

# Journal of the Senate

FIRST REGULAR SESSION

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SIXTY-SEVENTH DAY—TUESDAY, MAY 6, 2003

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The Senate met pursuant to adjournment.

Senator Childers in the Chair.

Reverend Carl Gauck offered the following prayer:

“The evil men have fallen, there they lie, beaten down, never to stand again.” (Psalm 36:12)

Merciful God, we hear the war has ended and that an evil regime has been destroyed and for that we give You thanks. We pray that our troops will be safe and peace and order will be established in Iraq. We pray that peace loving people of our world will be able to find ways to unite those who have known only fear and hostility for others. We pray that each of us may contribute to this effort starting with our own interactions with one another. 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, the Associated Press, KOMU-TV and KMIZ-TV were given permission to take pictures in the Senate Chamber today.

The following Senators were present during the

day’s proceedings:

Present—Senators

Bartle	Bland	Bray	Caskey
Cauthorn	Champion	Childers	Clemens
Days	Dolan	Dougherty	Foster
Gibbons	Goode	Griesheimer	Gross
Jacob	Kennedy	Kinder	Klindt
Loudon	Mathewson	Nodler	Quick
Russell	Scott	Shields	Steelman
Stoll	Vogel	Wheeler	Yeckel—32

Absent with leave—Senators

Coleman DePasco—2

## RESOLUTIONS

Senator Steelman offered Senate Resolution No. 876, regarding Corrections Officer I Ronald Hamby, Edgar Springs, which was adopted.

Senator Steelman offered Senate Resolution No. 877, regarding Corrections Supervisor I Walter Foster, Waynesville, which was adopted.

Senator Days offered Senate Resolution No. 878, regarding KJLU-FM, Jefferson City, which was adopted.

Senator Nodler offered Senate Resolution No. 879, regarding Columbia Elementary School, Joplin, which was adopted.

Senator Loudon offered Senate Resolution No. 880, regarding Stacey Jones, Webster Groves, which was adopted.

Senator Loudon offered Senate Resolution No. 881, regarding Steve Klawiter, which was adopted.

Senator Loudon offered Senate Resolution No. 882, regarding Amy Orr, O'Fallon, which was adopted.

Senator Loudon offered Senate Resolution No. 883, regarding Pond Elementary School, Wildwood, which was adopted.

Senator Loudon offered Senate Resolution No. 884, regarding Wild Horse Elementary School, which was adopted.

Senator Loudon offered Senate Resolution No. 885, regarding Commons Lane Elementary School, which was adopted.

#### MESSAGES FROM THE HOUSE

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

Mr. President: I am instructed by the House of Representatives to inform the Senate that the Speaker has appointed the following conferees to act with a like committee from the Senate on **SS** for **SS** for **SCS** for **HCS** for **HB 600**, as amended. Representatives: Cooper (120), Sutherland, Icet, Hilgemann and Wilson (25).

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 **HS** for **HB 2**, as amended. Representatives: Bearden, Lager, Fares, Wilson (42) and Graham.

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 **HS** for **HB 3**, as amended. Representatives: Bearden, Lager, Fares, Harris

(23) and Fraser.

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 **HS** for **HB 4**, as amended. Representatives: Bearden, Lager, Roark, Merideth and Jones.

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 **HS** for **HB 5**, as amended. Representatives: Bearden, Lager, Roark, Villa and Walton.

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 **HS** for **HB 6**, as amended. Representatives: Bearden, Lager, Quinn, Whorton and Shoemyer.

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 **HS** for **HB 7**. Representatives: Bearden, Lager, Black, Boykins and Lowe.

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 **HS** for **HB 8**, as amended. Representatives: Bearden, Lager, Moore, Barnitz

and Wildberger.

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 **HS** for **HB 9** and requests the Senate to recede from its position and failing to do so grant the House a conference thereon.

Also,

Mr. President: I am instructed by the House of Representatives to inform the Senate that the House refuses to adopt **SCS**, as amended, for **HS** for **HB 10** and requests the Senate to recede from its position and failing to do so grant the House a conference thereon.

Also,

Mr. President: I am instructed by the House of Representatives to inform the Senate that the House refuses to adopt **SCS**, as amended, for **HS** for **HB 11** and requests the Senate to recede from its position and failing to do so grant the House a conference thereon.

Also,

Mr. President: I am instructed by the House of Representatives to inform the Senate that the House refuses to adopt **SCS**, as amended, for **HS** for **HB 12** and requests the Senate to recede from its position and failing to do so grant the House a conference thereon.

#### PRIVILEGED MOTIONS

Senator Russell requested unanimous consent of the Senate to make one motion to send **SCS** for **HS** for **HB 9**, as amended; **SCS** for **HS** for **HB 10**, as amended; **SCS** for **HS** for **HB 11**, as amended; and **SCS** for **HS** for **HB 12**, as amended, to conference, which request was granted.

Senator Russell moved that the Senate refuse to recede from its position on **SCS** for **HS** for **HB 9**, as amended; **SCS** for **HS** for **HB 10**, as amended; **SCS** for **HS** for **HB 11**, as amended; and

**SCS** for **HS** for **HB 12**, as amended, and grant the House a conference thereon, which motion prevailed.

#### CONFERENCE COMMITTEE APPOINTMENTS

President Pro Tem Kinder appointed the following conference committee to act with a like committee from the House on **SCS** for **HS** for **HB 9**, as amended: Senators Russell, Gross, Shields, Goode and Dougherty.

President Pro Tem Kinder appointed the following conference committee to act with a like committee from the House on **SCS** for **HS** for **HB 10**, as amended: Senators Russell, Gross, Shields, Goode and Dougherty.

President Pro Tem Kinder appointed the following conference committee to act with a like committee from the House on **SCS** for **HS** for **HB 11**, as amended: Senators Russell, Gross, Shields, Goode and Dougherty.

President Pro Tem Kinder appointed the following conference committee to act with a like committee from the House on **SCS** for **HS** for **HB 12**, as amended: Senators Russell, Gross, Shields, Goode and Dougherty.

#### REFERRALS

President Pro Tem Kinder referred **SCS** for **SB 307** and **SCS** for **SB 675** to the Committee on Governmental Accountability and Fiscal Oversight.

President Pro Tem Kinder referred **HCR 3** and **HCR 5** to the Committee on Rules, Joint Rules, Resolutions and Ethics.

#### SENATE BILLS FOR PERFECTION

Senator Gross moved that **SB 248**, **SB 100**, **SB 118**, **SB 233**, **SB 247**, **SB 341** and **SB 420**, with **SCS** and **SS** for **SCS** (pending), be called from the Informal Calendar and again taken up for perfection, which motion prevailed.

**SS for SCS for SBs 248, 100, 118, 233, 247, 341 and 420** was again taken up.

At the request of Senator Gross, **SS for SCS for SBs 248, 100, 118, 233, 247, 341 and 420** was withdrawn.

Senator Gross offered **SS No. 2 for SCS for SBs 248, 100, 118, 233, 247, 341 and 420**, entitled:

SENATE SUBSTITUTE NO. 2 FOR  
SENATE COMMITTEE SUBSTITUTE FOR  
SENATE BILLS NOS. 248, 100, 118, 233,  
247, 341 and 420

An Act to repeal sections 84.140, 86.690, 104.010, 104.040, 104.271, 104.370, 104.1003, 104.1024, 169.030, 169.050, 169.056, 169.070, 169.570, 169.577, 169.590, 169.620, 169.650, 169.655, 169.670, 169.712, and 287.845, RSMo, and to enact in lieu thereof thirty new sections relating to the retirement systems and benefits, with penalty provisions and an emergency clause for certain sections.

Senator Gross moved that **SS No. 2 for SCS for SBs 248, 100, 118, 233, 247, 341 and 420** be adopted.

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

SENATE AMENDMENT NO. 1

Amend Senate Substitute No. 2 for Senate Committee Substitute for Senate Bills Nos. 248, 100, 118, 233, 247, 341 and 420, Page 99, Section 287.845, Lines 5-8, by deleting all of said lines and inserting in lieu thereof the following:

“3. Notwithstanding any other provision of law to the contrary, nothing contained in this act shall alter or revise the administrative law judge’s and legal advisor’s retirement system as previously established by law.”.

