Journal of the Senate

FIRST REGULAR SESSION

SEVENTY-THIRD DAY—WEDNESDAY, MAY 14, 2003

The Senate met pursuant to adjournment.

Senator Gross in the Chair.

Reverend Carl Gauck offered the following prayer:

"If God be for us, who can be against us?" (Romans 8:31)

Gracious God, we know it would be presumptuous to assume You are always on our side, whether in an argument or a dispute; so we pray that we may always be on Your side. Help us to seek to do Your will and follow the path You have laid before us, no matter how unpopular it may be; let us not be ever afraid to do what is right. And Father, we pray for Senator Klindt and his family, that You will comfort them with Your presence and give them Your peace. We pray for Mrs. Klindt that in these final days and hours You will provide her mercy and grace and touch her soul and give her life eternally. 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, KOMU-TV and the Associated Press were given permission to take pictures in the Senate Chamber today.

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

Present—Senators

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

Absent with leave—Senators

DePasco Klindt—2

The Lieutenant Governor was present.

RESOLUTIONS

Senator Shields offered Senate Resolution No. 997, regarding Rachel Elizabeth Roepe, Alma, which was adopted.

Senator Vogel offered Senate Resolution No. 998, regarding Thomas J. "Tom" Frank, Jefferson City, which was adopted.

Senator Shields offered Senate Resolution No. 999, regarding Nancy Reys, St. Joseph, which was adopted.

Senator Kennedy offered Senate Resolution No. 1000, regarding Southern Reynolds County R-II School District, Ellington, which was adopted.

Senator Steelman moved that **SR 919**, with **SCS**, be taken up for adoption, which motion prevailed.

SCS for **SR 919** was taken up.

Senator Steelman moved that **SCS** for **SR 919** be adopted, which motion prevailed.

On motion of Senator Steelman, **SR 919**, as amended by the **SCS**, was adopted.

Senator Griesheimer moved that **SR 977** be taken up for adoption, which motion prevailed.

On motion of Senator Griesheimer, **SR 977** 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 House has adopted **SCS** for **HCS** for **HBs 346** and **174** and has taken up and passed **SCS** for **HCS** for **HBs 346** and **174**.

Emergency clause adopted.

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 243**, entitled:

An Act to amend chapter 37, RSMo, by adding thereto two new sections relating to the creation of the property preservation fund, with an emergency clause.

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 adopted **SCR 16**.

Also,

Mr. President: I am instructed by the House of Representatives to inform the Senate that the House has taken up and adopted **SCR 12**.

Also,

Mr. President: I am instructed by the House of Representatives to inform the Senate that the House has taken up and adopted the Conference Committee Report on **SCS** for **HCS** for **HB 427** and has taken up and passed **CCS** for **SCS** for **HCS** for **HB 427**.

Also,

Mr. President: I am instructed by the House of Representatives to inform the Senate that the House has taken up and adopted the Conference Committee Report on **SCS** for **HCS** for **HB 613**, as amended, and has taken up and passed **CCS** for **SCS** for **HCS** for **HB 613**.

Also,

Mr. President: I am instructed by the House of Representatives to inform the Senate that the House refuses to adopt **SS**, as amended, for **HB 412** and requests the Senate to recede from its position and failing to do so grant the House a conference thereon.

Also,

Mr. President: I am instructed by the House of Representatives to inform the Senate that the House refuses to concur in **SA 1** to **HB 655** and request 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 **SS** for **SCS**, as amended, for **HS** for **HB 470** and requests the Senate to recede from its position and failing to do so grant the House a conference thereon.

PRIVILEGED MOTIONS

Senator Foster moved that **HB 655**, with **SA 1**, be taken up for third reading and final passage, which motion prevailed.

SA 1 was taken up.

Senator Caskey moved that the Senate recede from its position on **SA 1**, which motion prevailed.

On motion of Senator Foster, **HB 655** was read the 3rd time and passed by the following vote:

YEAS—Senators

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

NAYS—Senators—None

Absent—Senators

Bland	Cauthorn	Coleman	Quick
Russell—5			

Absent with leave—Senators

DePasco	Klindt—2

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

Senator Childers moved that the Senate refuse to recede from its position on **SS** for **HB 412**, as amended, and grant the House a conference thereon, which motion prevailed.

Senator Bartle moved that the Senate refuse to recede from its position on **SS** for **SCS** for **HS** for **HB 470**, 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 **SS** for **SCS** for **HS** for **HB 470**, as amended: Senators Bartle, Yeckel, Dolan, Wheeler and Kennedy.

PRIVILEGED MOTIONS

Senator Yeckel moved that **SS** for **SB 242**, with **HCS**, be taken up for 3rd reading and final passage, which motion prevailed.

HCS for **SS** for **SB 242**, entitled:

HOUSE COMMITTEE SUBSTITUTE FOR
SENATE SUBSTITUTE FOR
SENATE BILL NO. 242

An Act to amend chapter 512, RSMo, by adding thereto one new section relating to supersedeas bond requirements, with an emergency clause.

Was taken up.

President Pro Tem Kinder assumed the Chair.

Senator Yeckel moved that **HCS** for **SS** for **SB 242** be adopted, which motion prevailed by the following vote:

YEAS—Senators

Bartle	Bray	Caskey	Champion
Childers	Clemens	Days	Dolan
Dougherty	Foster	Gibbons	Goode
Griesheimer	Gross	Jacob	Kennedy
Kinder	Loudon	Mathewson	Nodler
Russell	Scott	Shields	Steelman
Stoll	Vogel	Wheeler	Yeckel—28

NAYS—Senators—None

Absent—Senators

Bland	Cauthorn	Coleman	Quick—4

Absent with leave—Senators

DePasco	Klindt—2

On motion of Senator Yeckel, **HCS** for **SS** for **SB 242** was read the 3rd time and passed by the following vote:

YEAS—Senators

Bartle	Bray	Caskey	Champion
Childers	Clemens	Days	Dolan
Dougherty	Foster	Gibbons	Goode
Griesheimer	Gross	Jacob	Kennedy
Kinder	Loudon	Mathewson	Nodler
Russell	Scott	Shields	Steelman
Stoll	Vogel	Wheeler	Yeckel—28

NAYS—Senators—None

Absent—Senators

Bland	Cauthorn	Coleman	Quick—4

Absent with leave—Senators

DePasco	Klindt—2

The President Pro Tem declared the bill passed.

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

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

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

Bill ordered enrolled.

SIGNING OF BILLS

The President Pro Tem announced that all other business would be suspended and **HCS** for **HB 202**, 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 Gross moved that the Senate refuse to concur in **HS** for **HCS** for **SS No. 2** for **SCS** for **SBs 248**, **100**, **118**, **233**, **247**, **341** and **420**, 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.

REPORTS OF STANDING COMMITTEES

Senator Bartle, Chairman of the Committee on the Judiciary and Civil and Criminal Jurisprudence, submitted the following report:

Mr. President: Your Committee on the Judiciary and Civil and Criminal Jurisprudence, to which was referred **HB 697**, begs leave to report that it has considered the same and recommends that the Senate Committee Substitute, hereto attached, do pass.

