired may participate. The DROP shall be designed to allow members with at least twenty years of creditable service or who have attained the age of fifty-five who have achieved eligibility for

retirement and are entitled to a service retirement allowance and other benefits to postpone actual retirement, continue active employment and accumulate a deferred receipt of the service retirement allowance. No one shall participate in the DROP for a period exceeding five years.

2. Any member who has at least twenty years of creditable service or has attained the age of fifty-five may elect in writing before retirement to participate in the DROP. A member electing to participate in the DROP shall postpone actual retirement, shall continue in active employment and shall not receive any direct retirement allowance payments or benefits during the period of participation.

3. Upon the start of the participation in the DROP, the member shall cease to make any mandatory contributions to the system. No contribution shall be required by the city into the DROP account. During the period of participation in the DROP, the amount that the member would have received as a service retirement allowance if the member had actually retired instead of entering DROP shall be deposited monthly in the member's DROP account which shall be established in the member's name by the board of trustees. The member's service retirement allowance shall not be adjusted for any cost-of-living increases for any period prior to the member's termination of employment as a police officer and actual retirement. Cost-of-living increases, if any, for any period following the member's termination of employment as a police officer and actual retirement shall be applied only to monthly service retirement payments made following termination of employment as a police officer and actual retirement. Service earned during the period of participation in the DROP shall not be creditable service and shall not be counted in determination of any service retirement allowance or surviving spouse's or dependents' benefits. Compensation paid during the period of participation in the DROP shall not be earnable compensation and shall not be counted in the determination of any service

retirement allowance or surviving spouse's or dependent's benefits. The member's service retirement allowance shall be frozen as of the date the member enters DROP. Except as specifically provided in sections 86.200 to 86.366, the member's frozen service retirement allowance shall not increase while the member is participating in DROP or after the member's participation in DROP ends, and the member shall not share in any benefit improvement that is enacted or that becomes effective while such member is participating in the DROP.

4. A member shall cease participation in the DROP upon the termination of the member's employment as a police officer and actual retirement, or at the end of the five-year period commencing on the first day of the member's participation in the DROP, or as of the effective date, but in no event prior to October 1, 2001, of the member's election to return to active participation in the system, whichever occurs first. A member's election to return to active participation in the system before the end of the five-year period commencing on the first day of participation in the DROP shall be made and shall become effective in accordance with procedures established by the board of trustees, but in no event prior to October 1, 2001. Upon the member's termination of employment as a police officer and actual retirement, the member shall elect to receive the value of the member's DROP account, in one of the following forms of payment:

(a) A lump sum payment; or

(b) Equal monthly installments over a ten-year period.

Either form of payment should begin within thirty days after the member's notice to the board of trustees that the member has selected a particular option.

5. If a member who is participating in the DROP elects to return to active participation in the system or if a member who is participating in the

DROP does not terminate employment as a police officer in the city for which the retirement system was established pursuant to sections 86.200 to 86.366 and actually retires at the end of the five-year period commencing on the first day of the member's participation in the DROP, the member shall return to active participation in the system and shall resume making mandatory contributions to the system effective as of the day after participation in the DROP ends or, if later, October 1, 2001. The board of trustees shall notify the police commissioners to begin deducting mandatory contributions from the member's salary and the member's employment period shall count as creditable service beginning as of the day the member returns to active participation.

6. In no event shall a member whose participation in DROP has ended for any reason be eligible to participate in DROP again.

7. Upon the member's termination of employment as a police officer and actual retirement, the member's mandatory contributions to the retirement system shall be paid to the member pursuant to subsection 4 of section 86.253.

8. If a member dies prior to termination of employment as a police officer and actual retirement while participating in the DROP or before the member has received full withdrawal of the amount in the member's DROP account under the installment optional payment form, the remaining balance of the member's DROP account shall be payable to the member's surviving spouse; or, if the member is then unmarried, to the member's dependent children in equal shares; or, if none, to the member's dependent mother or father; or, if none, to the member's designated beneficiary or, if no such beneficiary is then living, to the member's estate. Payment shall be made **in a lump sum** within sixty days after [the retirement system is notified of the member's death] **receipt by the board of trustees of evidence and proof of the death of a member**. In addition, the member's mandatory contributions, if any, that were not

already paid to the member pursuant to subsection 4 of section 86.253 shall be paid to the member's surviving spouse pursuant to section 86.288.

9. If a member has elected to participate in the DROP and during such participation period applies for and receives benefits for an accidental disability retirement allowance pursuant to the provisions of section 86.263, the member shall forfeit all rights, claims or interest in the member's DROP account and the member's benefits shall be calculated as if the member has continued in employment and had not elected to participate in the DROP. Any portion of a DROP account that has been forfeited as provided in this subsection shall be a general asset of the system.

10. A member's DROP account shall earn interest equal to the rate of return earned by the system's investment portfolio on a market value basis, including realized and unrealized gains and losses, net of investment expense, as certified by the system's actuary. As of the [first] **last** day of each **plan** year[,] beginning [with the second fiscal year of] **after DROP** participation **begins**, the member's DROP account balance, determined as of the [first] **last** day of [such] **the prior plan** year, shall be credited with interest at the investment rate earned by the assets of the retirement system for [the] **such** prior **plan** year. If distribution of the member's DROP account balance is [completed during the year] **made in a lump sum under subsection 4 or 8 of this section**, interest for the **plan year of distribution** shall be credited[, based] on the [beginning] **ending** balance for the **prior plan** year at the investment rate earned on the assets of the retirement system for the **prior plan** year, in proportion to the part of the **plan** year preceding the date of [final distribution. No interest shall be credited on amounts, if any, added to the member's DROP account during the year in which the distribution of the account is completed] **the member's termination of employment or death, whichever is earlier**. If the member's DROP account is paid in equal monthly installments pursuant to subsection [5] **4** of this

section, [any] **interest during the installment period shall be credited as of the last day of each plan year ending after installment payment begins on the account balance as of the first or last day of the plan year, whichever is lower, at the investment rate earned by the assets of the system for the prior plan year. Interest for the year in which the final installment is paid shall be credited on the balance remaining after the final installment is paid, at the investment rate earned on the assets of the system for the prior plan year, in proportion to the part of the plan year preceding payment of the final installment.** Any interest credited to the DROP account during the installment period shall be paid as soon as reasonably possible after the final monthly installment. **No interest shall be credited on amounts, if any, added to the member's DROP account during the year in which the distribution of the account is completed.**

11. The board of trustees shall not incur any liability individually or on behalf of other individuals for any act or omission, made in good faith in relation to the DROP or assets credited to DROP accounts established by this section. The provisions of the Internal Revenue Code and regulations promulgated thereunder shall supersede any provision of this section if there is any inconsistency with the Internal Revenue Code or regulation.