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

Senator Bray offered **SA 2**:

SENATE AMENDMENT NO. 2

Amend Senate Substitute No. 2 for Senate Committee Substitute for Senate Bills Nos. 248, 100, 118, 233, 247, 341 and 420, Page 65, Section 169.331, Line 18, by inserting after all of said line, the following:

“169.560. Any person retired and currently receiving a retirement allowance pursuant to sections 169.010 to 169.141, other than for disability, may be employed in any capacity in a district included in the retirement system created by those sections on either a part-time or temporary-substitute basis not to exceed a total of [five] **seven** hundred fifty hours in any one school year, and through such employment may earn up to [fifty] **sixty-five** percent of the annual compensation payable under the employing district’s salary schedule for the position or positions filled by the retiree, given such person’s level of experience and education, without a discontinuance of the person’s retirement allowance. If the employing school district does not utilize a salary schedule, or if the position in question is not subject to the employing district’s salary schedule, a retiree employed in accordance with the provisions of this section may earn up to [fifty] **sixty-five** percent of the annual compensation paid to the person or persons who last held such position or positions. If the position or positions did not previously exist, the compensation limit shall be determined in accordance with rules duly adopted by the board of trustees of the retirement system; provided that, it shall not exceed [fifty] **sixty-five** percent of the annual compensation payable for the position in the employing school district that is most comparable to the position filled by the retiree. In any case where a retiree fills more than one position during the school year, the [fifty-percent] **sixty-five-percent** limit on permitted earning shall be based solely on the annual compensation of the highest paid position occupied by the retiree for at least one-fifth of the total hours worked during the year. Such a person shall not contribute to the retirement

system or to the nonteacher school employee retirement system established by sections 169.600 to 169.715 because of earnings during such period of employment. If such a person is employed in any capacity by such a district on a regular, full-time basis, the person shall not be eligible to receive the person's retirement allowance for any month during which the person is so employed and shall contribute to the retirement system.”; and

Further amend the title and enacting clause accordingly.

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

Senator Griesheimer offered **SA 3**:

**SENATE AMENDMENT NO. 3**

Amend Senate Substitute No. 2 for Senate Committee Substitute for Senate Bills Nos. 248, 100, 118, 233, 247, 341 and 420, Page 26, Section 104.370, Line 23 of said page, by inserting immediately after said line the following:

“104.374. 1. The normal annuity of a member, other than a member of the general assembly or a member who served in an elective state office, shall be an amount equal to one and six-tenths percent of the average compensation of the member multiplied by the number of years of creditable service of the member. Years of membership service and twelfths of a year are to be used in calculating any annuity. Absences taken by an employee without compensation for sickness and injury of the employee of less than twelve months or for leave taken by an employee without compensation pursuant to the provisions of the Family and Medical Leave Act of 1993 shall be counted as years of creditable service.

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

**3. In addition to the amount determined**

**pursuant to subsection 1 of this section, the normal annuity of a uniformed conservation agent shall be increased by thirty-three and one-third percent of the benefit. Any additional actuarial liability for the provision of benefits pursuant to this subsection shall be paid from the funds of the department of conservation.**

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

104.610. 1. Any person, who is receiving or hereafter may receive state retirement benefits from the Missouri state employees' retirement system other than a person with twelve or more years of service in statewide state elective office receiving benefits pursuant to the provisions of section 104.371, a legislators' retirement system, or the highways and transportation employees' and highway patrol retirement system, upon application to the board of trustees of the system from which he or she is receiving retirement benefits, shall be made, constituted, appointed and employed by the board as a special consultant on the problems of retirement, aging, and other state matters, for the remainder of the person's life, and upon request of the board, or other state agencies where such person was employed prior to retirement, give opinions, and be available to give opinions in writing, or orally, in response to such requests, as

may be required, and for such services shall be compensated monthly, in an amount, which, when added to any monthly state retirement benefits received on his or her retirement, shall be equal to the state retirement benefits the person would be receiving currently if the person had benefited from changes in the law effecting increases in the rate in the formula for calculating benefits in his or her respective retirement system, for his or her type of employment or for those persons having accrued thirty-five or more years of creditable service, changes in the law pertaining to the age and service requirements for a normal annuity in his or her respective retirement system, made subsequent to the date of his or her retirement; except that in calculating such benefits the meaning of "average compensation" shall be that ascribed to it by the law in effect on the date on which the benefits pursuant to this section are calculated.

2. In lieu of any other benefits pursuant to the provisions of this section, any member of the Missouri state employees' retirement system who has or may hereafter retire pursuant to the provisions of section 104.371, pertaining to those members who have held statewide state elective office for at least twelve years, may apply pursuant to this section to be employed as a special consultant and for such services shall be compensated monthly, in an amount, which, when added to any monthly state retirement benefits received initially on his or her retirement, shall be equal to the state retirement benefits the person would be receiving if the person had benefited from changes in the law affecting increases in compensation for statewide state elective offices, pursuant to house substitute for senate bill no. 528, second regular session of the eighty-second general assembly, any other provisions of the law to the contrary notwithstanding.

3. This compensation shall be consolidated with any other retirement benefits payable to the person, and shall be funded as provided in section 104.436.

4. This compensation shall be treated as any other state retirement benefits payable by the Missouri state employees' retirement system or the highways and transportation employees' and highway patrol retirement system are treated and shall not be subject to execution, garnishment, attachment, writ of sequestration, or any other process or claim whatsoever, and shall be unassignable, anything to the contrary notwithstanding.

5. The employment provided for by this section shall in no way affect any person's eligibility for retirement benefits pursuant to this chapter, or in any way have the effect of reducing retirement benefits, anything to the contrary notwithstanding.

6. In order to determine the total monthly state retirement compensation due each retiree who is eligible for the additional amount provided for in subsection 1 of this section, the following formula shall be used:

(1) The retiree's base monthly retirement compensation shall be determined by dividing the sum of the retiree's annual normal annuity as of the effective date of any increase in the rate in the formula for calculating benefits in his or her respective retirement system plus any annual increases granted such retiree as a result of his or her being a consultant, by twelve;

(2) The amount determined pursuant to subdivision (1) of this subsection shall be increased by an amount equal to the base monthly retirement compensation calculated pursuant to subdivision (1) of this subsection multiplied by the percentage increase in the rate in the formula;

(3) The sum obtained from completing the calculations contained in subdivisions (1) and (2) of this subsection shall be the retiree's new total monthly state retirement compensation. Any retiree who is eligible for the benefit provided in subsection 1 of this section whose benefit pursuant to subsection 1 of this section was not calculated in

accordance with the procedure provided in this subsection shall have his or her total monthly retirement compensation for all months beginning on or after September 28, 1985, recalculated in accordance with this subsection.

7. The provisions of this section are severable. If any provision of this section is found by a court of competent jurisdiction to be unconstitutional or otherwise invalid, the remaining provisions of this section are valid unless the court finds that such valid provisions, standing alone, are incomplete and incapable of being executed in accordance with the legislative intent.

8. Any person who terminates employment or retires prior to July 1, 2000, shall be made, constituted, appointed and employed by the board as a special consultant on the problems of retirement, aging, and other state matters, for the remainder of the person's life, and upon request of the board, or other state agencies where such person was employed prior to retirement, give opinions, and be available to give opinions in writing, or orally, in response to such requests, as may be required, and for such services shall be eligible to elect to receive a retirement annuity pursuant to the year 2000 plan as provided in this chapter.

**9. Any person who is receiving or hereafter may receive retirement benefits pursuant to section 104.374, and would qualify for a benefit pursuant to subsection 3 of section 104.374 if such person were an active employee, such person shall, upon application to the board of trustees of the system from which he or she is receiving retirement benefits, shall be made, constituted, appointed, and employed by the board as a special consultant on the problems of retirement, aging, and other state matters, for the remainder of the person's life, and upon request of the board, or other state agencies where such person was employed prior to retirement, give opinions, and be available to give opinions in writing, or orally, in response to**

**such requests, as may be required, and for such services shall be compensated monthly, in an amount, which, when added to any monthly state retirement benefits received on his or her retirement, shall be equal to the retirement benefits the person would be receiving currently if the person had benefited from changes in the law effecting increases pursuant to subsection 3 of section 104.374.**

10. Effective August 28, 2000, any person otherwise eligible for survivor benefits due to the death of a member prior to retirement, who was married less than two years to the member at the time of the member's death, shall, upon application to the board, be made, constituted, appointed and employed by the board as a special consultant on the problems of retirement, aging and other state matters. As a special consultant pursuant to the provisions of this subsection, the person shall begin to receive a survivor benefit in a monthly amount equal to what the system would have paid the person had the person been eligible for such survivor benefit upon the death of the member. Such benefit shall commence the first of the month following receipt by the system of an application from such person, but not earlier than September 1, 2000. In no event shall any retroactive benefits be paid.”; and

Further amend the title and enacting clause accordingly.