HOUSE BILLS ON THIRD READING

HB 198, introduced by Representative Stevenson, et al, entitled:

An Act to repeal section 544.170, RSMo, and to enact in lieu thereof one new section relating to confinement of persons without process, with penalty provisions.

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

Senator Bartle offered **SS** for **HB 198**, entitled:

SENATE SUBSTITUTE FOR
HOUSE BILL NO. 198

An Act to repeal sections 32.056, 115.157, 217.305, 217.380, 302.060, 302.309, 302.321, 302.541, 416.615, 478.610, 537.046, 542.276, 544.170, 565.092, 577.023, 577.041, 577.500, 589.400, 589.407, 589.414, RSMo, and to enact in lieu thereof thirty-seven new sections relating to crimes and punishment, with penalty provisions.

Senator Bartle moved that **SS** for **HB 198** be adopted.

Senator Shields assumed the Chair.

Senator Caskey offered **SA 1**:

SENATE AMENDMENT NO. 1

Amend Senate Substitute for House Bill No. 198, Page 10, Section 217.343, Line 29 of said page, by inserting after all of said line the following:

"217.362. 1. The department of corrections shall design and implement an intensive long-term program for the treatment of chronic nonviolent offenders with serious substance abuse addictions who have not pleaded guilty to or been convicted of a dangerous felony as defined in section 556.061, RSMo.

2. Prior to sentencing, any judge considering an offender for this program shall notify the department. The potential candidate for the program shall be screened by the department to determine eligibility. The department shall, by regulation, establish eligibility criteria and inform the court of such criteria. The department shall notify the court as to the offender's eligibility and the availability of space in the program. Notwithstanding any other provision of law to the contrary, except as provided for in section 558.019, RSMo, if an offender is eligible and there is adequate space, the court may sentence a person to the program which shall consist of institutional drug **or alcohol** treatment for a period of **at least twelve and no more than** twenty-four months, as well as a term of incarceration. **The department shall determine the nature, intensity, duration, and completion criteria of the education, treatment, and aftercare portions of any program services provided.** Execution of the offender's term of incarceration shall be suspended pending completion of said program. Allocation of space in the program may be distributed by the department in proportion to drug arrest patterns in the state. If the court is advised that an offender is not eligible or that there is no space available, the court shall consider other authorized dispositions.

3. **[**Notwithstanding any other provision of the law to the contrary, upon successful completion of the program, the board of probation and parole may advise the sentencing court of the eligibility of the individual for probation. The original sentencing court shall hold a hearing to make a determination as to the fitness of the offender to be placed on probation. The court shall follow the recommendation of the board unless the court makes a determination that such a placement would be an abuse of discretion. If an offender successfully completes the program before the end of the twenty-four-month period, the department may petition the court and request that probation be granted immediately.**] Upon successful completion of the program, the board of probation and parole shall advise the sentencing court of an offender's probationary release date thirty days prior to release. If the court determines that probation is not appropriate the court may order the execution of the offender's sentence.**

4. If it is determined by the department that the offender has not successfully completed the program, or that the offender is not cooperatively participating in the program, the offender shall be removed from the program and the court shall be advised. Failure of an offender to complete the program shall cause the offender to serve the sentence prescribed by the court and void the right to be considered for probation on this sentence.

5. An offender's first incarceration in a department of corrections program pursuant to this section prior to release on probation shall not be considered a previous prison commitment for the purpose of determining a minimum prison term pursuant to the provisions of section 558.019, RSMo." and

Further amend said bill, Page 11, Section 217.380, Line 25 of said page, by inserting after all of said line the following:

"217.541. 1. The department shall by rule establish a program of house arrest. The director or his designee may extend the limits of confinement

of offenders serving sentences for class C or D felonies who have **[**one year**]** **two years** or less remaining prior to release on parole, conditional release, or discharge to participate in the house arrest program.

2. The offender referred to the house arrest program shall remain in the custody of the department and shall be subject to rules and regulations of the department pertaining to offenders of the department until released on parole or conditional release by the state board of probation and parole.

3. The department shall require the offender to participate in work or educational or vocational programs and other activities that may be necessary to the supervision and treatment of the offender.

4. An offender released to house arrest shall be authorized to leave his place of residence only for the purpose and time necessary to participate in the program and activities authorized in subsection 3 of this section.

5. The board of probation and parole shall supervise every offender released to the house arrest program and shall verify compliance with the requirements of this section and such other rules and regulations that the department shall promulgate and may do so by remote electronic surveillance. If any probation/parole officer has probable cause to believe that an offender under house arrest has violated a condition of the house arrest agreement, the probation/parole officer may issue a warrant for the arrest of the offender. The probation/parole officer may effect the arrest or may deputize any officer with the power of arrest to do so by giving the officer a copy of the warrant which shall outline the circumstances of the alleged violation. The warrant delivered with the offender by the arresting officer to the official in charge of any jail or other detention facility to which the offender is brought shall be sufficient legal authority for detaining the offender. An offender arrested under this section shall remain in custody or incarcerated without consideration of bail. The director or his designee, upon recommendation of the probation and parole officer, may direct the return of any offender from house arrest to a correctional facility of the department for reclassification.

6. Each offender who is released to house arrest shall pay a percentage of his wages, established by department rules, to a maximum of the per capita cost of the house arrest program. The money received from the offender shall be deposited in the inmate fund and shall be expended to support the house arrest program.

217.730. 1. The period served on parole, except for judicial parole granted or revoked pursuant to section 559.100, RSMo, shall be deemed service of the term of imprisonment and, subject to the provisions of section 217.720 relating to an offender who is or has been a fugitive from justice, the total time served may not exceed the maximum term or sentence.

2. When an offender on parole or conditional release, before the expiration of the term for which the offender was sentenced, has performed the obligation of his parole for such time as satisfies the board that his final release is not incompatible with the best interest of society and the welfare of the individual, the board may make a final order of discharge and issue a certificate of discharge to the offender. No such order of discharge shall be made in any case less than three years after the date on which the offender was paroled or conditionally released except where the sentence expires earlier.

3. Upon final discharge, persons shall be informed in writing on the process and procedure to register to vote.

217.750. 1. At the request of a judge of any circuit court, the board shall provide probation services for such court as provided in subsection 2 of this section.

2. The board shall provide probation services for any person convicted of any class of felony. The board shall not **[**be required to**]** provide

probation services for any class of misdemeanor except those class A misdemeanors the basis of which is contained in chapters 565**[**,**]** **and** 566 **[**and 570**]**, RSMo, or in section 568.050, RSMo, 455.085, RSMo, or section 455.538, RSMo. **[**The board may in its discretion accept other persons for supervision who have been convicted of driving while intoxicated under the provisions of section 577.023, RSMo.**]**

217.760. 1. In all felony cases and class A misdemeanor cases, the basis of which misdemeanor cases are contained in chapters 565**[**,**]** **and** 566, **[**and 570,**]** RSMo, and section 577.023, RSMo, at the request of a circuit judge of any circuit court, the board shall assign one or more state probation and parole officers to make an investigation of the person convicted of the crime or offense before sentence is imposed. **In all felony cases in which the recommended sentence established by the sentencing advisory commission pursuant to subsection 6 of section 558.019, RSMo, includes probation but the recommendation of the prosecuting attorney or circuit attorney does not include probation, the board of probation and parole shall, prior to sentencing, provide the judge with a report on available alternatives to incarceration.**