12. Upon the receipt by the board of trustees of evidence and proof that the death of a member resulted from an event occurring while the member was in the actual performance of duty, and if the member is participating in the DROP, the member's surviving spouse or, if the member is then unmarried, the member's unmarried dependent children, may elect within thirty days after the member's death to have the amount in the member's DROP account paid in the form of a monthly survivor annuity. Payment of the survivor annuity shall begin within sixty days after the election is received. Payment to the member's surviving spouse shall continue until the surviving

spouse's death; payment to the member's unmarried dependent children shall be made while any child qualifies as an unmarried dependent child pursuant to section 86.280. The survivor annuity shall be the actuarial equivalent of the member's DROP account as of the date [payment begins] **of the member's death**. In no event shall the total amount paid pursuant to this subsection be less than the member's DROP account balance as of the date [payment begins] **of the member's death**.

86.255. 1. Notwithstanding any other provision of the plan established in sections 86.200 to 86.366, if an eligible rollover distribution becomes payable to a distributee, the distributee may elect, at the time and in the manner prescribed by the board of trustees, to have any of the eligible rollover distribution paid directly to an eligible retirement plan specified by the distributee in a direct rollover.

2. For purposes of this section, the following terms mean:

(1) "Direct rollover", a payment by the board of trustees from the fund to the eligible retirement plan specified by the distributee;

(2) "Distributee", a member, a surviving spouse or a spouse;

(3) "Eligible retirement plan", an individual retirement account described in Section 408(a) of the Internal Revenue Code, an individual retirement annuity described in Section 408(b) of the Internal Revenue Code, or a qualified trust described in Section 401(a) of the Internal Revenue Code that accepts the distributee's eligible rollover distribution **or, effective for eligible rollover distributions made on or after January 1, 2002, an annuity contract described in Section 403(b) of the Internal Revenue Code or an eligible plan under Section 457(b) of the Internal Revenue Code which is maintained by a state, political subdivision of a state, or any agency or instrumentality of a state or political subdivision of a state and which agrees to**

separately account for amounts transferred into such plan from this plan, and shall include, for eligible rollover distributions made on or after January 1, 2002, a distribution to a surviving spouse or to a spouse or former spouse who is the alternate payee under a qualified domestic relations order, as defined in Section 414(p) of the Internal Revenue Code;

(4) "Eligible rollover distribution", any distribution of all or any portion of a member's benefit, other than:

(a) A distribution that is one of a series of substantially equal periodic payments, made not less frequently than annually, for the life or life expectancy of the distributee or for the joint lives or joint life expectancies of the distributee and the distributee's designated beneficiary, or for a specified period of ten years or more;

(b) The portion of a distribution that is required under Section 401(a)(9) of the Internal Revenue Code; or

(c) **[The] Effective for distributions made on or after January 1, 2002, a portion of [any] a distribution [that is not includable in] shall not fail to be an eligible rollover distribution merely because the portion consists of after-tax employee contributions which are not includable in gross income. However, such portion may be transferred only to an individual retirement account or annuity described in Section 408(a) or (b) of the Internal Revenue Code, or to a qualified defined contribution plan described in Section 401(a) or 403(a) of the Internal Revenue Code that agrees to separately account for amounts so transferred, including to separately account for the portion of such distribution which is includable in gross income and the portion that is not so includable.**

3. The board of trustees shall, at least thirty days, but not more than ninety days, before making an eligible rollover distribution, provide a written

explanation to the distributee in accordance with the requirements of Section 402(f) of the Internal Revenue Code.

4. If the eligible rollover distribution is not subject to Sections 401(a) and 417 of the Internal Revenue Code, such eligible rollover distribution may be made less than thirty days after the distributee has received the notice described in subsection 3 of this section, provided that:

(1) The board of trustees clearly informs the distributee of the distributee's right to consider whether to elect a direct rollover, and if applicable, a particular distribution option, for at least thirty days after the distributee receives the notice; and

(2) The distributee, after receiving the notice, affirmatively elects a distribution.

86.256. 1. In no event shall a member's annual benefit paid under the plan established pursuant to sections 86.200 to 86.366 exceed the amount specified in Section 415(b)(1)(A) of the Internal Revenue Code, as adjusted for any applicable increases in the cost of living, as in effect on the last day of the plan year, including any increases after the member's termination of employment.

2. Effective for limitation years beginning after December 31, 2001, in no event shall the annual additions to the plan established pursuant to sections 86.200 to 86.366, on behalf of the member, including the member's own mandatory contributions, exceed the lesser of:

(1) [Twenty-five] **One hundred** percent of the member's compensation, as defined for purposes of Section 415(c)(3) of the Internal Revenue Code, **for the limitation year**; or

(2) [Thirty] **Forty** thousand dollars, as adjusted for increases in the cost of living **under Section 415(d) of the Internal Revenue Code**.

3. Effective for limitation years beginning prior to January 1, 2000, in no event shall the combined plan limitation of Section 415(e) of the Internal Revenue Code be exceeded; provided that,

if necessary to avoid exceeding such limitation, the member's annual benefit under the plan established pursuant to sections 86.200 to 86.366 shall be reduced to the extent necessary to satisfy such limitations.