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

Senator Stoll offered SA 4:

#### SENATE AMENDMENT NO. 4

Amend Senate Substitute No. 2 for Senate Committee Substitute for Senate Bills Nos. 248, 100, 118, 233, 247, 341 and 420, Page 22, Section 104.040, Line 11 of said page, by inserting immediately after said line the following:

“104.110. 1. Any employee, regardless of the length of time of creditable service, who is affirmatively found by the board to be wholly

incapable of performing the duties of the employee's or any other position in the employee's department for which the employee is suited, shall be entitled to receive disability benefits. The disability benefit provided by this subsection shall equal one and six-tenths percent of the employee's average compensation multiplied by the number of years of creditable service of the member. **Effective September 1, 2003, no employee is eligible for or shall request or apply for the disability benefit provided pursuant to this subsection.**

2. Any uniformed member of the highway patrol, highway patrol employee or department of transportation employee, regardless of the length of time of creditable service, who is found by the board to be disabled as a result of injuries incurred in the performance of the employee's duties, shall be entitled to receive an initial disability benefit in an amount equal to seventy percent of the compensation that the employee was receiving on the date preceding the date of disability; provided, however, that the amount of the disability benefit, plus any primary Social Security disability benefits received by such member shall not exceed ninety percent of the monthly compensation such member was receiving on the date preceding the date of disability.

3. Any disability benefits payable pursuant to this section shall be decreased by any amount paid to such member for periodic disability benefits by reason of the workers' compensation laws of this state. After termination of payment under workers' compensation, however, disability benefits shall be paid in the amount required by subsections 1, 2, 7, and 9 of this section.

4. The board of trustees may require a medical examination of a disabled member at any time by a designated physician, and benefits shall be discontinued if the board finds that such member is able to perform the duties of the member's former position or if such member refuses to submit to a medical examination. Any employee who applies

for disability benefits provided pursuant to this section shall provide medical certification acceptable to the board which shall include the date the disability commenced and the expected duration of the disability.

5. Any employee who applies for disability benefits pursuant to subsections 2 and 7 of this section shall provide proof of application for Social Security disability benefits. If Social Security disability benefits are denied, the employee shall also provide proof that the employee has requested reconsideration, and upon denial of the reconsideration, that an appeal process is prosecuted.

6. The disability benefits provided in this section shall not be paid to any member who retains or regains earning capacity as determined by the board. If a member who has been receiving disability benefits again becomes an employee, the member's disability benefits shall be discontinued.

7. The board shall also provide or contract for long-term disability benefits for those members whose disability exists or is diagnosed as being of such nature as to exist for more than one year. The benefits provided or contracted for pursuant to this subsection shall be in lieu of any other benefit provided in this section. The eligibility requirements, benefit period and amount of the disability benefits provided pursuant to this subsection shall be established by the board.

8. Definitions of disability and other rules and procedures necessary for administration of the disability benefits provided pursuant to this section shall be established by the board.

9. Any member receiving disability benefits pursuant to subsections 1 and 2 of this section shall receive the same cost-of-living increases as granted to retired members pursuant to section [104.130] **104.103.**

10. The state highways and transportation commission shall contribute the same amount as provided for all state employees for any person



receiving disability benefits pursuant to subsection 2 of this section for medical insurance provided pursuant to section 104.270.

11. Any member who qualified for disability benefits pursuant to subsection 2 or subsection 7 of this section shall continue to accrue normal annuity benefits based on the member's rate of pay immediately prior to the date the member became disabled in accordance with sections 104.090 and 104.615 as in effect on the earlier of the date the member reaches normal retirement age or the date normal annuity payments commence.

12. A member who continues to be disabled as provided in subsection 2 or subsection 7 of this section shall continue to accrue creditable service until the member reaches normal retirement age. The maximum benefits period for benefits pursuant to subsections 2 and 7 of this section shall be established by the board. A member who is eligible to retire and does retire while receiving disability benefits pursuant to subsections 2 and 7 of this section shall receive the greater of the normal annuity or the minimum annuity determined pursuant to sections 104.090 and 104.615, as if the member had continued in the active employ of the employer until the member's normal retirement age and the member's compensation for such period had been the member's rate of pay immediately preceding the date the member became disabled.

13. Any member who was receiving disability benefits from the board prior to August 28, 1997, or any member who has submitted an application for disability benefits before August 28, 1997, and would have been eligible to receive benefits pursuant to the eligibility requirements which were applicable at the time of application shall be eligible to receive or shall continue to receive benefits in accordance with such prior eligibility requirements until the member again becomes an employee.

14. Any member receiving disability benefits pursuant to subsection 1, subsection 2 or subsection 7 of this section shall be eligible to

receive death benefits pursuant to the provisions of subsection 1 of section 104.140. The death benefits provided pursuant to this subsection shall be in lieu of the death benefits available to the member pursuant to subsection 2 of section 104.140.

15. The board is authorized to contract for **benefits in lieu of** the benefits provided pursuant to [subsections 1 and 2 of] this section.

**16. To the extent that the board enters or has entered into any contract with any insurer or service organization to provide the disability benefits provided for pursuant to this section:**

**(1) The obligation to provide such disability benefits shall be primarily that of the insurer or service organization and secondarily that of the board;**

**(2) Any employee who has been denied disability benefits by the insurer or service organization and has exhausted all appeal procedures provided by the insurer or service organization may appeal such decision by filing a petition against the insurer or service organization in a court of law in the employee's county of residence;**

**(3) The board and the system shall not be liable for the disability benefits provided for by an insurer or service organization pursuant to this section and shall not be subject to any cause of action with regard to disability benefits or the denial of disability benefits by the insurer or service organization unless the employee has obtained judgment against the insurer or service organization for disability benefits and the insurer or service organization is unable to satisfy that judgment.**

**17. An employee may elect to waive the receipt of any disability benefit provided for pursuant to this section at any time.”; and**

Further amend said bill, page 26, Section 104.271, line 23 of said page, by inserting immediately after said line the following:

**“104.806. 1. Employees who are earning creditable service in the closed plan of the Missouri state employees' retirement system and who are transferred to the department of transportation as a result of the provisions of executive order 03-05, will not become members of the closed plan of the highways and transportation employees' and highway patrol retirement system unless they elect to transfer membership and creditable service to the closed plan of the highways and transportation employees' and highway patrol retirement system. The election must be in writing and must be made within ninety days of July 1, 2003. Any election to transfer membership and creditable service to the highways and transportation employees' and highway patrol retirement system shall result in the forfeiture of any rights or benefits in the Missouri state employees' retirement system. Any failure to elect to transfer membership and creditable service pursuant to this subsection will result in the employees remaining in the closed plan of the Missouri state employees' retirement system. If an election is made, the effective date for commencement of membership and transfer of such creditable service shall be January 1, 2004.**

**2. Employees who are earning credited service in the year 2000 plan of the Missouri state employees' retirement system and who are transferred to the department of transportation as a result of the provisions of executive order 03-05 will remain in the year 2000 plan administered by the Missouri state employees' retirement system unless they elect to transfer membership and credited service to the year 2000 plan administered by the highways and transportation employees' and highway patrol retirement system. The election must be in writing and must be made within ninety days of July 1, 2003. Any election to transfer membership and credited service to the year 2000 plan administered by the highways and transportation employees' and highway patrol**

**retirement system shall result in the forfeiture of any rights or benefits in the Missouri state employees' retirement system. Any failure to elect to transfer membership and credited service pursuant to this subsection will result in the employees remaining in the year 2000 plan administered by the Missouri state employees' retirement system. If an election is made, the effective date for commencement of membership and transfer of such creditable service shall be January 1, 2004.**

**3. For any employee who elects pursuant to subsection 1 or 2 of this section to transfer to the highways and transportation employees' and highway patrol retirement system, the Missouri state employees' retirement system shall pay to the highways and transportation employees' and highway patrol retirement system, by December 31, 2003, an amount actuarially determined to equal the liability at the time of the transfer to the extent that liability is funded as of the most recent actuarial valuation, not to exceed one hundred percent.**

**4. In no event shall any employee receive service credit for the same period of service under more than one retirement system as a result of the provisions of this section.**

**5. For any transferred employee who elects pursuant to subsection 1 or 2 of this section to transfer to the highways and transportation employees' and highway patrol retirement system, the only medical coverage available for the employee shall be the medical coverage provided in section 104.270. The effective date for commencement of medical coverage shall be January 1, 2004. However, this does not preclude medical coverage for the transferred employee as a dependent under any other health care plan.”; and**

Further amend the title and enacting clause accordingly.

Senator Stoll moved that the above

amendment be adopted, which motion prevailed.