2. The report of the presentence investigation or preparole investigation shall contain any prior criminal record of the defendant and such information about his **or her** characteristics, his **or her** financial condition, his **or her** social history **[**and**],** the circumstances affecting his **or her** behavior as may be helpful in imposing sentence or in granting probation or in the correctional treatment of the defendant, **information concerning the impact of the crime upon the victim, the recommended sentence established by the sentencing advisory commission and available alternatives to incarceration including opportunities for restorative justice,** as well as a recommendation by the probation and parole officer. The officer shall secure such other information as may be required by the court and, whenever it is practicable and needed, such investigation shall include a physical and mental examination of the defendant."; and

Further amend said bill, Pages 25-26, Section 478.610, by striking all of said section from the bill and inserting in lieu thereof the following:

"478.610. 1. There shall be three circuit judges in the thirteenth judicial circuit consisting of the counties of Boone and Callaway. These judges shall sit in divisions numbered one, two and three. **Beginning on January 1, 2007, there shall be four circuit judges in the thirteenth judicial circuit and these judges shall sit in divisions numbered one, two, three, and four.**

2. The circuit judge in division two shall be elected in 1980. The circuit judges in divisions one and three shall be elected in 1982. **The circuit judge in division four shall be elected in 2006 for a two-year term and thereafter in 2008 for a full six-year term.**

3. The authority for a majority of judges of the thirteenth judicial circuit to appoint or retain a commissioner pursuant to section 478.003 shall expire August 28, 2001. As of such date, there shall be one additional associate circuit judge position in Boone County than is provided pursuant to section 478.320.

513.653. 1. Law enforcement agencies involved in using the federal forfeiture system under federal law shall be required at the end of their respective fiscal year to acquire an independent audit of the federal seizures and the proceeds received therefrom and provide this audit to their respective governing body **and to the department of public safety**. A copy of such audit shall be provided to the state auditor's office. This audit shall be paid for out of the proceeds of such federal forfeitures. **The department of public safety shall not issue funds to any law enforcement agency that fails to comply with the provisions of this section.**

2. Intentional or knowing failure to comply

with the audit requirement contained in this section shall be a class A misdemeanor, punishable by a fine of up to one thousand dollars."; and

Further amend said bill, Page 39, Section 544.170, Line 12 of said page, by inserting after all of said line the following:

"556.061. In this code, unless the context requires a different definition, the following shall apply:

(1) "Affirmative defense" has the meaning specified in section 556.056;

(2) "Burden of injecting the issue" has the meaning specified in section 556.051;

(3) "Commercial film and photographic print processor", any person who develops exposed photographic film into negatives, slides or prints, or who makes prints from negatives or slides, for compensation. The term commercial film and photographic print processor shall include all employees of such persons but shall not include a person who develops film or makes prints for a public agency;

(4) "Confinement":

(a) A person is in confinement when such person is held in a place of confinement pursuant to arrest or order of a court, and remains in confinement until:

a. A court orders the person's release; or

b. The person is released on bail, bond, or recognizance, personal or otherwise; or

c. A public servant having the legal power and duty to confine the person authorizes his release without guard and without condition that he return to confinement;

(b) A person is not in confinement if:

a. The person is on probation or parole, temporary or otherwise; or

b. The person is under sentence to serve a term of confinement which is not continuous, or is serving a sentence under a work-release program, and in either such case is not being held in a place of confinement or is not being held under guard by a person having the legal power and duty to transport the person to or from a place of confinement;

(5) "Consent": consent or lack of consent may be expressed or implied. Assent does not constitute consent if:

(a) It is given by a person who lacks the mental capacity to authorize the conduct charged to constitute the offense and such mental incapacity is manifest or known to the actor; or

(b) It is given by a person who by reason of youth, mental disease or defect, or intoxication, is manifestly unable or known by the actor to be unable to make a reasonable judgment as to the nature or harmfulness of the conduct charged to constitute the offense; or

(c) It is induced by force, duress or deception;

(6) "Criminal negligence" has the meaning specified in section 562.016, RSMo;

(7) "Custody", a person is in custody when the person has been arrested but has not been delivered to a place of confinement;

(8) "Dangerous felony" means the felonies of arson in the first degree, assault in the first degree, attempted forcible rape if physical injury results, attempted forcible sodomy if physical injury results, forcible rape, forcible sodomy, kidnapping, murder in the second degree **[**and**], assault of a law enforcement officer in the first degree, domestic assault in the first degree, elder abuse in the first degree, and** robbery in the first degree;

(9) "Dangerous instrument" means any instrument, article or substance, which, under the circumstances in which it is used, is readily capable of causing death or other serious physical injury;

(10) "Deadly weapon" means any firearm, loaded or unloaded, or any weapon from which a shot, readily capable of producing death or serious

physical injury, may be discharged, or a switchblade knife, dagger, billy, blackjack or metal knuckles;

(11) "Felony" has the meaning specified in section 556.016;

(12) "Forcible compulsion" means either:

(a) Physical force that overcomes reasonable resistance; or

(b) A threat, express or implied, that places a person in reasonable fear of death, serious physical injury or kidnapping of such person or another person;

(13) "Incapacitated" means that physical or mental condition, temporary or permanent, in which a person is unconscious, unable to appraise the nature of such person's conduct, or unable to communicate unwillingness to an act. A person is not incapacitated with respect to an act committed upon such person if he or she became unconscious, unable to appraise the nature of such person's conduct or unable to communicate unwillingness to an act, after consenting to the act;

(14) "Infraction" has the meaning specified in section 556.021;

(15) "Inhabitable structure" has the meaning specified in section 569.010, RSMo;

(16) "Knowingly" has the meaning specified in section 562.016, RSMo;

(17) "Law enforcement officer" means any public servant having both the power and duty to make arrests for violations of the laws of this state, and federal law enforcement officers authorized to carry firearms and to make arrests for violations of the laws of the United States;

(18) "Misdemeanor" has the meaning specified in section 556.016;

(19) "Offense" means any felony, misdemeanor or infraction;

(20) "Physical injury" means physical pain, illness, or any impairment of physical condition;

(21) "Place of confinement" means any building or facility and the grounds thereof wherein a court is legally authorized to order that a person charged with or convicted of a crime be held;

(22) "Possess" or "possessed" means having actual or constructive possession of an object with knowledge of its presence. A person has actual possession if such person has the object on his or her person or within easy reach and convenient control. A person has constructive possession if such person has the power and the intention at a given time to exercise dominion or control over the object either directly or through another person or persons. Possession may also be sole or joint. If one person alone has possession of an object, possession is sole. If two or more persons share possession of an object, possession is joint;

(23) "Public servant" means any person employed in any way by a government of this state who is compensated by the government by reason of such person's employment, any person appointed to a position with any government of this state, or any person elected to a position with any government of this state. It includes, but is not limited to, legislators, jurors, members of the judiciary and law enforcement officers. It does not include witnesses;

(24) "Purposely" has the meaning specified in section 562.016, RSMo;

(25) "Recklessly" has the meaning specified in section 562.016, RSMo;

(26) "Ritual" or "ceremony" means an act or series of acts performed by two or more persons as part of an established or prescribed pattern of activity;

(27) "Serious emotional injury", an injury that creates a substantial risk of temporary or permanent medical or psychological damage, manifested by impairment of a behavioral, cognitive or physical condition. Serious emotional injury shall be established by testimony of qualified experts upon the reasonable expectation of

probable harm to a reasonable degree of medical or psychological certainty;

(28) "Serious physical injury" means physical injury that creates a substantial risk of death or that causes serious disfigurement or protracted loss or impairment of the function of any part of the body;

(29) "Sexual conduct" means acts of human masturbation; deviate sexual intercourse; sexual intercourse; or physical contact with a person's clothed or unclothed genitals, pubic area, buttocks, or the breast of a female in an act of apparent sexual stimulation or gratification;

(30) "Sexual contact" means any touching of the genitals or anus of any person, or the breast of any female person, or any such touching through the clothing, for the purpose of arousing or gratifying sexual desire of any person;

(31) "Sexual performance", any performance, or part thereof, which includes sexual conduct by a child who is less than seventeen years of age;

(32) "Voluntary act" has the meaning specified in section 562.011, RSMo.