4. For purposes of this section, Section 415 of the Internal Revenue Code, including the special rules under Section 415(b) applicable to governmental plans and qualified participants [in] **employed by a police [and] or fire department [plans]**, is incorporated in this section by reference.

86.294. 1. Notwithstanding any other provision of the plan established in sections 86.200 to 86.366, and subject to the provisions of subsections 2, 3, and 4 of this section, effective January 1, 2002, the plan shall accept a member's rollover contribution or direct rollover of an eligible rollover distribution made on or after January 1, 2002, from a qualified plan described in Section 401(a) or 403(a) of the Internal Revenue Code, or an annuity contract described in Section 403(b) of the Internal Revenue Code, or an eligible plan under Section 457(b) of the Internal Revenue Code which is maintained by a state, political subdivision of a state, or any agency or instrumentality of a state or political subdivision of a state. The plan will also accept a member's rollover contribution of the portion of a distribution from an individual retirement account or annuity described in Section 408(a) or (b) of the Internal Revenue Code that is eligible to be rolled over and would otherwise be includable in gross income.

2. The amount of such rollover contribution or direct rollover of an eligible rollover distribution shall not exceed the amount required to repay the member's accumulated contributions plus the applicable members' interest thereon from the date of withdrawal to the date of repayment in order to receive credit for such prior service in accordance with section 86.210, to the extent that Section 415 of the Internal Revenue Code does not apply to such

repayment by reason of subsection (k)(3) thereof, or to purchase permissive service credit, as defined in Section 415(n)(3)(A) of the Internal Revenue Code, for the member under the plan in accordance with the provisions of section 105.691, RSMo.

3. Acceptance of any rollover contribution or direct rollover of eligible rollover distribution under this section shall be subject to the approval of the board of trustees and shall be made in accordance with procedures established by the board of trustees.

4. In no event shall the plan accept any rollover contribution or direct rollover distribution to the extent that such contribution or distribution consists of after-tax employee contributions which are not includable in gross income.

86.296. 1. Notwithstanding any other provision of the plan established in sections 86.200 to 86.366, and subject to the provisions of subsections 2 and 3 of this section, effective January 1, 2002, the plan shall accept a direct trustee-to-trustee transfer on behalf of a member from an annuity contract described in Section 403(b) of the Internal Revenue Code or an eligible plan under Section 457(b) of the Internal Revenue Code which is maintained by a state, political subdivision of a state, or any agency or instrumentality of a state or political subdivision.

2. A trustee-to-trustee transfer may be accepted by the plan only if the transfer is used to repay the member's accumulated contributions plus the applicable members' interest thereon from the date of withdrawal to the date of repayment in order to receive credit for such prior service in accordance with section 86.210, to the extent that Section 415 of the Internal Revenue Code does not apply to such repayment by reason of subsection (k)(3) thereof, or to purchase permissive service credit, as defined in Section 415(n)(3)(A) of the

Internal Revenue Code, for the member under the plan in accordance with the provisions of section 105.691, RSMo.

3. Acceptance of any trustee-to-trustee transfer under this section shall be subject to the approval of the board of trustees and shall be made in accordance with procedures established by the board of trustees.”; and

Further amend the title and enacting clause accordingly.

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

Senator Coleman offered SA 3:

SENATE AMENDMENT NO. 3

Amend Senate Substitute for Senate Committee Substitute for House Substitute for House Bill No. 1455, Page 10, Section 87.231, Line 1, by inserting at the appropriate location the following:

"87.235. 1. Effective May 1, 2002, upon the receipt of evidence and proof that the death of a member was the result of an accident or exposure at any time or place, provided that at such time or place the member was in the actual performance of the member's duty and, in the case of an exposure, while in response to an emergency call, or was acting pursuant to orders, there shall be paid in lieu of all other benefits the following benefits:

(1) A retirement allowance to the widow during the person's widowhood of [fifty] **seventy** percent of the [deceased member's average final compensation] **pay then provided by law for the highest step in the range of salary for the next title or next rank above the member's range or title held at the time of the member's death,** plus ten percent of such compensation to or for the benefit of each unmarried dependent child of the deceased member, who is either under the age of eighteen, or who is totally and permanently mentally or physically disabled and incapacitated, regardless of age, but not in excess of a total of

three children, including both classes, and paid as the board of trustees in its discretion directs;

(2) If no widow benefits are payable pursuant to subdivision (1), such total allowance as would have been paid had there been a widow shall be divided among the unmarried dependent children under the age of eighteen and such unmarried children, regardless of age, who are totally and permanently mentally or physically disabled and incapacitated, and paid to or for the benefit of such children as the board of trustees in its discretion shall direct;

(3) If there is no widow, or child under the age of eighteen years, or child, regardless of age, who is totally and permanently mentally or physically disabled and incapacitated, then an amount equal to the widow's benefit shall be paid to the member's dependent father or dependent mother, as the board of trustees shall direct, to continue until remarriage or death;

(4) Any benefit payable to, or for the benefit of, a child or children under the age of eighteen years pursuant to subdivisions (1) and (2) of this section shall be paid beyond the age of eighteen years through the age of twenty-five years in such cases where the child is a full-time student at a regularly accredited college, business school, nursing school, school for technical or vocational training or university, but such benefit shall cease whenever the child ceases to be a student. A college or university shall be deemed to be regularly accredited which maintains membership in good standing in a national or regional accrediting agency recognized by any state college or university.

2. No benefits pursuant to this section shall be paid to a child over eighteen years of age who is totally and permanently mentally or physically disabled and incapacitated, if such child is a patient or ward in a public-supported institution.