Senator Kennedy offered SA 5:

**SENATE AMENDMENT NO. 5**

Amend Senate Substitute No. 2 for Senate Committee Substitute for Senate Bills Nos. 248, 100, 118, 233, 247, 341 and 420, Page 99, Section 287.845, Line 8, by inserting after all of said line the following:

**"Section 1. 1. In each tax year beginning on or after January 1, 2003, each individual or corporation entitled to a tax refund in an amount sufficient to make a designation under this section may designate that one dollar or any amount in excess of one dollar on a single return, and two dollars or any amount in excess of two dollars on a combined return, of the refund due be credited to the workers memorial fund. The contribution designation authorized by this section shall be clearly and unambiguously printed on the first page of each income tax return form provided by this state. If any individual or corporation which is not entitled to a tax refund in an amount sufficient to make a designation under this section wishes to make a contribution to the workers memorial fund, such individual or corporation may, by separate check, draft, or other negotiable instrument, send in with the payment of taxes, or may send in separately, that amount, clearly designated for the workers memorial fund, the individual or corporation wishes to contribute and the department of revenue shall forward such amount to the state treasurer for deposit to the workers memorial fund as provided in subsection 2 of this section.**

**2. The director of revenue shall transfer at least monthly all contributions designated by individuals under this section to the state treasurer for deposit to the workers memorial fund.**

**3. The director of revenue shall transfer at least monthly all contributions designated by**

**corporations under this section, less an amount sufficient to cover the cost of collection and handling by the department of revenue, to the state treasurer for deposit to the workers memorial fund.**

**4. A contribution designated under this section shall only be transferred and deposited in the workers memorial fund after all other claims against the refund from which such contribution is to be made have been satisfied.";** and

Further amend the title and enacting clause accordingly.

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

Senator Gross moved that **SS No. 2 for SCS for SBs 248, 100, 118, 233, 247, 341 and 420**, as amended, be adopted, which motion prevailed.

On motion of Senator Gross, **SS No. 2 for SCS for SBs 248, 100, 118, 233, 247, 341 and 420**, as amended, was declared perfected and ordered printed.

**HOUSE BILLS ON THIRD READING**

**HCS for HB 73**, entitled:

An Act to repeal section 166.435, RSMo, and to enact in lieu thereof thirteen new sections relating to higher education savings programs.

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

Senator Yeckel offered **SS for HCS for HB 73**, entitled:

**SENATE SUBSTITUTE FOR  
HOUSE COMMITTEE SUBSTITUTE FOR  
HOUSE BILL NO. 73**

An Act to repeal section 166.435, RSMo, and to enact in lieu thereof thirteen new sections relating to higher education savings programs.

Senator Yeckel moved that **SS for HCS for HB 73** be adopted.

At the request of Senator Yeckel, **HCS** for **HB 73**, with **SS** (pending), was placed on the Informal Calendar.

### SENATE BILLS FOR PERFECTION

Senator Yeckel moved that **SB 346**, with **SCS**, be called from the Informal Calendar and taken up for perfection, which motion prevailed.

**SCS** for **SB 346**, entitled:

#### SENATE COMMITTEE SUBSTITUTE FOR SENATE BILL NO. 346

An Act to repeal sections 173.387, 173.390, 306.410, 361.130, 361.140, 361.160, 361.170, 362.010, 362.105, 362.106, 362.170, 362.295, 362.910, 362.923, 369.159, 400.1-103, 400.3-102, 400.4-102, 400.9-626, 408.450, 408.455, 408.460, 408.465, 408.467, 408.470, 408.557, 408.653, and 408.654, RSMo, and to enact in lieu thereof twenty-two new sections relating to banking, with penalty provisions.

Was taken up.

Senator Yeckel moved that **SCS** for **SB 346** be adopted.

Senator Yeckel offered **SS** for **SCS** for **SB 346**, entitled:

#### SENATE SUBSTITUTE FOR SENATE COMMITTEE SUBSTITUTE FOR SENATE BILL NO. 346

An Act to repeal sections 59.163, 173.387, 173.390, 306.410, 361.130, 361.140, 361.160, 361.170, 362.010, 362.105, 362.106, 362.170, 362.295, 362.910, 362.923, 369.159, 400.9-525, 407.433, 408.450, 408.455, 408.460, 408.465, 408.467, 408.470, 408.653, 408.654, and 447.510, RSMo, and to enact in lieu thereof twenty-three new sections relating to banking, with an effective date for a certain section and penalty provisions.

Senator Yeckel moved that **SS** for **SCS** for **SB 346** be adopted.

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

### SENATE AMENDMENT NO. 1

Amend Senate Substitute for Senate Committee Substitute for Senate Bill No. 346, Page 51, Section 447.510, Line 18, by inserting after the end of said line the following:

“Section 1. Any bank account of the state with a value of ten thousand dollars or more shall be obtained through open and competitive bids.”.

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

Senator Yeckel moved that **SS** for **SCS** for **SB 346**, as amended, be adopted, which motion prevailed.

On motion of Senator Yeckel, **SS** for **SCS** for **SB 346**, as amended, was declared perfected and ordered printed.

### RESOLUTIONS

Senator Goode offered the following resolution, which was adopted:

#### SENATE RESOLUTION NO. 886

WHEREAS, Audrey Ferguson, a math teacher at Laclede Elementary School in St. Louis, Missouri, has been chosen as the 2002-2003 Missouri Teacher of the Year, a most impressive accolade that will be presented to her by the Missouri Board of Education during a banquet on October 24, 2003, in Jefferson City; and

WHEREAS, the first teacher from the St. Louis Public School District to win the state award in its fifty-year history, Audrey Ferguson will represent Missouri in the annual National Teacher of the Year program; and

WHEREAS, now in her thirty-third year of teaching, Audrey Ferguson enjoys distinction as Coordinator of all Title I instruction at Laclede Elementary School; and

WHEREAS, Audrey Ferguson also serves as Coordinator of Parent and Community Partnership Programs who has written proposals for several community partnerships such as the Laclede Book Buddy Program and the Laclede Parent Partners Program; and

WHEREAS, Audrey Ferguson helps with fundraisers for the Annie Malone Children's Home and volunteers annually for the United Negro College Fund Walk and with the INROADS Parent Support Group, a nationwide organization that works with high school and college students and corporate sponsors to place talented

minority students in internships; and

WHEREAS, a Sunday school teacher for twenty-three years, Audrey Ferguson earned a Bachelor's degree in education at Harris-Stowe Teachers College and a Master's degree in special education and reading at Webster University:

NOW, THEREFORE, BE IT RESOLVED that we, the members of the Missouri Senate, Ninety-second General Assembly, unanimously join the entire St. Louis Public School District in extending our most hearty congratulations to Audrey Ferguson upon her well-deserved selection as Missouri Teacher of the Year and in wishing her much success as she continues educating and inspiring our young leaders of tomorrow by making learning an enjoyable and meaningful experience; and

BE IT FURTHER RESOLVED that the Secretary of the Senate be instructed to prepare a properly inscribed copy of this resolution for Missouri Teacher of the Year Audrey Ferguson, as a measure of our esteem for her.

### MESSAGES FROM THE HOUSE

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

Mr. President: I am instructed by the House of Representatives to inform the Senate that the Speaker has appointed the following conferees to act with a like committee from the Senate on **SCS** for **HS** for **HB 9**, as amended. Representatives: Bearden, Lager, Moore, Kelly (36) and Ward.

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 **HS** for **HB 10**, as amended. Representatives: Bearden, Lager, Purgason, Wilson (25) and Johnson (61).

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 **HS** for **HB 11**, as amended.

Representatives: Bearden, Lager, Purgason, Campbell and Brooks.

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 **HS** for **HB 12**, as amended. Representatives: Bearden, Lager, Roark, Donnelly and Bringer.

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

### RECESS

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

Senator Russell requested unanimous consent of the Senate to suspend the rules to allow the Appropriations Committee to meet while the Senate is in session, which request was granted.

### PRIVILEGED MOTIONS

Senator Shields, on behalf of the conference committee appointed to act with a like committee from the House on **HCS** for **SCS No. 2** for **SB 52**, moved that the following conference committee report be taken up, which motion prevailed.

#### CONFERENCE COMMITTEE REPORT ON HOUSE COMMITTEE SUBSTITUTE FOR SENATE COMMITTEE SUBSTITUTE NO. 2 FOR SENATE BILL NO. 52

The Conference Committee appointed on House Committee Substitute for Senate Committee Substitute No. 2 for Senate Bill No. 52 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 Committee Substitute No. 2 for Senate Bill No. 52;

2. That the Senate recede from its position on Senate Committee Substitute No. 2 for Senate Bill No. 52;

3. That the attached Conference Committee Substitute for House Committee Substitute for Senate Committee Substitute No. 2 for Senate Bill No. 52, be Third Read and Finally Passed.