557.036. 1. **[**Subject to the limitation provided in subsection 3 of this section,**]** Upon a finding of guilt upon verdict or plea, the court shall decide the extent or duration of sentence or other disposition to be imposed under all the circumstances, having regard to the nature and circumstances of the offense and the history and character of the defendant and render judgment accordingly.

2. **[**The court shall instruct the jury as to the range of punishment authorized by statute and upon a finding of guilt to assess and declare the punishment as a part of their verdict, unless:**]** **Where an offense is submitted to the jury, the trial shall proceed in two stages. At the first stage, the jury shall decide only whether the defendant is guilty or not guilty of any submitted offense. The issue of punishment shall not be submitted to the jury at the first stage.**

3. If the jury at the first stage of a trial finds the defendant guilty of the submitted offense, the second stage of the trial shall proceed. The issue at the second stage of the trial shall be the punishment to be assessed and declared. Evidence supporting or mitigating punishment may be presented. Such evidence may include, within the discretion of the court, evidence concerning the impact of the crime upon the victim, the victim's family and others, the nature and circumstances of the offense, and the history and character of the defendant. Rebuttal and surrebuttal evidence may be presented. The state shall be the first to proceed. The court shall instruct the jury as to the range of punishment authorized by statute for each submitted offense. The attorneys may argue the issue of punishment to the jury, and the state shall have the right to open and close the argument. The jury shall assess and declare the punishment as authorized by statute.

4. A second stage of the trial shall not proceed and the court, and not the jury, shall assess punishment if:

(1) The defendant requests in writing, prior to voir dire, that the court assess the punishment in case of a finding of guilt; or

(2) The state pleads and proves the defendant is a prior offender, persistent offender, dangerous offender, or persistent misdemeanor offender as defined in section 558.016, RSMo, a persistent sexual offender as defined in section 558.018, RSMo, or a predatory sexual offender as defined in section 558.018, RSMo.

If the jury **[**finds the defendant guilty but**]** cannot agree on the punishment to be assessed, the court shall proceed as provided in subsection 1 of this section. If **[**there be a trial by jury and the jury is to assess punishment and if**],** after due deliberation by the jury**,** the court finds the jury cannot agree on punishment, then the court may instruct the jury that if it cannot agree on punishment that **[**it may return its verdict without assessing punishment

and**]** the court will assess punishment.

[3.**] 5.** If the jury returns a verdict of guilty **in the first stage** and declares a term of imprisonment **[**as provided in subsection 2 of this section**] in the second stage**, the court shall proceed as provided in subsection 1 of this section except that any term of imprisonment imposed cannot exceed the term declared by the jury unless the term declared by the jury is less than the authorized lowest term for the offense, in which event the court cannot impose a term of imprisonment greater than the lowest term provided for the offense.

[4.**] 6.** If the defendant is found to be a prior offender, persistent offender, dangerous offender or persistent misdemeanor offender as defined in section 558.016, RSMo:

(1) If he has been found guilty of an offense, the court shall proceed as provided in section 558.016, RSMo; or

(2) If he has been found guilty of a class A felony, the court may impose any sentence authorized for the class A felony.

[5.**] 7.** The court shall not seek an advisory verdict from the jury in cases of prior offenders, persistent offenders, dangerous offenders, persistent sexual offenders or predatory sexual offenders; if an advisory verdict is rendered, the court shall not deem it advisory, but shall consider it as mere surplusage.

558.011. 1. The authorized terms of imprisonment, including both prison and conditional release terms, are:

(1) For a class A felony, a term of years not less than ten years and not to exceed thirty years, or life imprisonment;

(2) For a class B felony, a term of years not less than five years and not to exceed fifteen years;

(3) For a class C felony, a term of years not to exceed seven years;

(4) For a class D felony, a term of years not to exceed **[**five**] four** years;

(5) For a class A misdemeanor, a term not to exceed one year;

(6) For a class B misdemeanor, a term not to exceed six months;

(7) For a class C misdemeanor, a term not to exceed fifteen days.

2. In cases of class C and D felonies, the court shall have discretion to imprison for a special term not to exceed one year in the county jail or other authorized penal institution, and the place of confinement shall be fixed by the court. If the court imposes a sentence of imprisonment for a term longer than one year upon a person convicted of a class C or D felony, it shall commit the person to the custody of the department of corrections for a term of years not less than two years and not exceeding the maximum authorized terms provided in subdivisions (3) and (4) of subsection 1 of this section.

3. (1) When a regular sentence of imprisonment for a felony is imposed, the court shall commit the **[**defendant**] person** to the custody of the department of corrections for the term imposed under section 557.036, RSMo, or until released under procedures established elsewhere by law.

(2) A sentence of imprisonment for a misdemeanor shall be for a definite term and the court shall commit the **[**defendant**] person** to the county jail or other authorized penal institution for the term of his **or her** sentence or until released under procedure established elsewhere by law.

4. (1) A sentence of imprisonment for a term of years for felonies other than dangerous felonies as defined in section 556.061, RSMo, and other than sentences of imprisonment which involve the individual's fourth or subsequent remand to the department of corrections shall consist of a prison term and a conditional release term. The conditional release term of any term imposed under section 557.036, RSMo, shall be:

(a) One-third for terms of nine years or less;

(b) Three years for terms between nine and fifteen years;

(c) Five years for terms more than fifteen years; and the prison term shall be the remainder of such term. The prison term may be extended by the board of probation and parole pursuant to subsection 5 of this section.

(2) "Conditional release" means the conditional discharge of an offender by the board of probation and parole, subject to conditions of release that the board deems reasonable to assist the offender to lead a law-abiding life, and subject to the supervision under the state board of probation and parole. The conditions of release shall include avoidance by the offender of any other crime, federal or state, and other conditions that the board in its discretion deems reasonably necessary to assist the releasee in avoiding further violation of the law.