3. Wherever any dependent child designated by the board of trustees to receive benefits pursuant

to this section is in the care of the widow of the deceased member, the child's benefits may be paid to the widow for the child."; and

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

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

Senator Schneider offered **SA 4**:

SENATE AMENDMENT NO. 4

Amend Senate Substitute for Senate Committee Substitute for House Substitute for House Bill No. 1455, Page 75, Section 476.517, Line 26 of said page, by inserting immediately after said line the following:

“Section 1. Effective August 28, 2002, any former member of the general assembly who served at least two full biennial assemblies and had no creditable service for the same period of service in another retirement system shall be made and employed by the board as a special consultant on the problems related to retirement and shall, when requested by the board, give opinions either written or orally on such problems. As compensation for such duties the former member of the general assembly shall be entitled to retire with a normal annuity effective the first of the month following receipt by the board of a written application. In no event shall retroactive benefits be paid.”; and

Further amend the title and enacting clause accordingly.

Senator Schneider moved that the above amendment be adopted.

Senator Schneider offered **SSA 1 for SA 4**:

**SENATE SUBSTITUTE AMENDMENT NO. 1
FOR SENATE AMENDMENT NO. 4**

Amend Senate Substitute for Senate Committee Substitute for House Substitute for House Bill No. 1455, Page 69, Section 104.1075, Line 19 of said page, by inserting immediately after

said line the following:

“104.1084. 1. For members of the general assembly, the provisions of this section shall supplement or replace the indicated other provisions of the year 2000 plan. “Normal retirement eligibility” means attainment of age fifty-five for a member who has served at least [two] **three** full biennial assemblies or the attainment of at least age fifty for a member who has served at least [two] **three** full biennial assemblies with a total of years of age and years of credited service which is at least eighty. A member shall receive two years of credited service for every full biennial assembly served. A full biennial assembly shall be equal to the period of time beginning on the first day the general assembly convenes for a first regular session until the last day of the following year. If a member serves less than a full biennial assembly, the member shall receive credited service for the pro rata portion of the full biennial assembly served.

2. For the purposes of section 104.1024, the normal retirement annuity of a member of the general assembly shall be an amount for life equal to one twenty-fourth of the monthly pay for a senator or representative on the annuity starting date multiplied by the years of credited service as a member of the general assembly. In no event shall any such member or eligible beneficiary receive annuity amounts in excess of one hundred percent of pay.

3. To be covered by the provisions of section 104.1030, or section 104.1036, a member of the general assembly must have served at least [two] **three** full biennial assemblies.

4. For members who are statewide elected officials, the provisions of this section shall supplement or replace the indicated other provisions of the year 2000 plan. “Normal retirement eligibility” means attainment of age fifty-five for a member who has served at least four years as a statewide elected official, or the attainment of age fifty with a total of years of age

and years of such credited service which is at least eighty.

5. For the purposes of section 104.1024, the normal retirement annuity of a member who is a statewide elected official shall be an amount for life equal to one twenty-fourth of the monthly pay in the highest office held by such member on the annuity starting date multiplied by the years of credited service as a statewide elected official not to exceed twelve years.

6. To be covered by the provisions of sections 104.1030 and 104.1036, a member who is a statewide elected official must have at least four years as a statewide elected official.

7. The provisions of section 104.1045 shall not apply to persons covered by the general assembly and statewide elected official provisions of this section. Persons covered by the general assembly provisions and receiving a year 2000 plan annuity shall be entitled to a cost-of-living adjustment (COLA) when there are increases in pay for members of the general assembly. Persons covered by the statewide elected official provisions and receiving a year 2000 plan annuity shall be entitled to COLAs when there are increases in the pay for statewide elected officials in the highest office held by such person. The COLA described in this subsection shall be equal to and concurrent with the percentage increase in pay as described in section 105.005, RSMo. No COLA shall be less than zero.

8. Any member who serves under this chapter as a member of the general assembly or as a statewide elected official on or after August 28, 1999, shall not be eligible to receive any retirement benefits from the system under either the closed plan or the year 2000 plan based on service rendered on or after August 28, 1999, as a member of the general assembly or as a statewide elected official if such member is convicted of a felony that is determined by a court of law to have been committed in connection with the member's duties either as a member of the general assembly or as a

statewide elected official, unless such conviction is later reversed by a court of law.

9. A member of the general assembly who has purchased or transferred creditable service shall not be subject to the cap on benefits pursuant to subsection 2 of this section for that portion of the benefit attributable to the purchased or transferred service.”; and

Further amend the title and enacting clause accordingly.

Senator Schneider moved that the above substitute amendment be adopted.

At the request of Senator Gross, **HS for HB 1455**, with **SCS, SS for SCS, SA 4** and **SSA 1 for SA 4** (pending) was placed on the Informal Calendar.

PRIVILEGED MOTIONS

Senator Quick moved that **SB 1039**, with **HS for HCS**, be taken up for 3rd reading and final passage, which motion prevailed.

HS for HCS for SB 1039, as amended, entitled:

**HOUSE SUBSTITUTE FOR
HOUSE COMMITTEE SUBSTITUTE FOR
SENATE BILL NO. 1039**

An Act to repeal sections 99.050 and 99.134, RSMo, and to enact in lieu thereof two new sections relating to municipal housing authority commissioners.

Was taken up.

Senator Quick moved that **HS for HCS for SB 1039** be adopted, which motion prevailed by the following vote:

YEAS—Senators

Bentley	Bland	Caskey	Cauthorn
Childers	Dougherty	Foster	Gibbons
Goode	Gross	Jacob	Johnson
Kennedy	Kenney	Kinder	Klarich
Klindt	Loudon	Mathewson	Quick
Rohrbach	Schneider	Sims	Singleton

Steelman	Stoll	Westfall	Wiggins
Yeckel—29			

NAYS—Senators—None

Absent—Senators

Coleman	House	Russell	Staples—4
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Absent with leave—Senator DePasco—1

On motion of Senator Quick, **HS for HCS for SB 1039** was read the 3rd time and passed by the following vote:

YEAS—Senators

Bentley	Bland	Caskey	Cauthorn
Childers	Coleman	Dougherty	Foster
Goode	Gross	Jacob	Kennedy
Kenney	Kinder	Klarich	Klindt
Loudon	Mathewson	Quick	Rohrbach
Schneider	Sims	Singleton	Steelman
Stoll	Westfall	Wiggins	Yeckel—28

NAYS—Senator Gibbons—1

Absent—Senators

House	Johnson	Russell	Staples—4
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Absent with leave—Senator DePasco—1

The President declared the bill passed.