FOR THE SENATE: FOR THE HOUSE:

/s/ Charlie Shields /s/ Kathlyn Fares  
 /s/ Doyle Childers /s/ Shannon Cooper  
 /s/ Bill Foster /s/ Robert J. Behnen  
 /s/ Maida J. Coleman /s/ Clint Zweifel  
 /s/ Joan Bray /s/ Barbara Fraser

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

YEAS—Senators

Bartle	Bray	Caskey	Cauthorn
Champion	Childers	Clemens	Days
Foster	Gibbons	Goode	Griesheimer
Gross	Jacob	Kennedy	Kinder
Klindt	Loudon	Mathewson	Nodler
Russell	Shields	Steelman	Stoll
Vogel	Wheeler	Yeckel—27	

NAYS—Senators—None

Absent—Senators

Bland	Dolan	Dougherty	Quick—4
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Absent with leave—Senators

Coleman	DePasco	Scott—3
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On motion of Senator Shields, **CCS** for **HCS** for **SCS No. 2** for **SB 52**, entitled:

CONFERENCE COMMITTEE SUBSTITUTE  
 FOR HOUSE COMMITTEE SUBSTITUTE FOR  
 SENATE COMMITTEE SUBSTITUTE NO. 2  
 FOR SENATE BILL NO. 52

An Act to repeal section 143.183, RSMo, and to enact in lieu thereof one new section relating to

the taxation of nonresident professional athletes and entertainers.

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

YEAS—Senators

Bartle	Bray	Caskey	Cauthorn
Champion	Childers	Clemens	Days
Foster		Gibbons	Goode
	Griesheimer		
Jacob	Kennedy	Kinder	Klindt
Loudon	Mathewson	Nodler	Russell
Shields	Steelman	Stoll	Vogel
Wheeler	Yeckel—26		

NAYS—Senators—None

Absent—Senators

Bland	Dolan	Dougherty	Gross
Quick—5			

Absent with leave—Senators

Coleman	DePasco	Scott—3
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The President declared the bill passed.

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

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

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

**HOUSE BILLS ON THIRD READING**

**HCS** for **HB 288**, with **SCS**, was placed on the Informal Calendar.

**HS** for **HCS** for **HBs 517, 94, 149, 150** and **342**, with **SCS**, was placed on the Informal Calendar.

**HS** for **HB 668**, with **SCS**, entitled:

An Act to repeal sections 21.795 and 226.030, RSMo, and to enact in lieu thereof twelve new sections relating to the transportation accountability act, with an expiration date for certain sections.

Was taken up by Senator Dolan.

**SCS for HS for HB 668**, entitled:

SENATE COMMITTEE SUBSTITUTE FOR  
HOUSE SUBSTITUTE FOR  
HOUSE BILL NO. 668

An Act to repeal sections 21,795, 226.030, 238.207, 238.210, 238.215, 238.220, 238.222, 238.235, 238.236, and 643.315, RSMo, section 307.366 as enacted by conference committee substitute for senate committee substitute for house committee substitute for house bills nos. 603, 722 and 783, ninetieth general assembly, first regular session, section 307.366 as enacted by conference committee substitute for house substitute for senate substitute for senate bill no. 19, ninetieth general assembly, first regular session, and sections 307.366 and 643.315 as truly agreed to and finally passed by senate bill no. 54, ninety-second general assembly, first regular session, and to enact in lieu thereof thirteen new sections relating to transportation accountability measures, with penalty provisions.

Was taken up.

Senator Dolan moved that **SCS for HS for HB 668** be adopted.

Senator Dolan offered **SS for SCS for HS for HB 668**, entitled:

SENATE SUBSTITUTE FOR  
SENATE COMMITTEE SUBSTITUTE FOR  
HOUSE SUBSTITUTE FOR  
HOUSE BILL NO. 668

An Act to repeal sections 21.795, 226.030, 238.207, 238.210, 238.215, 238.220, 238.222, 238.235, and 238.236, RSMo and to enact in lieu thereof eleven new sections relating to transportation accountability measures.

Senator Dolan moved that **SS for SCS for HS for HB 668** be adopted.

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

SENATE AMENDMENT NO. 1

Amend Senate Substitute for Senate Committee Substitute for House Substitute for House Bill No. 668, Page 2, Section 21.795, Line 9, by inserting immediately after the word "committees." the following: "**Minority members of the committee shall be appointed by the minority floor leader of each respective chamber.**".

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

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

SENATE AMENDMENT NO. 2

Amend Senate Substitute for Senate Committee Substitute for House Substitute for House Bill No. 668, Page 10, Section 226.033, Lines 28-29, by striking all of said lines; and further amend said bill, page 11, section 226.033, lines 1-18, by striking all of said lines; and further amend the title and enacting clause accordingly.

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

Senator Griesheimer offered **SA 3**:

SENATE AMENDMENT NO. 3

Amend Senate Substitute for Senate Committee Substitute for House Substitute for House Bill No. 668, Page 40, Section 238.236, Line 2, by inserting after all of said line the following:

**"388.465. Every railroad corporation owning or operating a railroad which traverses through a city of the fourth classification with more than seven thousand five hundred but fewer than seven thousand six hundred eighty inhabitants and located in any county with a charter form of government and with more than one million inhabitants shall establish a suitable stopping place, depot, or union station within such city to accommodate the boarding and unboarding of passengers.";** and

Further amend the title and enacting clause accordingly.

Senator Griesheimer moved that the above amendment be adopted.

Senator Gibbons raised the point of order that **SA 3** is out of order, as it is not germane to the subject matter of the bill.

The point of order was referred to the President Pro Tem.

At the request of Senator Griesheimer, **SA 3** was withdrawn, rendering the point of order moot.

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

SENATE AMENDMENT NO. 4

Amend Senate Substitute for Senate Committee Substitute for House Substitute for House Bill No. 668, Page 13, Section 226.096, Line 2, by inserting immediately thereafter the following:

**“4. The provisions of this section shall expire August 28, 2005.”; and**

Further amend the title and enacting clause accordingly.

Senator Dolan moved that the above amendment be adopted.

President Pro Tem Kinder assumed the Chair.

At the request of Senator Dolan, **HS** for **HB 668**, with **SCS**, **SS** for **SCS** and **SA 4** (pending), was placed on the Informal Calendar.

On motion of Senator Gibbons, the Senate recessed until 5:00 p.m.

**RECESS**

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

**REPORTS OF STANDING COMMITTEES**

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

Mr. President: Your Committee on Rules, Joint Rules, Resolutions and Ethics, to which were referred **SS No. 2** for **SCS** for **SBs 248, 100, 118, 233, 247, 341** and **420**; and **SS** for **SCS** for **SB 346**, begs leave to report that it has examined the same and finds that the bills have been truly perfected and that the printed copies furnished the Senators are correct.

Senator Cauthorn, Chairman of the Committee on Governmental Accountability and Fiscal Oversight, submitted the following reports:

Mr. President: Your Committee on Governmental Accountability and Fiscal Oversight, to which was referred **HS** for **HB 197**, with **SCS**, begs leave to report that it has considered the same and recommends that the bill do pass, with Senate Committee Amendment No.1.

SENATE COMMITTEE AMENDMENT NO. 1

Amend Senate Committee Substitute for House Substitute for House Bill No. 197, Page 47, Section 135.827, Line 53, by striking the numeral “2003” and inserting in lieu thereof the numeral “2004”.

Also,

Mr. President: Your Committee on Governmental Accountability and Fiscal Oversight, to which were referred **HS** for **HCS** for **HBs 679** and **396**; **SCS** for **SB 307** and **SCS** for **SB 675**, begs leave to report that it has considered the same and recommends that the bills do pass.

**MESSAGES FROM THE HOUSE**

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

Mr. President: I am instructed by the House of Representatives to inform the Senate that the House has taken up and passed **HCS** for **SB 521**, entitled:

An Act to amend chapter 34, RSMo, by adding thereto six new sections relating to



contracts for public works.

In which the concurrence of the Senate is respectfully requested.

Also,

Mr. President: I am instructed by the House of Representatives to inform the Senate that the House refuses to recede from its position on **HCS** for **SB 186** and requests the Senate take up and adopt **HCS** for **SB 186** and take up and pass **HCS** for **SB 186**.

Also,

Mr. President: I am instructed by the House of Representatives to inform the Senate that the House refuses to recede from its position on **HCS** for **SCS** for **SB 379** and grants the Senate a conference thereon.

Also,

Mr. President: I am instructed by the House of Representatives to inform the Senate that the House refuses to recede from its position on **HCS** for **SS** for **SCS** for **SB 36**, as amended, and grants the Senate a conference thereon.

Also,

Mr. President: I am instructed by the House of Representatives to inform the Senate that the House refuses to adopt **SS** for **SCS**, as amended, for **HCS** for **HB 289** and requests the Senate to recede from its position and failing to do so grant the House a conference thereon and the conferees be allowed to exceed the differences for the purpose of adding language to provide natural disaster relief.

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 **HCS** for **SCS** for **SB 379**. Representatives: Wright, Morris, Dixon, George and Salva.

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 **HCS** for **SS** for **SCS** for **SB 36**, as amended. Representatives: Myers, Wood, Townley, Shoemyer and Bringer.

Also,

Mr. President: I am instructed by the House of Representatives to inform the Senate that the House refuses to adopt **SS** for **SCS**, as amended, for **HS** for **HB 511** and requests the Senate to recede from its position and failing to do so grant the House a conference thereon.