5. The date of conditional release from the prison term may be extended up to a maximum of the entire sentence of imprisonment by the board of probation and parole. The director of any division of the department of corrections except the board of probation and parole may file with the board of probation and parole a petition to extend the conditional release date when an offender fails to follow the rules and regulations of the division or commits an act in violation of such rules. Within ten working days of receipt of the petition to extend the conditional release date, the board of probation and parole shall convene a hearing on the petition. The offender shall be present and may call witnesses in his **or her** behalf and cross-examine witnesses appearing against **[**him**] the offender**. The hearing shall be conducted as provided in section 217.670, RSMo. If the violation occurs in close proximity to the conditional release date, the conditional release may be held for a maximum of fifteen working days to permit necessary time for the division director to file a petition for an extension with the board and for the board to conduct a hearing, provided some affirmative manifestation of an intent to extend the conditional release has occurred prior to the conditional release date. If at the end of a fifteen-working-day period a board decision has not been reached, the offender shall be released conditionally. The decision of the board shall be final.

558.016. 1. The court may sentence a person who has pleaded guilty to or has been found guilty of an offense to a term of imprisonment as authorized by section 558.011 or to a term of imprisonment authorized by a statute governing the offense, if it finds the defendant is a prior offender or a persistent misdemeanor offender, or to an extended term of imprisonment if it finds the defendant is a persistent offender or a dangerous offender.

2. A "prior offender" is one who has pleaded guilty to or has been found guilty of one felony.

3. A "persistent offender" is one who has pleaded guilty to or has been found guilty of two or more felonies committed at different times.

4. A "dangerous offender" is one who:

(1) Is being sentenced for a felony during the commission of which he knowingly murdered or endangered or threatened the life of another person or knowingly inflicted or attempted or threatened to inflict serious physical injury on another person; and

(2) Has pleaded guilty to or has been found guilty of a class A or B felony or a dangerous felony.

5. A "persistent misdemeanor offender" is one who has pleaded guilty to or has been found guilty of two or more class A or B misdemeanors, committed at different times, which are defined as offenses under chapters 195, 565, 566, 567, 568, 569, 570, 571, 572, 573, 574, 575, and 576, RSMo.

6. The pleas or findings of guilty shall be prior to the date of commission of the present offense.

7. The total authorized maximum terms of

imprisonment for a persistent offender or a dangerous offender are:

(1) For a class A felony, any sentence authorized for a class A felony;

(2) For a class B felony, **[**a term of years not to exceed thirty years**]** **any sentence authorized for a class A felony**;

(3) For a class C felony, **[**a term of years not to exceed twenty years**]** **any sentence authorized for a class B felony**;

(4) For a class D felony, **[**a term of years not to exceed ten years**]** **any sentence authorized for a class C felony**.

8. An offender convicted of a nonviolent class C or class D felony with no prior prison commitments, after serving one hundred twenty days of his or her sentence, may, in writing, petition the court to serve the remainder of his or her sentence on probation, parole, or other court-approved alternative sentence. No hearing shall be conducted unless the court deems it necessary. Upon the offender petitioning the court, the department of corrections shall submit a report to the sentencing court which evaluates the conduct of the offender while in custody, alternative custodial methods available to the offender, and shall recommend whether the offender be released or remain in custody. If the report issued by the department is favorable and recommends probation, parole, or other alternative sentence, the court shall follow the recommendations of the department unless the court makes the determination that such placement may be an abuse of discretion. Any placement of an offender pursuant to section 559.115, RSMo, shall be excluded from the provisions of this subsection.

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

2. The provisions of **subsections 2 to 5 of** this section shall be applicable to all classes of felonies except those set forth in chapter 195, RSMo, and those otherwise excluded in subsection 1 of this section. For the purposes of this section, "prison commitment" means and is the receipt by the department of corrections of a **[**defendant**]** **offender** after sentencing. For purposes of this section, prior prison commitments to the department of corrections shall not include commitment to a regimented discipline program established pursuant to section 217.378, RSMo. Other provisions of the law to the contrary notwithstanding, any **[**defendant**]** **offender** who has pleaded guilty to or has been found guilty of a felony other than a dangerous felony as defined in section 556.061, RSMo, and is committed to the department of corrections shall be required to serve the following minimum prison terms:

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

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

(3) If the **[**defendant**]** **offender** has three or more previous prison commitments to the department of corrections for felonies unrelated to

the present offense, the minimum prison term which the **[**defendant**] offender** must serve shall be eighty percent of his **or her** sentence or until the **[**defendant**] offender** attains seventy years of age, and has served at least forty percent of the sentence imposed, whichever occurs first.

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

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

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

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

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

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

(2) The commission shall study sentencing practices in the circuit courts throughout the state for the purpose of determining whether and to what extent disparities exist among the various circuit courts with respect to the length of sentences imposed and the use of probation for **[**defendants**] offenders** convicted of the same or similar crimes and with similar criminal histories. The commission shall also study and examine whether and to what extent sentencing disparity among economic and social classes exists in relation to the sentence of death and if so, the reasons therefor **sentences are comparable to other states, if the length of the sentence is appropriate, and the rate of rehabilitation based on sentence**. It shall compile statistics, examine cases, draw conclusions, and perform other duties relevant to the research and investigation of disparities in death penalty sentencing among economic and social classes.

(3) The commission shall establish a system of

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

(a) The nature and severity of each offense;

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

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

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

(4) **The commission shall study alternative sentences, prison work programs, work release, home-based incarceration, probation and parole options, and any other programs and report the feasibility of these options in Missouri.**

(5) The commission shall publish and distribute its **[**system of recommended sentences**]** **recommendations** on or before July 1, **[**1995**]** **2004**. The commission shall study the implementation and use of the **[**system of recommended sentences**]** **recommendations** until July 1, **[**1998**]** **2005**, and return a **[**final**]** report to the governor, the speaker of the house of representatives, and the president pro tem of the senate. Following the July 1, **[**1998**]** **2005**, report, the commission **[**may**]** **shall** revise the recommended sentences every **[**three**]** **two** years.

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

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

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

7. **Courts shall retain discretion to lower or exceed the sentence recommended by the commission as otherwise allowable by law, and to order restorative justice methods, when applicable.**

8. In all cases involving class C and D felony violations of chapter 195, RSMo, where the department receives custody of an offender, the department of corrections shall make a report to the board of probation and parole within one hundred twenty days after receiving custody of the offender. The report shall contain a description of the circumstances of the offense, an evaluation of the offender's need for drug or alcohol treatment, an evaluation of the offender's conduct while in custody, and available options, if any, for punishing the offender in settings other than prison. The board of probation and parole shall have the authority for the duration of the sentence imposed by the court to place the offender in any combination of treatment, incarceration, supervised release, community service, and restorative justice.

9. If the imposition or execution of a sentence is suspended, the court may consider ordering any or all of the following restorative justice methods, or any other method that the court finds just or appropriate:

(1) Restitution to any victim for costs incurred as a result of the offender's actions;

(2) Offender treatment programs;

(3) Mandatory community service;

(4) Work release programs in local facilities; and

(5) Community based residential and nonresidential programs.

10. The provisions of this section shall apply only to offenses occurring on or after August 28, **[**1994**] 2003**.

559.026. Except in infraction cases, when probation is granted, the court, in addition to conditions imposed **[**under**] pursuant to** section 559.021, may require as a condition of probation that the **[**defendant**] offender** submit to a period of detention **up to forty-eight hours after the determination by a probation or parole officer that the offender violated a condition of continued probation or parole** in an appropriate institution at whatever time or intervals within the period of probation, consecutive or nonconsecutive, the court shall designate**, or the board of probation and parole shall direct**. Any person placed on probation in a county of the first class or second class or in any city with a population of five hundred thousand or more and detained as herein provided shall be subject to all provisions of section 221.170, RSMo, even though he was not convicted and sentenced to a jail or workhouse.