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

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

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

Bill ordered enrolled.

Senator Kenney moved that **SCS for SB 892**, with **HCS**, be taken up for 3rd reading and final passage, which motion prevailed.

HCS for SCS for SB 892, entitled:

**HOUSE COMMITTEE SUBSTITUTE FOR
SENATE COMMITTEE SUBSTITUTE FOR
SENATE BILL NO. 892**

An Act to repeal sections 214,270 and

214.387, RSMo, and to enact in lieu thereof two new sections relating cemeteries.

Was taken up.

Senator Kenney moved that **HCS** for **SCS** for **SB 892** be adopted, which motion prevailed by the following vote:

YEAS—Senators

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

NAYS—Senator Goode—1

Absent—Senators

House Schneider Staples—3

Absent with leave—Senator DePasco—1

On motion of Senator Kenney, **HCS** for **SCS** for **SB 892** was read the 3rd time and passed by the following vote:

YEAS—Senators

Bentley	Bland	Caskey	Cauthorn
Childers	Coleman	Dougherty	Foster
Gibbons	Goode	Gross	Jacob
Johnson	Kennedy	Kenney	Kinder
Klarich	Klindt	Loudon	Mathewson
Quick	Rohrbach	Russell	Schneider
Sims	Singleton	Stelman	Stoll
Westfall	Wiggins	Yeckel—31	

NAYS—Senators—None

Absent—Senators

House Staples—2

Absent with leave—Senator DePasco—1

The President declared the bill passed.

On motion of Senator Kenney, title to the bill

was agreed to.

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

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

Bill ordered enrolled.

Senator Westfall moved that the Senate refuse to concur in **HS No. 2** for **HCS** for **SS** for **SCS** for **SBs 969, 673** and **855**, as amended, and request the House to recede from its position or, failing to do so, grant the Senate a conference thereon, which motion prevailed.

President Maxwell assumed the Chair.

Senator Rohrbach moved that the Senate refuse to concur in **HS** for **HCS** for **SCS** for **SBs 1061** and **1062**, as amended, and request the House to recede from its position or, failing to do so, grant the Senate a conference thereon, which motion prevailed.

Senator Cauthorn moved that the Senate refuse to concur in **HCS** for **SS** for **SCS** for **SBs 837, 866, 972**, and **990**, as amended, and request the House to recede from its position or, failing to do so, grant the Senate 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 **SCS** for **HB 1402**, as amended: Senators Steelman, Kenney, Bentley, Goode and Stoll.

MESSAGES FROM THE HOUSE

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

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

SB 1026, entitled:

An Act to repeal section 376.1219, RSMo, and to enact in lieu thereof three new sections relating to health insurance coverage for cancer treatment and prevention and certain inherited diseases.

With House Amendment No. 2.

HOUSE AMENDMENT NO. 2

Amend House Substitute for Senate Committee Substitute for Senate Bill No. 1026, Page 1, Section A, Line 2, by inserting after all of said line the following:

“194.220. 1. Any individual of sound mind who is at least eighteen years of age may give all or any part of his **or her** body for any purpose specified in section 194.230, the gift to take effect upon death. **Any individual who is a minor and at least sixteen years of age may effectuate a gift for any purpose specified in section 194.230, provided parental or guardian consent is deemed given. Parental or guardian consent shall be noted on the minor's donor card, application for the donor's instruction permit or driver's license, or other document of gift.** An express gift that is not revoked by the donor before death is irrevocable, and the donee shall be authorized to accept the gift without obtaining the consent of any other person.

2. Any of the following persons, in order of priority stated, when persons in prior classes are not available at the time of death, and in the absence of actual knowledge of a gift by the decedent [under] **pursuant to** subsection 1 of this section or actual notice of contrary indications by the decedent [or of opposition by a member of the same or a prior class], may give all or any part of the decedent's body for any purpose specified in section 194.230:

(1) An attorney in fact under a durable power of attorney that expressly refers to making a gift of all or part of the principal's body [under] **pursuant to** the uniform anatomical gift act;

(2) The spouse;

(3) An adult son or daughter;

(4) Either parent;

(5) An adult brother or sister;

(6) A guardian of the person of the decedent at the time of his **or her** death;

(7) Any other person authorized or under obligation to dispose of the body.

3. If the donee has actual notice of contrary indications by the decedent [or that a gift by a member of a class is opposed by a member of the same or a prior class], the donee shall not accept the gift. The persons authorized by subsection 2 of this section may make the gift after or immediately before death.

4. A gift of all or part of a body authorizes any examination necessary to assure medical acceptability of the gift for the purposes intended.

5. The rights of the donee created by the gift are paramount to the rights of others except as provided by subsection 4 of section 194.270.

194.230. The following persons may become donees of gifts of bodies or parts thereof for the purposes stated:

(1) Any hospital, surgeon, or physician, for medical or dental education, research, advancement of medical or dental science, therapy, or transplantation; or

(2) Any accredited medical or dental school, college or university or the state anatomical board for education, research, advancement of medical or dental science, or therapy; or

(3) Any bank or storage facility, for medical or dental education, research, advancement of medical or dental science, therapy, or transplantation; or

(4) Any specified individual for therapy or transplantation needed by [him] **such individual.**”;

and

Further amend said bill, Page 2, Section

376.1253, Line 27, by inserting immediately after said line the following:

“376.1275. 1. Each health carrier or health benefit plan that offers or issues health benefit plans which are delivered, issued for delivery, continued, or renewed in this state on or after January 1, 2003, shall include coverage for the cost for human leukocyte antigen testing, also referred to as histocompatibility locus antigen testing, for A, B, and DR antigens for utilization in bone marrow transplantation. The testing must be performed in a facility which is accredited by the American Association of Blood Banks or its successors, the College of American Pathologists, or any other national accrediting body which has requirements that are substantially equivalent to or more stringent than those of the College of American Pathologists, and is licensed under the Clinical Laboratory Improvement Act, 42 U.S.C. Section 263a, as amended. At the time of testing, the person being tested must complete and sign an informed consent from which also authorizes the results of the test to be used for participation in the National Marrow Donor Program. The health benefit plan may limit each enrollee to one such testing per lifetime not to exceed seventy-five dollars to be reimbursed by the health carrier or health benefit plan.