Also,

Mr. President: I am instructed by the House of Representatives to inform the Senate that the House has taken up and passed **HB 655**, entitled:

An Act to repeal sections 162.680 and 162.962, RSMo, and to enact in lieu thereof two new sections relating to special education services.

In which the concurrence of the Senate is respectfully requested.

Read 1st time.

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 **HB 702**, entitled:

An Act to repeal sections 302.225, 302.302, 302.309, 302.700, 302.725, 302.735, 302.740, 302.755, 302.756, 302.760, and 577.054, RSMo, and to enact in lieu thereof fifteen new sections relating to commercial drivers' licenses, with penalty provisions and an effective date.

In which the concurrence of the Senate is respectfully requested.

Read 1st time.

Also,

Mr. President: I am instructed by the House of Representatives to inform the Senate that the House has taken up and passed **SS** for **SCS** for **SCR 13**.

With House Committee Amendment No. 1.

HOUSE COMMITTEE AMENDMENT NO. 1

Amend Senate Substitute for Senate Committee Substitute for Senate Concurrent Resolution No. 13, Page 686 of the Journal of the Senate, Lines 25 to 28, by deleting all of said lines and inserting in lieu thereof the following:

“Senate of which at least two shall be members of the minority party, four shall be members of the House of Representatives of which two shall be appointed by the Speaker of the House of Representatives and two of which shall be members of the minority party appointed by the Minority Floor Leader with approval of the Speaker of the House of Representatives, four shall be representatives”; 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 **HB 455**, entitled:

An Act to amend chapter 376, RSMo, by adding thereto one new section relating to health insurance coverage for prostheses and scalp hair prostheses.

In which the concurrence of the Senate is respectfully requested.

Read 1st time.

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 **HB 640**, entitled:

An Act to amend chapter 9, RSMo, by adding thereto one new section relating to Emancipation Day.

In which the concurrence of the Senate is respectfully requested.

Read 1st time.

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 84**, entitled:

An Act to repeal sections 148.330, 348.430, and 348.432, RSMo, and to enact in lieu thereof three new sections relating to tax credits.

With House Amendment No. 1.

HOUSE AMENDMENT NO. 1

Amend House Committee Substitute for Senate Committee Substitute for Senate Bill No. 84, Page 34, Section 348.430, Lines 1-54, by striking all of said section from the bill; and

Further amend said bill, Pages 4-7, Section 348.432, Lines 1-84, by striking all of said section from the bill and inserting in lieu thereof the following:

“348.430. 1. The tax credit created in this section shall be known as the “Agricultural Product Utilization Contributor Tax Credit”.

2. As used in this section, the following terms mean:

(1) “Authority”, the agriculture and small business development authority as provided in this chapter;

(2) “Contributor”, an individual, partnership, corporation, trust, limited liability company, entity or person that contributes cash funds to the authority;

(3) “Development facility”, a facility producing either a good derived from an agricultural commodity or using a process to produce a good derived from an agricultural product;

(4) “Eligible new generation cooperative”, a nonprofit cooperative association formed pursuant to chapter 274, RSMo, or incorporated pursuant to chapter 357, RSMo, for the purpose of operating a development facility or a renewable fuel production facility;

(5) “Eligible new generation processing entity”, a partnership, corporation, cooperative, or limited liability company organized or incorporated pursuant to the laws of this state consisting of not less than twelve members, approved by the authority, for the purpose of owning or operating within this state a development facility or a renewable fuel production facility in which producer members:

(a) Hold a majority of the governance or voting rights of the entity and any governing committee;

(b) Control the hiring and firing of management; and

(c) Deliver agricultural commodities or products to the entity for processing, unless processing is required by multiple entities;

(6) “Renewable fuel production facility”, a facility producing an energy source which is derived from a renewable, domestically grown, organic compound capable of powering machinery, including an engine or power plant, and any by-product derived from such energy source.

3. For **all tax [year] years beginning on or after January 1, 1999**, a contributor who contributes funds to the authority may receive a credit against the tax **or estimated quarterly tax** otherwise due pursuant to chapter 143, RSMo, other than taxes withheld pursuant to sections 143.191 to 143.265, RSMo, chapter 148, RSMo, chapter 147, RSMo, in an amount of up to one

hundred percent of such contribution. **Tax credits claimed in a taxable year may be done so on a quarterly basis and applied to the estimated quarterly tax pursuant to this subsection.** The awarding of such credit shall be at the approval of the authority, based on the least amount of credits necessary to provide incentive for the contributions. A contributor that receives tax credits for a contribution to the authority shall receive no other consideration or compensation for such contribution, other than a federal tax deduction, if applicable, and goodwill. A contributor that receives tax credits for a contribution provided in this section may not be a member, owner, investor or lender of an eligible new generation cooperative or eligible new generation processing entity that receives financial assistance from the authority either at the time the contribution is made or for a period of two years thereafter.

4. A contributor shall submit to the authority an application for the tax credit authorized by this section on a form provided by the authority. If the contributor meets all criteria prescribed by this section and the authority, the authority shall issue a tax credit certificate in the appropriate amount. Tax credits issued pursuant to this section [shall initially] **may** be claimed in the taxable year in which the contributor contributes funds to the authority. [Any amount of credit that exceeds the tax due for a contributor's taxable year] **Tax credits allowed pursuant to this section may immediately be carried back to any of the contributor's three prior tax years and** may be carried forward to any of the contributor's five subsequent taxable years. Tax credits issued pursuant to this section may be assigned, transferred or sold. Whenever a certificate of tax credit is assigned, transferred, sold or otherwise conveyed, a notarized endorsement shall be filed with the authority specifying the name and address of the new owner of the tax credit or the value of the credit.

5. The funds derived from contributions in this

section shall be used for financial assistance or technical assistance for the purposes provided in section 348.407, to rural agricultural business concepts as approved by the authority. The authority may provide or facilitate loans, equity investments, or guaranteed loans for rural agricultural business concepts, but limited to two million dollars per project or the net state economic impact, whichever is less. Loans, equity investments or guaranteed loans may only be provided to feasible projects, and for an amount that is the least amount necessary to cause the project to occur, as determined by the authority. The authority may structure the loans, equity investments or guaranteed loans in a way that facilitates the project, but also provides for a compensatory return on investment or loan payment to the authority, based on the risk of the project.

6. In any given year, at least ten percent of the funds granted to rural agricultural business concepts shall be awarded to grant requests of twenty-five thousand dollars or less. No single rural agricultural business concept shall receive more than two hundred thousand dollars in grant awards from the authority. Agricultural businesses owned by minority members or women shall be given consideration in the allocation of funds.

348.432. 1. The tax credit created in this section shall be known as the “New Generation Cooperative Incentive Tax Credit”.

2. As used in this section, the following terms mean:

(1) “Authority”, the agriculture and small business development authority as provided in this chapter;

(2) “Development facility”, a facility producing either a good derived from an agricultural commodity or using a process to produce a good derived from an agricultural product;

(3) “Eligible new generation cooperative”, a nonprofit cooperative association formed pursuant to chapter 274, RSMo, or incorporated pursuant to chapter 357, RSMo, for the purpose of operating a development facility or a renewable fuel production facility and approved by the authority;

(4) “Eligible new generation processing entity”, a partnership, corporation, cooperative, or limited liability company organized or incorporated pursuant to the laws of this state consisting of not less than twelve members, approved by the authority, for the purpose of owning or operating within this state a development facility or a renewable fuel production facility in which producer members:

(a) Hold a majority of the governance or voting rights of the entity and any governing committee;

(b) Control the hiring and firing of management; and

(c) Deliver agricultural commodities or products to the entity for processing, unless processing is required by multiple entities;

(5) “Employee-qualified capital project”, an eligible new generation cooperative with capital costs greater than fifteen million dollars which will employ at least [one hundred] **sixty** employees;

(6) “Large capital project”, an eligible new generation cooperative with capital costs greater than one million dollars;

(7) “Producer member”, a person, partnership, corporation, trust or limited liability company whose main purpose is agricultural production that invests cash funds to an eligible new generation cooperative or eligible new generation processing entity;

(8) “Renewable fuel production facility”, a facility producing an energy source which is derived from a renewable, domestically grown, organic compound capable of powering machinery, including an engine or power plant, and any

by-product derived from such energy source;

(9) "Small capital project", an eligible new generation cooperative with capital costs of no more than one million dollars.

3. Beginning tax year 1999, and ending December 31, 2002, any producer member who invests cash funds in an eligible new generation cooperative or eligible new generation processing entity may receive a credit against the tax **or estimated quarterly tax** otherwise due pursuant to chapter 143, RSMo, other than taxes withheld pursuant to sections 143.191 to 143.265, RSMo, or chapter 148, RSMo, chapter 147, RSMo, in an amount equal to the lesser of fifty percent of such producer member's investment or fifteen thousand dollars.