(1) In misdemeanor cases, the period of detention under this section shall not exceed the shorter of fifteen days or the maximum term of imprisonment authorized for the misdemeanor by chapter 558, RSMo.

(2) In felony cases, the period of detention under this section shall not exceed one hundred twenty days.

(3) If probation is revoked and a term of imprisonment is served by reason thereof, the time spent in a jail, **half-way house, honor center,** workhouse or other institution as a detention condition of probation shall be credited against the prison or jail term served for the offense in connection with which the detention condition was imposed.

559.115. 1. Neither probation nor parole shall be granted by the circuit court between the time the transcript on appeal from the **[**defendant's**] offender's** conviction has been filed in appellate court and the disposition of the appeal by such court.

2. **Unless otherwise prohibited by subsection 5 of this section,** a circuit court only upon its own motion and not that of the state or the **[**defendant**] offender** shall have the power to grant probation to a **[**defendant**] offender** anytime up to one hundred twenty days after such **[**defendant**] offender** has been delivered to **[**the custody of**]** the department of corrections but not thereafter. The court may request information and a recommendation from the department concerning the **[**defendant**] offender** and such **[**defendant's**] offender's** behavior during the period of incarceration. Except as provided in this section, the court may place the **[**defendant**] offender** on probation in a program created pursuant to section 217.777, RSMo, or may place the **[**defendant**] offender** on probation with any other conditions authorized by law.

3. The court may recommend placement of an offender in a department of corrections one-hundred-twenty-day-program. Upon the recommendation of the court, the department of corrections shall determine the offender's eligibility for the program, the nature, intensity, and duration of any offender's participation in a program and the availability of space for an offender in any program. When the court recommends and receives placement of an offender in a department of corrections one-hundred-twenty-day-program, the offender shall be released on probation if the department of corrections determines that the offender has successfully completed the program except as

follows. Upon successful completion of a treatment program, the board of probation and parole shall advise the sentencing court of an offender's probationary release date thirty days prior to release. The court shall release the offender unless such release constitutes an abuse of discretion. If the court determined that there is an abuse of discretion, the court may order the execution of the offender's sentence only after conducting a hearing on the matter within ninety to one hundred twenty days of the offender's sentence. If the court does not respond when an offender successfully completes the program, the offender shall be released on probation. Upon successful completion of a shock incarceration program, the board of probation and parole shall advise the sentencing court of an offender's probationary release date thirty days prior to release. The court shall follow the recommendation of the department unless the court determines that probation is not appropriate. If the court determines that probation is not appropriate, the court may order the execution of the offender's sentence only after conducting a hearing on the matter within ninety to one hundred twenty days of the offender's sentence. If the department determines that an offender is not successful in a program, then after one hundred days of incarceration the circuit court shall receive from the department of corrections a report on the offender's participation in the program and department recommendations for terms and conditions of an offender's probation. The court shall then release the offender on probation or order the offender to remain in the department to serve the sentence imposed.

4. If the department of correction's one-hundred-twenty-day-program is full, the court may place the offender in a private program approved by the department of corrections or the court. If the offender is convicted of a class C or class D nonviolent felony, the court may order probation while awaiting appointment to treatment.

[3.**]** **5.** Except when the **[**defendant**]** **offender** has been found to be a predatory sexual offender pursuant to section 558.018, RSMo, the court shall request that the **[**defendant**]** **offender** be **[**place**]** **placed** in the sexual offender assessment unit of the department of corrections if the defendant has pleaded guilty to or has been found guilty of sexual abuse when classified as a class B felony.

[4.**]** **6. Unless the offender is being granted probation pursuant to successful completion of a one-hundred-twenty-day-program** the circuit court shall notify the state in writing when the court intends to grant probation to the **[**defendant**]** **offender** pursuant to the provisions of this section. The state may, in writing, request a hearing within ten days of receipt of the court's notification that the court intends to grant probation. Upon the state's request for a hearing, the court shall grant a hearing as soon as reasonably possible. If the state does not respond to the court's notice in writing within ten days, the court may proceed upon its own motion to grant probation.

7. An offender's first incarceration for one hundred twenty days for participation in a department of corrections program prior to release on probation shall not be considered a previous prison commitment for the purpose of determining a minimum prison term under the provisions of section 558.019.

[5.**]** **8.** Notwithstanding any other provision of law, probation may not be granted pursuant to this section to **[**defendants**]** **offenders** who have been convicted of murder in the second degree pursuant to section 565.021, RSMo; forcible rape pursuant to section 566.030, RSMo; forcible sodomy pursuant to section 566.060, RSMo; statutory rape in the first degree pursuant to section 566.032, RSMo; statutory sodomy in the first degree pursuant to section 566.062, RSMo; child molestation in the first degree pursuant to section 566.067, RSMo, when classified as a class B

felony; abuse of a child pursuant to section 568.060, RSMo, when classified as a class A felony; a **[**defendant**] offender** who has been found to be a predatory sexual offender pursuant to section 558.018, RSMo; or any offense in which there exists a statutory prohibition against either probation or parole.

559.615. **1.** No judge, nor any person related within the third degree of consanguinity or affinity to a judge or any other county elected official with direct court supervision responsibilities, may have a material financial interest in any private entity which contracts to provide probation supervision or rehabilitation services pursuant to sections 559.600 to 559.615.

2. No person who provides assessment services or who makes a report, finding, or recommendation for any probationer to attend any counseling or other program as a condition or requirement of probation, may be related within the third degree of consanguinity or affinity to any person who has any financial interest, whether direct or indirect, in the counseling or other program or any financial interest, whether direct or indirect, in any private entity which provides the counseling or other program. Any person who violates this subsection shall thereafter:

(1) Immediately remit to the state of Missouri any financial income gained as a direct or indirect result of the action constituting the violation;

(2) Be prohibited from providing assessment or counseling services to or for the state board of probation and parole or any office thereof; and

(3) Be prohibited from having any financial interest, whether direct or indirect, in any private entity which provides assessment, counseling, or other services to the state board of probation and parole or any office thereof."; and

Further amend said bill, Pages 40-42, Section 565.305, by striking all of said section from the bill and inserting in lieu thereof the following:

"**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", the creation of a human being by any means other than by the fertilization of a naturally intact oocyte of a human female by a naturally intact sperm of a human male;

(2) "Cloned human being", a human being created by human cloning;

(3) "Public employee", any person employed by the state of Missouri or any agency or political subdivision thereof;

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

(5) "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 to clone a human being or attempt 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.

565.350. 1. Any pharmacist licensed pursuant to chapter 338, RSMo, commits the crime of tampering with a prescription or a prescription drug order as defined in section 338.095, RSMo, if such person knowingly:

(1) Causes the intentional adulteration of the concentration or chemical structure of a prescribed drug or drug therapy without the knowledge and consent of the prescribing practitioner;

(2) Misrepresents a misbranded, altered, or diluted prescription drug or drug therapy with the purpose of misleading the recipient or the administering person of the prescription drug or drug therapy; or

(3) Sells a misbranded, altered, or diluted prescription drug therapy with the intention of misleading the purchaser.