2. For the purposes of this section, “health carrier” and “health benefit plan” shall have the same meaning as defined in section 376.1350.

3. The health care service required by this section shall not be subject to any greater deductible or copayment than other similar health care services provided by the health benefit plan.

4. The provisions of this section shall not apply to a supplemental insurance policy, including a life care contract, accident-only policy, specified disease policy, hospital policy providing a fixed daily benefit only, Medicare

supplement policy, long-term care policy, short-term major medical policies of six months or less duration, or any other supplemental policy as determined by the director of the department of insurance.

Section 1. The provisions in subsection 1 of section 194.220 relating to allowing a minor who is at least sixteen years of age to effectuate a gift for any purpose specified in section 194.230 through the driver license or instruction permit application process, shall be effective July 1, 2003.”; and

Further amend the title and enacting clause accordingly.

In which the concurrence of the Senate is respectfully requested.

Also,

Mr. President: I am instructed by the House of Representatives to inform the Senate that the House has taken up and passed **HCS for SS for SCS for SB 840**, entitled:

An Act to repeal section 516.097, RSMo, and to enact in lieu thereof one new section relating to statute of repose for certain design professionals.

In which the concurrence of the Senate is respectfully requested.

Also,

Mr. President: I am instructed by the House of Representatives to inform the Senate that the House has taken up and passed **HS for SS No. 2 for SCS for SBs 984 and 985**, entitled:

An Act to repeal sections 142.028, 247.030, 247.031, 247.040, 247.217, 247.220, 260.200, 323.060, 393.847, 414.032, 640.100, 643.220, 644.016, 644.036, 644.051, and 644.052, RSMo, and to enact in lieu thereof twenty-five new sections relating to environmental regulation.

With House Amendments Nos. 1, 2, 3, 4, 5 and 6.

HOUSE AMENDMENT NO. 1

Amend House Substitute for Senate Substitute No. 2 for Senate Committee Substitute for Senate Bills Nos. 984 and 985, Page 31, Section 247.220, Line 13 of said page, by deleting the word “**absolutely**”.

HOUSE AMENDMENT NO. 2

Amend House Substitute for Senate Substitute No. 2 for Senate Committee Substitute for Senate Bills Nos. 984 and 985, Page 63, Section 644.036, Lines 24 and 25 of said page, by deleting all of said lines; and

Further amend said bill, Page 64, Section 644.036, Lines 1 to 3 of said page, by deleting all of said lines and inserting in lieu thereof the following:

“5. Any listing required by Section 303(d) of the federal Clean Water Act, as amended, 33 U.S.C. 1251 et seq., to be sent to the U.S. Environmental Protection Agency for their approval that will result in any waters of this state being classified as impaired shall be adopted by rule pursuant to chapter 536, RSMo. Total maximum daily loads shall not be required for any listed waters that subsequently are determined to meet water quality standards.”.

HOUSE AMENDMENT NO. 3

Amend House Substitute for Senate Substitute No. 2 for Senate Committee Substitute for Senate Bills Nos. 984 and 985, by inserting at the appropriate location the following section:

“644.581. Notwithstanding the provisions of section 644.570, RSMo, concerning the percentage ratio disbursement of grants and loans, if the full amount of grant and loan funds available for percentage ratio disbursement pursuant to section 644.578, 644.579, or 644.580, RSMo, are not disbursed to and accepted by eligible recipients, the department shall disburse any remaining funds to one or more of

the other eligible recipients to which funds have already been disbursed and accepted.”; and

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

HOUSE AMENDMENT NO. 4

Amend House Substitute for Senate Substitute No. 2 for Senate Committee Substitute for Senate Bills Nos. 984 and 985, Page 7, Section 643.335, by inserting in the appropriate location the following:

“643.335. 1. The commission shall establish, by rule, a waiver amount which may be lower for older model vehicles and which, prior to January 1, 2001, shall be no greater than seventy-five dollars for model year vehicles prior to 1981, no greater than two hundred dollars for model year vehicles of 1981 to 1996 and no greater than four hundred and fifty dollars for model year vehicles of 1997 and all subsequent model years. On and after January 1, 2001, the commission may, by rule, set the waiver amount, except that the waiver amount shall not exceed the waiver amount provided in the federal Clean Air Act, as amended, 42 U.S.C. 7401 et seq., and the regulations promulgated thereunder for the enhanced motor vehicle emissions inspection.

2. The commission shall establish, by rule, a form and a procedure for verifying that repair and adjustment was performed on a failing vehicle prior to the granting of a waiver and approval.

3. The waiver form established pursuant to subsection 2 of this section shall be an affidavit requiring:

(1) A statement signed by the repairer that the specified work was done and stating the itemized charges for the work; and

(2) A statement signed by the emissions inspection contractor that an inspection of the vehicle verified, to the extent practical, that the specified work was done.

4. A vehicle which fails upon reinspection to meet the emissions standards specified by the

commission shall have the emissions standards waived and receive approval only if the owner furnishes a complete, signed affidavit satisfying the requirements of subsection 3 of this section and the cost of the parts, repairs and adjustment work performed is equal to or greater than the waiver amount established by the commission. Costs for repair work may only be included toward reaching the waiver amount if the repairs are performed by a recognized repair technician as defined by rule. **“The Commission shall establish, by rule, that costs for parts included toward reaching the waiver amount shall include, to the maximum extent appropriate, reasonable costs for purchase of tools required to perform repairs and adjustment work on a failing vehicle owned by the person purchasing such tools.”**

5. No cost for parts, repairs or adjustments shall be included toward reaching the waiver amount if such costs are covered by an emission control performance warranty provided by the manufacturer at no additional cost to the vehicle owner unless the vehicle owner provides, with the affidavit, a written denial of warranty remedy from the motor vehicle manufacturer, dealer or other person providing the warranty.