4. For all tax years beginning on or after January 1, 2003, any producer member who invests cash funds in an eligible new generation cooperative **or eligible new generation processing entity** may receive a credit against the tax **or estimated quarterly tax** otherwise due pursuant to chapter 143, RSMo, other than taxes withheld pursuant to sections 143.191 to 143.265, RSMo, chapter 147, RSMo, or chapter 148, RSMo, in an amount equal to the lesser of fifty percent of such producer member's investment or fifteen thousand dollars. **Tax credits claimed in a taxable year may be done so on a quarterly basis and applied to the estimated quarterly tax pursuant to subsection 3 of this section.**

5. A producer member shall submit to the authority an application for the tax credit authorized by this section on a form provided by the authority. If the producer member meets all criteria prescribed by this section and is approved by the authority, the authority shall issue a tax credit certificate in the appropriate amount. Tax credits issued pursuant to this section [shall initially be claimed in the taxable year in which the producer member contributes capital to an eligible new generation cooperative or eligible new generation processing entity. Any amount of credit

that exceeds the tax due for a producer member's taxable year] may be carried back to any of the producer member's three prior taxable years and carried forward to any of the producer member's five subsequent taxable years **regardless of the type of tax liability to which such credits are applied as authorized pursuant to subsection 3 of this section.** Tax credits issued pursuant to this section may be assigned, transferred, sold or otherwise conveyed and the new owner of the tax credit shall have the same rights in the credit as the producer member. Whenever a certificate of tax credit is assigned, transferred, sold or otherwise conveyed, a notarized endorsement shall be filed with the authority specifying the name and address of the new owner of the tax credit or the value of the credit.

6. Ten percent of the tax credits authorized pursuant to this section initially shall be offered in any fiscal year to small capital projects. If any portion of the ten percent of tax credits offered to small capital costs projects is unused in any calendar year, then the unused portion of tax credits may be offered to employee-qualified capital projects and large capital projects. If the authority receives more applications for tax credits for small capital projects than tax credits are authorized therefor, then the authority, by rule, shall determine the method of distribution of tax credits authorized for small capital projects.

7. Ninety percent of the tax credits authorized pursuant to this section initially shall be offered in any fiscal year to employee-qualified capital projects and large capital projects. If any portion of the ninety percent of tax credits offered to employee-qualified capital projects and large capital costs projects is unused in any fiscal year, then the unused portion of tax credits may be offered to small capital projects. The maximum tax credit allowed per employee-qualified capital project is three million dollars and the maximum tax credit allowed per large capital project is one million five hundred thousand dollars. If the authority approves the maximum tax credit allowed

for any employee-qualified capital project or any large capital project, then the authority, by rule, shall determine the method of distribution of such maximum tax credit. In addition, if the authority receives more tax credit applications for employee-qualified capital projects and large capital projects than the amount of tax credits authorized therefor, then the authority, by rule, shall determine the method of distribution of tax credits authorized for employee-qualified capital projects and large capital projects.”; 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 **SCS** for **SB 69**, entitled:

An Act to amend chapter 620, RSMo, by adding thereto eight new sections relating to small businesses.

In which the concurrence of the Senate is respectfully requested.

### PRIVILEGED MOTIONS

Senator Steelman moved that the Senate refuse to recede from its position on **SS** for **SCS** for **HCS** for **HB 289**, as amended, and grant the House a conference thereon, which motion prevailed.

### CONFERENCE COMMITTEE APPOINTMENTS

President Pro Tem Kinder appointed the following conference committee to act with a like committee from the House on **HCS** for **SS** for **SCS** for **SB 36**, as amended: Senators Klindt, Steelman, Clemens, Caskey and Kennedy.

President Pro Tem Kinder appointed the

following conference committee to act with a like committee from the House on **HCS** for **SB 379**: Senators Champion, Nodler, Childers, Mathewson and Wheeler.

### RESOLUTIONS

Senator Champion offered Senate Resolution No. 887, regarding Andrea Smith, which was adopted.

Senator Champion offered Senate Resolution No. 888, regarding Rafiel Warfield, which was adopted.

Senator Wheeler offered Senate Resolution No. 889, regarding the International Right of Way Association, which was adopted.

Senator Klindt offered Senate Resolution No. 890, regarding Chandra Anderson, Kidder, which was adopted.

Senator Griesheimer offered Senate Resolution No. 891, regarding Christopher D. Sutherland, which was adopted.

### INTRODUCTIONS OF GUESTS

Senator Yeckel introduced to the Senate, Paul J. and Paul G. Nauert, St. Louis County.

Senator Stoll introduced to the Senate, Scott and Cheryl Weldon, and their children, Lori Ann, Nathanael, and Katrina; and Ronald Updegrave, Arnold; and Lori Ann was made an honorary page.

On behalf of Senator Vogel, Senator Scott introduced to the Senate, seventh grade students from St. Andrews School, Tipton; and Nathan Westermier, Jeramey Koechner, Lexie Holloway, and Lindsey Koechner were made honorary pages.

Senator Gibbons introduced to the Senate, Pam Harris, and seventeen fourth grade students from Rohon Woods School, St. Louis.

Senator Kennedy introduced to the Senate, Mickey Flood and Phil Smith, Fort Worth, Texas.

Senator Clemens introduced to the Senate,

Peggy Preston, and one hundred fifty fourth grade students from Century School, Nixa.

Senator Stoll introduced to the Senate, thirty seventh grade students from Our Lady's School, Festus.

Senator Bartle introduced to the Senate, Stacy Greufe, Chris Wilson, and students from Prairie View Elementary School, Lee's Summit.

Senator Mathewson introduced to the Senate, Gilbert Early, St. Louis.

Senator Gibbons introduced to the Senate, Stacey and Stuart Morse, and their children, Merill and True, Chesterfield; and Phyllis Corbet, Kirkwood; and Merill and True were made honorary pages.

Senator Gibbons introduced to the Senate, Tom and Judy Alferman, and Tim Gisburne, Kirkwood; and Tim was made an honorary page.

Senator Jacob introduced to the Senate, the Physician of the Day, Dr. Kristin Hahn-Cover, M.D., Columbia.

Senator Gibbons moved that the Senate

adjourn until 10:00 a.m., Wednesday, May 7, 2003.

Senator Jacob requested a roll call vote be taken on the motion to adjourn and was joined in his request by Senators Bray, Kennedy, Mathewson and Stoll.

The motion to adjourn was adopted by the following vote:

YEAS—Senators

Bartle	Bray	Caskey	Cauthorn
Champion	Childers	Clemens	Days
Dolan	Foster	Gibbons	Griesheimer
Jacob	Kennedy	Kinder	Klindt
Loudon	Mathewson	Nodler	Quick
Russell	Shields	Steelman	Stoll
Vogel	Wheeler	Yeckel—27	

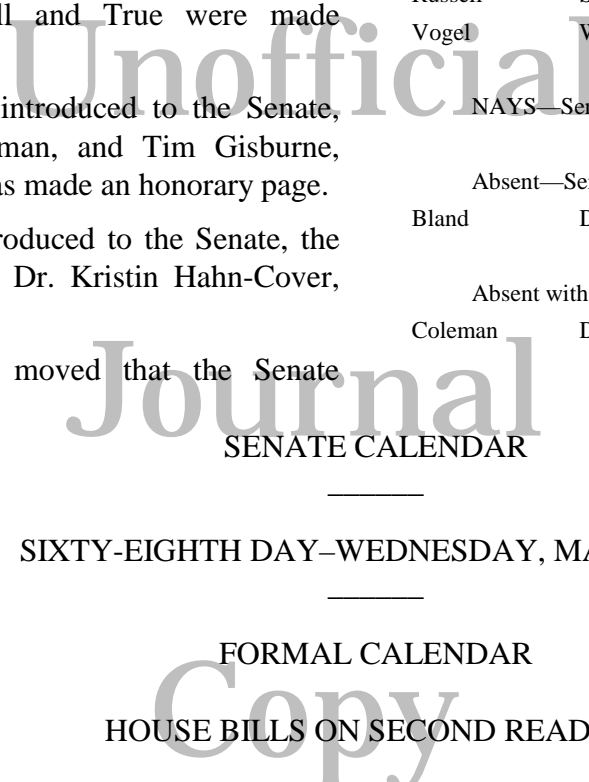
NAYS—Senators—None

Absent—Senators

Bland	Dougherty	Goode	Gross—4
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Absent with leave—Senators

Coleman	DePasco	Scott—3
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SENATE CALENDAR

SIXTY-EIGHTH DAY—WEDNESDAY, MAY 7, 2003

FORMAL CALENDAR

HOUSE BILLS ON SECOND READING

HB 655-Wilson (130)  
HCS for HB 702

HS for HCS for HB 455-Thompson  
HCS for HB 640

THIRD READING OF SENATE BILLS

SS for SCS for SBs 361,  
103, 156 & 329-Steelman  
(In Fiscal Oversight)