2. Tampering with a prescription drug order is a class A felony.

568.045. 1. A person commits the crime of endangering the welfare of a child in the first degree if:

(1) The person knowingly acts in a manner that creates a substantial risk to the life, body, or health of a child less than seventeen years old; or

(2) The person knowingly engages in sexual conduct with a person under the age of seventeen years over whom the person is a parent, guardian, or otherwise charged with the care and custody;

(3) The person knowingly encourages, aids or causes a child less than seventeen years of age to engage in any conduct which violates the provisions of chapter 195, RSMo;

(4) Such person enlists the aid, either through payment or coercion, of a person less than seventeen years of age to unlawfully manufacture, compound, produce, prepare, sell, transport, test or analyze amphetamine or methamphetamine or any of their analogues, or to obtain any material used to manufacture, compound, produce, prepare, test or analyze amphetamine or methamphetamine or any of their analogues; or

(5) Such person, in the presence of a person less than seventeen years of age, unlawfully manufactures, compounds, produces, prepares, sells, transports, tests or analyzes amphetamine or methamphetamine or any of their analogues.

2. Endangering the welfare of a child in the first degree is a class **[**D**] C** felony unless the offense is committed as part of a ritual or ceremony, or except on a second or subsequent offense, in which case the crime is a class **[**C**] B** felony.

570.030. 1. A person commits the crime of stealing if he or she appropriates property or services of another with the purpose to deprive him or her thereof, either without his or her consent or by means of deceit or coercion.

2. Evidence of the following is admissible in any criminal prosecution pursuant to this section on the issue of the requisite knowledge or belief of the alleged stealer:

(1) That he or she failed or refused to pay for property or services of a hotel, restaurant, inn or boardinghouse;

(2) That he or she gave in payment for property or services of a hotel, restaurant, inn or boardinghouse a check or negotiable paper on which payment was refused;

(3) That he or she left the hotel, restaurant, inn or boardinghouse with the intent to not pay for property or services;

(4) That he or she surreptitiously removed or attempted to remove his or her baggage from a hotel, inn or boardinghouse;

(5) That he or she, with intent to cheat or defraud a retailer, possesses, uses, utters, transfers,

makes, alters, counterfeits, or reproduces a retail sales receipt, price tag, or universal price code label, or possesses with intent to cheat or defraud, the device that manufactures fraudulent receipts or universal price code labels.

3. Notwithstanding any other provision of law, any offense in which the value of property or services is an element is a class C felony if:

(1) The value of the property or services appropriated is five hundred dollars or more but less than twenty-five thousand dollars; or

(2) The actor physically takes the property appropriated from the person of the victim; or

(3) The property appropriated consists of:

(a) Any motor vehicle, watercraft or aircraft; or

(b) Any will or unrecorded deed affecting real property; or

(c) Any credit card or letter of credit; or

(d) Any firearms; or

(e) A United States national flag designed, intended and used for display on buildings or stationary flagstaffs in the open; or

(f) Any original copy of an act, bill or resolution, introduced or acted upon by the legislature of the state of Missouri; or

(g) Any pleading, notice, judgment or any other record or entry of any court of this state, any other state or of the United States; or

(h) Any book of registration or list of voters required by chapter 115, RSMo; or

(i) Any animal of the species of horse, mule, ass, cattle, swine, sheep, or goat; or

(j) Live fish raised for commercial sale with a value of seventy-five dollars; or

(k) Any controlled substance as defined by section 195.010, RSMo; or

(l) Anhydrous ammonia; or

(m) Ammonium nitrate.

4. If an actor appropriates any material with a value less than five hundred dollars in violation of this section with the intent to use such material to manufacture, compound, produce, prepare, test or analyze amphetamine or methamphetamine or any of their analogues, then such violation is a class **[**D**]** **C** felony. The theft of any amount of anhydrous ammonia or liquid nitrogen, or any attempt to steal any amount of anhydrous ammonia or liquid nitrogen, is a class **[**C**]** **B** felony. The theft of any amount of anhydrous ammonia by appropriation of a tank truck, tank trailer, rail tank car, bulk storage tank, field (nurse) tank or field applicator is a class A felony.

5. The theft of any item of property or services pursuant to subsection 3 of this section which exceeds five hundred dollars may be considered a separate felony and may be charged in separate counts.

6. Any person with a prior conviction of paragraph (i) of subdivision (3) of subsection 3 of this section and who violates the provisions of paragraph (i) of subdivision (3) of subsection 3 of this section when the value of the animal or animals stolen exceeds three thousand dollars is guilty of a class B felony.

7. Any offense in which the value of property or services is an element is a class B felony if the value of the property or services equals or exceeds twenty-five thousand dollars.

8. Any violation of this section for which no other penalty is specified in this section is a class A misdemeanor.

570.040. 1. Every person who has previously pled guilty or been found guilty on two separate occasions of a stealing-related offense where such offenses occurred within ten years of the date of occurrence of the present offense and where the person received and served a sentence of ten days or more on such previous offense and who subsequently pleads guilty or is found guilty of a

stealing-related offense is guilty of a class **[**C**]** **D** felony and shall be punished accordingly.

2. As used in this section, the term "stealing-related offense" shall include federal and state violations of criminal statutes against stealing or buying or receiving stolen property and shall also include municipal ordinances against same if the defendant was either represented by counsel or knowingly waived counsel in writing and the judge accepting the plea or making the findings was a licensed attorney at the time of the court proceedings.

3. Evidence of prior guilty pleas or findings of guilt shall be heard by the court, out of the hearing of the jury, prior to the submission of the case to the jury, and the court shall determine the existence of the prior guilty pleas or findings of guilt."; and

Further amend the title and enacting clause accordingly.

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

Senator Nodler offered **SA 2**:

SENATE AMENDMENT NO. 2

Amend Senate Substitute for House Bill No. 198, Page 6, Section 115.157, Line 14 of said page, by inserting immediately after said line the following:

"**195.215. 1. A person commits the offense of manufacturing of a controlled substance near schools if such person violates section 195.211 by unlawfully manufacturing any controlled substance within two thousand feet of the real property comprising a public or private elementary or secondary school, public vocational school, or a public or private junior college, college or university, or on any school bus.**

2. Violation of the provisions of this section is a class A felony."; and

Further amend the title and enacting clause accordingly.

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

President Maxwell assumed the Chair.

Senator Stoll offered **SA 3**:

SENATE AMENDMENT NO. 3

Amend Senate Substitute for House Bill No. 198, Page 44, Section 570.410, Line 15 of said page, by inserting immediately after said line the following:

"574.010. 1. A person commits the crime of peace disturbance if:

(1) He unreasonably and knowingly disturbs or alarms another person or persons by:

(a) Loud noise; or

(b) Offensive language addressed in a face-to-face manner to a specific individual and uttered under circumstances which are likely to produce an immediate violent response from a reasonable recipient; or

(c) Threatening to commit a felonious act against any person under circumstances which are likely to cause a reasonable person to fear that such threat may be carried out; or

(d) Fighting; or

(e) Creating a noxious and offensive odor; **or**

(f) Permitting the continued barking of a dog under his ownership or control;

(2) He is in a public place or on private property of another without consent and purposely causes inconvenience to another person or persons by unreasonably and physically obstructing:

(a) Vehicular or pedestrian traffic; or

(b) The free ingress or egress to or from a public or private place.