6. No cost for parts, repairs or adjustments shall be included toward reaching the waiver amount if such costs are required to correct the effects of tampering with emissions systems or air pollution control devices.”; and

Further amend title, enacting clause and intersectional references accordingly.

HOUSE AMENDMENT NO. 5

Amend House Substitute for Senate Substitute No. 2 for House Committee Substitute for Senate Bills Nos. 984 and 985, by inserting in the appropriate location the following:

“[644.018. In any contested case or judicial proceeding filed after January 1, 1998, involving surface water in any flood-prone area, if any defendant has obtained and fully complied with a

permit from a political subdivision which has enacted orders or ordinances as required by the Federal Emergency Management Agency as a prerequisite to participation in the National Flood Insurance Program, and which political subdivision has jurisdiction, pursuant to the zoning laws of this state or the laws and regulations of the Federal Emergency Management Agency, over the area in dispute, then the proper permitting and compliance with all conditions of such permitting of such project shall be conclusive proof that the project is a reasonable use and meets any reasonable-use test imposed by law or by a court.]”; and

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

HOUSE AMENDMENT NO. 6

Amend House Substitute for Senate Substitute No. 2 for Senate Committee Substitute for Senate Bills Nos. 984 and 985, Page 46, Section 414.043, Line 16 of said page, by deleting the words **“January 1, 2004”** and inserting in lieu thereof the following: **“July 31, 2005”**.

In which the concurrence of the Senate is respectfully requested.

Also,

Mr. President: I am instructed by the House of Representatives to inform the Senate that the Speaker has appointed the following conferees to act with a like committee from the Senate on **SCS** for **HB 1402**, as amended. Representatives: Mays (50), Gratz, O’Toole, Burton and Rector.

Also,

Mr. President: I am instructed by the House of Representatives to inform the Senate that the Speaker has appointed the following conferees to act with a like committee from the Senate on **SS No. 2** for **SCS** for **HB 1446**, as amended. Representatives: Luetkenhaus, Clayton, Ward, Burton and Luetkemeyer.

PRIVILEGED MOTIONS

Senator Kenney moved that the Senate refuse to concur in **HCS** for **SCS** for **SB 1026**, as amended, and request the House to recede from its position or, failing to do so, grant the Senate a conference thereon, which motion prevailed.

RESOLUTIONS

Senator Rohrbach offered Senate Resolution No. 1761, regarding Mary F. Richmond, Jefferson City, which was adopted.

Senator Gross offered Senate Resolution No. 1762, regarding Michael W. Rau, St. Peters, which was adopted.

Senator Westfall offered Senate Resolution No. 1763, regarding Colonial Springs Healthcare Center, Buffalo, which was adopted.

Senator Bentley offered Senate Resolution No. 1764, regarding Robbie Helfer, Springfield, which was adopted.

Senator Yeckel offered Senate Resolution No. 1765, regarding the Sixtieth Wedding Anniversary of Mr. and Mrs. Bernard Slavik, St. Louis, which was adopted.

Senator Yeckel offered Senate Resolution No. 1766, regarding Christopher George Brummel, Fenton, which was adopted.

Senator Yeckel offered Senate Resolution No.

1767, regarding Jenifer Zeigler, which was adopted.

Senator Westfall offered Senate Resolution No. 1768, regarding Bolivar Chapter of the Future Farmers of America, Bolivar, which was adopted.

Senator Westfall offered Senate Resolution No. 1769, regarding the El Dorado Springs High School FFA program, El Dorado Springs, which was adopted.

Senator Steelman offered Senate Resolution No. 1770, regarding Wanda “Candi” Jones, Holts Summit, which was adopted.

Senator Steelman offered Senate Resolution No. 1771, regarding Anna M. Strope, Linn, which was adopted.

INTRODUCTIONS OF GUESTS

Senator Cauthorn introduced to the Senate, the Physician of the Day, Dr. Carl Kruse, M.D., Palmyra.

Senator Kenney introduced to the Senate, his brother and sister-in-law, Peter and Julie Kenney, and their son, Jack, Lee’s Summit.

Senator Loudon introduced to the Senate, students from Incarnate Word School, Chesterfield.

On motion of Senator Kenney, the Senate adjourned until 9:00 a.m., Wednesday, May 15, 2002.

SENATE CALENDAR

SEVENTY-THIRD DAY—WEDNESDAY, MAY 15, 2002

FORMAL CALENDAR**THIRD READING OF SENATE BILLS**

SCS for SB 676-Yeckel, et al
(In Budget Control)

SENATE BILLS FOR PERFECTION

SB 652-Singleton and
Russell, with SCS

SBs 1085 & 1262-
Yeckel and Childers, with SCS

HOUSE BILLS ON THIRD READING

HS for HCS for HBs
1654 & 1156-Hosmer,
with SCS (Caskey)

HS for HCS for HB
1650-Hoppe, with SCS
(Steelman)

HCS for HB 1143, with
SCS (Kenney)

HS for HB 1399-Ransdall
(Yeckel)
(In Budget Control)

HCS for HB 1398 (Yeckel)
(In Budget Control)

HCS for HB 1689, with
SCS (Klarich)
(In Budget Control)

HCS for HB 1695, with SCS
(In Budget Control)

HS for HCS for HBs 1729,
1589 & 1435-Barnitz
(Cauthorn)

(In Budget Control)
HS for HB 1498-
Johnson (90), with SCS
(Sims)

Journal
INFORMAL CALENDAR

SENATE BILLS FOR PERFECTION

SBs 641 & 705-Russell, et al,
with SCS (pending)

SB 647-Goode, with SCS (pending)

SB 651-Singleton and
Russell, with SCS (pending)

SB 659-House and Kenney,
with SS#2, SA 3 and
SSA 1 for SA 3 (pending)