SB 305-Jacob and Steelman  
SCS for SB 307-Steelman  
SCS for SB 675-Gross, et al

SS#2 for SCS for SBs 248,  
100, 118, 233, 247, 341 & 420-Gross

SS for SCS for SB 346-Yeckel

### HOUSE BILLS ON THIRD READING

- |  |   |
|--|---|
| 1. HS for HB 470-Mayer,<br>with SCS (Bartle)                 | 6. HB 598-Schlottach, et al,<br>with SCS (Dolan)      |
| 2. HB 198-Stevenson, et al<br>(Nodler)                       | 7. HB 327-Lipke, with SCS<br>(Dolan)                  |
| 3. HS for HB 197-Johnson (47),<br>with SCS & SCA 1 (Shields) | 8. HCS for HB 185, with<br>SCS (Gross)                |
| 4. HS for HCS for HB 564-<br>Behnen, with SCS (Yeckel)       | 9. HB 91-Mayer, with SCS<br>(Steelman)                |
| 5. HS for HCS for HB 228-<br>Pearce, with SCS (Goode)        | 10. HS for HCS for HBs 679<br>& 396-Hanaway (Shields) |

### INFORMAL CALENDAR

#### SENATE BILLS FOR PERFECTION

- |  |  |
|--|--|
| SB 18-Yeckel and Cauthorn, with<br>SCS & SS for SCS (pending)    | SB 300-Cauthorn, et al, with SCS<br>SBs 312, 49, 111, 113, 191, 206,<br>263, 404, 409, 418, 538, 550 &<br>584-Dolan, et al, with SCS |
| SB 24-Steelman, with SCS<br>& SS for SCS (pending)               | SBs 343, 89, 134, 171, 240, 261,<br>331, 368, 369, 419, 484 &<br>581-Dolan, with SCS   |
| SB 27-Gibbons, with SCS  | SB 347-Loudon, et al, with SCS   |
| SB 33-Loudon and Scott,<br>with SS (pending)                     | SB 362-Steelman and Gross  |
| SB 51-Shields, with SS,<br>SS for SS & SA 1 (pending)            | SBs 381, 384, 432 & 9-Dolan,<br>with SCS & SS for SCS (pending)  |
| SB 112-Loudon, with SCS  | SBs 415, 88, 200, 223, 413, 523,<br>589 & 626-Yeckel, with SCS   |
| SBs 125 & 290-Goode, with<br>SCS & SA 6 (pending)                | SB 416-Yeckel, with SCS  |
| SB 209-Steelman, et al, with SCS                                 | SB 434-Yeckel, with SCS  |
| SB 217-Champion and Clemens,<br>with SS (pending)                | SB 436-Klindt, with SCS, SS<br>for SCS & SA 2 (pending)  |
| SB 241-Yeckel, with SCS  | SB 446-Bartle, with SCS  |
| SB 253-Steelman, et al, with SCS,<br>SS for SCS & SA 1 (pending) |  |



SB 449-Bartle  
SB 450-Mathewson, et al, with  
SCS, SS for SCS & SA 2  
(pending)  
SB 455-Dougherty and Shields  
SB 458-Childers  
SB 460-Loudon, with SS &  
SA 1 (pending)

SB 476-Jacob  
SB 485-Shields, with SCS  
SB 531-Childers, with SCS  
SB 564-Gross  
SB 685-Gibbons, et al, with SCS  
SB 693-Klindt, et al, with SCS  
SJR 13-Stoll

HOUSE BILLS ON THIRD READING

HCS for HB 73, with SS  
(pending) (Yeckel)  
HCS for HB 144, with SCS  
(Vogel)  
HB 208-Engler, et al, with SCS  
(Kinder)  
HS for HCS for HB 257-  
Munzlinger, with SCS (Cauthorn)  
HB 286-Bearden, with SCS  
(Shields)  
HCS for HB 288, with SCS  
(Shields)  
HS for HCS for HB 321-  
Wilson (130), with SS & SS  
for SS (pending) (Loudon)

HCS for HBs 346 & 174,  
with SCS (Foster)  
HB 412-Goodman, et al  
(Childers)  
HB 444-Jackson, with SCS  
(Yeckel)  
HB 445-Portwood, et al,  
with SCS (Loudon)  
HS for HCS for HBs 517, 94,  
149, 150 & 342-Portwood,  
with SCS (Gross)  
HS for HB 668-Crawford, with  
SCS, SS for SCS & SA 4  
(pending) (Dolan)

CONSENT CALENDAR

Senate Bills

Reported 2/10

SB 62-Caskey

Reported 3/13

SB 159-Bland, with SCS  
SB 694-Klindt

SB 490-Dolan

## House Bills

Reported 4/14

HB 307-Merideth and  
Shoemaker (Foster)

HB 505-Byrd and Villa,  
with SCS (Mathewson)

Reported 4/15

HCS for HB 613, with SCS  
(Bartle)

## SENATE BILLS WITH HOUSE AMENDMENTS

SCS for SB 69-Yeckel and  
Nodler, with HCS

SCS for SB 84-Cauthorn and  
Klindt, with HCS, as amended

SB 275-Russell, with HCS

SCS for SB 281-Shields, with HCS

SB 289-Dolan, et al, with HCA 1

SCS for SB 295-Shields, with HCS

SCS for SB 296-Griesheimer,  
with HS for HCS, as amended

SS for SCS for SB 298-

Griesheimer, with HCS, as amended

SB 301-Bray, with HCS

SB 325-Steelman, with HCS

SB 355-Stoll, with HCS

SCS for SB 358-Shields, with HCS  
SB 370-Foster, with HCS

SCS for SB 373-Bartle, with HCS

SB 399-Caskey, with HCS

SB 423-Childers, with HCA 1

SCS for SB 447-Bartle, with HCA 1

SB 465-Bartle, with HCS

SB 468-Bartle, with HCA 1

SB 470-Bartle, with HCS

SB 474-Bartle, with HCS

SB 504-Clemens and Champion, with HCS

SB 521-Gross, with HCS

SCS for SB 547-Caskey, with HCS

SCS for SB 592-Foster, with HCS

SCS for SB 666-Bland, with HCS

BILLS IN CONFERENCE AND BILLS  
CARRYING REQUEST MESSAGES

In Conference

SS for SCS for SB 36-Klindt,  
with HCS, as amended

SCS#2 for SB 52-Shields,  
with HCS (Senate adopted CCR  
and passed CCS)

SCS for SBs 299 & 40-Champion,  
 et al, with HS, as amended  
 SCS for SB 379-Champion,  
 with HCS  
 SB 394-Bartle, with HCS,  
 as amended  
 SB 401-Dolan, et al, with HCS  
 SB 407-Klindt, with HCS  
 SB 448-Bartle, with HCS  
 SB 552-Yeckel, with HCS  
 HS for HB 2-Bearden, with  
 SCS, as amended (Russell)  
 HS for HB 3-Bearden, with  
 SCS, as amended (Russell)  
 HS for HB 4-Bearden, with  
 SCS, as amended (Russell)  
 HS for HB 5-Bearden, with  
 SCS, as amended (Russell)

HS for HB 6-Bearden, with  
 SCS, as amended (Russell)  
 HS for HB 7-Bearden, with  
 SCS (Russell)  
 HS for HB 8-Bearden, with  
 SCS, as amended (Russell)  
 HS for HB 9-Bearden, with  
 SCS, as amended (Russell)  
 HS for HB 10-Bearden, with  
 SCS, as amended (Russell)  
 HS for HB 11-Bearden, with  
 SCS, as amended (Russell)  
 HS for HB 12-Bearden, with  
 SCS, as amended (Russell)  
 HCS for HB 289, with SS for SCS,  
 as amended (Steelman)  
 HCS for HB 600, with SS for SS  
 for SCS, as amended (Shields)

Requests to Recede or Grant Conference

SB 186-Cauthorn, with HCS  
 (House requests Senate  
 take up and pass the bill)  
 HCS for HB 427, with SCS  
 (Bartle) (House requests Senate  
 recede or grant conference)

HS for HB 511-Deeken, with SS  
 for SCS, as amended (Yeckel)  
 (House requests Senate  
 recede or grant conference)

RESOLUTIONS

SCR 15-Dolan, et al

SS for SCS for SCR 13-  
 Nodler, with HCA 1

To be Referred

HCR 29-Jetton, et al

Reported from Committee

SR 30-Shields, with SCS, SS  
for SCS & SA 1 (pending)  
SCR 4-Jacob  
HCR 15-Behnen (Cauthorn)

SCR 17-Cauthorn, et al  
SCR 18-Mathewson and  
Steelman  
HCR 11-Moore and Walton

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