SB 660-Westfall, et al,
with SCS (pending)

SB 668-Bentley, with SS &
SA 1 (pending)

SB 689-Gibbons, et al,

with SCS

SB 696-Cauthorn, et al

SB 735-Steelman and
Kinder, with SCS

SBs 766, 1120 & 1121-
Steelman, with SCS

SB 832-Schneider, with SCS

SB 881-Steelman and
Yeckel, with SCS & SS
for SCS (pending)

SB 910-Gibbons

SB 912-Mathewson, with
SCS, SS for SCS & SA 4

(pending)
 SB 926-Kenney, et al, with SCS
 SB 938-Cauthorn, et al
 SB 971-Klindt, et al,
 with SCS
 SB 1010-Sims
 SB 1035-Yeckel
 SB 1040-Gibbons, et al, with SCS
 SB 1046-Gross and House,
 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, SS
 for SCS & SA 3 (pending)

SB 1087-Gibbons, et al,
 with SCS
 SB 1099-Childers, with SCS
 SB 1100-Childers, et al,
 with SS and SA 3 (pending)
 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
 SJR 23-Singleton, with SS,
 SA 1 & SSA 1 for SA 1
 (pending)

HOUSE BILLS ON THIRD READING

HCS for HBs 1150, 1237 &
 1327, with SCS (Gibbons)
 SS for SCS for HB 1196-
 Barnett, et al (Westfall)
 (In Budget Control)
 HCS for HB 1216, with SCS
 (Singleton)
 HCS for HBs 1344 & 1944,
 with SCS & SA 6
 (pending) (Caskey)
 HB 1406-Barnett, with SCS
 (Klindt)
 HCS for HB 1425, with SCS
 (House)
 HS for HB 1455-O'Toole,
 with SCS, SS for SCS,
 SA 4 & SSA 1 for SA 4
 (pending) (Gross)

HS for HCS for HBs 1461 &
 1470-Seigfreid, with
 SCS (Yeckel)
 HBs 1489 & 1850-Britt,
 with SCS, SS for SCS,
 SA 4 & SSA 1 for SA 4
 (pending) (Steelman)
 HS for HCS for HBs 1502 &
 1821-Luetkenhaus, with
 SCS (Rohrbach)
 HB 1508-Koller, with SCS
 (Westfall)
 HB 1600-Treadway, with SS
 & SA 3 (pending)
 (Mathewson)
 HB 1679-Crump, with SCS &
 point of order (Sims)
 HS for HCS for HB 1756-Reid (Klarich)

HCS for HB 1817, with SCS
(Bentley)

HB 1869-Barry (Klarich)

HCS for HB 1898, with SCS (Goode)

HS for HCS for HB 1906-Green (73),
with SCS (Kenney)

HS for HB 1994-Hosmer,
with SA 1 & SA 2 to

Part I of SA 1

(pending) (Bentley)

CONSENT CALENDAR

Senate Bills

Reported 2/5

SB 995-Rohrbach

Unofficial

House Bills

Reported 4/15

HB 1955-Hilgemann, et al,
with SCS (pending)
(Coleman)

HB 1085-Mays (50) (Quick)

HB 1643-Holand and Barry
(Singleton)

Journal

SENATE BILLS WITH HOUSE AMENDMENTS

SCS for SB 645-Mathewson,
with HCS

SCS for SB 680-Bland,
with HS for HCS, as amended

SB 718-House and Steelman, with HCS

SS for SCS for SB 840-
Gross, with HCS

SS#2 for SCS for SBs 984
& 985-Steelman, with

HS, as amended

SCS for SB 1212-Mathewson,
with HCS

SB 1251-Gibbons, with HCS

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BILLS IN CONFERENCE AND BILLS
CARRYING REQUEST MESSAGES

In Conference

SCS for SB 712-Singleton and Sims, with HS for HCS, as amended	SCS for SB 1202-Westfall, with HCS
SB 758-Bentley, with HCS (Senate adopted CCR and passed CCS)	SB 1220-Sims, with HS, as amended
SB 795-Schneider, with HCS (Senate adopted CCR#2 and passed CCS#2)	SS for SB 1248-Mathewson, with HS for HCS, as amended
SCS for SB 810-Dougherty, with HS for HCS, as amended	HB 1313-Burton, with SCS (Foster)
SB 895-Yeckel and Gross, with HS for HCS, as amended	HB 1402-Burton, et al, with SCS, as amended (Steelman)
SS for SS for SCS for SBs 970, 968, 921, 867, 868 & 738-Westfall, with HS for HCS, as amended	HB 1446-Luetkenhaus, with SS#2 for SCS, as amended (Kenney)
SCS for SBs 1086 & 1126- DePasco & Quick, with HCS	HB 1712-Monaco, et al, with SS for SCS, as amended (Klarich)
	HB 2120-Ridgeway and Hosmer, with SCS (Gibbons)

Requests to Recede or Grant Conference

SS for SCS for SBs 837, 866, 972 & 990-Cauthorn, with HCS, as amended (Senate requests House recede or grant conference)	SS for SCS for SBs 969, 673 & 855-Westfall, with HS#2 for HCS, as amended (Senate requests House recede or grant conference)
SCS for SBs 915, 710 & 907-Westfall, et al, with HS, as amended (Senate requests House recede or grant conference)	SCS for SB 1026-Kenney, et al, with HS, as amended (Senate requests House recede or grant conference)

SCS for SBs 1061 & 1062-
Rohrbach and Kenney, with
HS for HCS, as amended
(Senate requests House
recede or grant conference)

HB 1953-Van Zandt, et al,
with SCS, as amended
(Singleton)
(House requests Senate
recede or grant conference)

RESOLUTIONS

SR 1026-Jacob, with SA 1
(pending)

Reported from Committee

SCR 51-Mathewson and
Yeckel, with SCA 1

HCR 24-Kreider (Westfall)

MISCELLANEOUS

REMONSTRANCE 1-Caskey

Unofficial

Journal

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