2. Peace disturbance is a class B misdemeanor upon the first conviction. Upon a second or subsequent conviction, peace disturbance is a class

A misdemeanor. Upon a third or subsequent conviction, a person shall be sentenced to pay a fine of no less than one thousand dollars and no more than five thousand dollars."; and

Further amend the title and enacting clause accordingly.

Senator Stoll moved that the above amendment be adopted.

Senator Caskey offered **SA 1** to **SA 3**, which was read:

SENATE AMENDMENT NO. 1 TO
SENATE AMENDMENT NO. 3

Amend Senate Amendment No. 3 to Senate Substitute for House Bill No. 198, Page 1, Section 574.010, Line 19, by inserting after "**control**": ", **unless the dog is barking at a bird or a squirrel**".

Senator Caskey moved that the above amendment be adopted.

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

At the request of Senator Stoll, **SA 3** was withdrawn.

Senator Jacob offered **SA 4**:

SENATE AMENDMENT NO. 4

Amend Senate Substitute for House Bill No. 198, Page 14, Section 302.060, Line 2, by deleting the open bracket "**[**" and the close bracket "**]**" on said line; and

Further amending said bill, same page, same section, line 26, by deleting the open bracket "**[**" and the close bracket "**]**" on said line; and

Further amending said bill, page 19, section 302.309, lines 1-2, by deleting the open bracket "**[**" and the close bracket "**]**" on said lines; and

Further amending said bill, page 22, section 302.321, lines 26-27, by deleting the open bracket "**[**" and the close bracket "**]**" on said lines; and

Further amending said bill, page 23, same section, line 7, by deleting the open bracket "**[**" and the close bracket "**]**" on said line; and

Further amending said bill, page 24, section 302.541, lines 1-2, by deleting the open bracket "**[**" and the close bracket "**]**" on said line; and

Further amending said bill, page 45, section 577.023, line 28, by deleting the open bracket "**[**" and the close bracket "**]**" on said line; and

Further amending said bill, page 54, section 577.500, line 18, by deleting the open bracket "**[**" and the close bracket "**]**" on said line; and

Further amending said bill, same page, same section, lines 22-23, by deleting the open bracket "**[**" and the close bracket "**]**" on said line; and

Further amending said bill, page 55, same section, lines 1-2, by deleting the open bracket "**[**" and the close bracket "**]**" on said line; and

Further amending said bill, same page, same section, lines 8-9, by deleting the open bracket "**[**" and the close bracket "**]**" on said lines.

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

Senator Gibbons offered **SA 5**:

SENATE AMENDMENT NO. 5

Amend Senate Substitute for House Bill No. 198, Page 16, Section 302.060, Line 4 of page 16, by inserting after all of said line the following:

"302.302. 1. The director of revenue shall put into effect a point system for the suspension and revocation of licenses. Points shall be assessed only after a conviction or forfeiture of collateral. The initial point value is as follows:

(1) Any moving violation of a state law or county or municipal or federal traffic ordinance or regulation not listed in this section, other than a violation of vehicle equipment provisions or a court-ordered supervision as provided in section 302.303 . . . . . 2 points

(except any violation of municipal stop sign ordinance where no accident is involved . 1 point)

(2) Speeding

In violation of a state law . . . . . 3 points
In violation of a county or municipal ordinance . . . . . 2 points

(3) Leaving the scene of an accident in violation of section 577.060, RSMo . . 12 points

In violation of any county or municipal ordinance . . . . . 6 points

(4) Careless and imprudent driving in violation of subsection 4 of section 304.016, RSMo . . . . . 4 points

In violation of subsection 4 of section 304.016, RSMo, by a person under the age of eighteen years of age . . . . . 8 points

In violation of a county or municipal ordinance . . . . . 2 points

(5) Operating without a valid license in violation of subdivision (1) or (2) of subsection 1 of section 302.020:

(a) For the first conviction . . . . . 2 points

(b) For the second conviction . . . . . 4 points

(c) For the third conviction . . . . . 6 points

(6) Operating with a suspended or revoked license prior to restoration of operating privileges . . . . . 12 points

(7) Obtaining a license by misrepresentation . . . . . 12 points

(8) For the first conviction of driving while in an intoxicated condition or under the influence of controlled substances or drugs . . . . . 8 points

(9) For the second or subsequent conviction of any of the following offenses however combined: driving while in an intoxicated condition, driving under the influence of controlled substances or drugs or driving with a blood alcohol content of eight-hundredths of one percent or more by weight . . . . . 12 points

(10) For the first conviction for driving with blood alcohol content eight-hundredths of one percent or more by weight
In violation of state law . . . . . 8 points

In violation of a county or municipal ordinance or federal law or regulation . . . . . 8 points

(11) Any felony involving the use of a motor vehicle . . . . . 12 points

(12) Knowingly permitting unlicensed operator to operate a motor vehicle . . . . . 4 points

(13) For a conviction for failure to maintain financial responsibility pursuant to county or municipal ordinance or pursuant to section 303.025, RSMo . . . . . 4 points

(14) Exceeding the posted speed limit by twenty miles per hour or more by a person under the age of eighteen:

(a) For the first conviction . . . . . 8 points

(b) For the second or subsequent conviction . . . . . 12 points

2. The director shall, as provided in subdivision (5) of subsection 1 of this section, assess an operator points for a conviction pursuant to subdivision (1) or (2) of subsection 1 of section 302.020, when the director issues such operator a license or permit pursuant to the provisions of sections 302.010 to 302.340.

3. An additional two points shall be assessed when personal injury or property damage results from any violation listed in subsection 1 of this section and if found to be warranted and certified by the reporting court.

4. When any of the acts listed in subdivision (2), (3), (4) or (8) of subsection 1 of this section constitutes both a violation of a state law and a violation of a county or municipal ordinance, points may be assessed for either violation but not for both. Notwithstanding that an offense arising

out of the same occurrence could be construed to be a violation of subdivisions (8), (9) and (10) of subsection 1 of this section, no person shall be tried or convicted for more than one offense pursuant to subdivisions (8), (9) and (10) of subsection 1 of this section for offenses arising out of the same occurrence.

5. The director of revenue shall put into effect a system for staying the assessment of points against an operator. The system shall provide that the satisfactory completion of a driver-improvement program or, in the case of violations committed while operating a motorcycle, a motorcycle-rider training course approved by the director of the department of public safety, by an operator, when so ordered and verified by any court having jurisdiction over any law of this state or county or municipal ordinance, regulating motor vehicles, other than a violation committed in a commercial motor vehicle as defined in section 302.700, shall be accepted by the director in lieu of the assessment of points for a violation pursuant to subdivision (1), (2) or (4) of subsection 1 of this section or pursuant to subsection 3 of this section. For the purposes of this subsection, the driver-improvement program shall meet or exceed the standards of the National Safety Council's eight-hour "Defensive Driving Course" or, in the case of a violation which occurred during the operation of a motorcycle, the program shall meet the standards established by the director of the department of public safety pursuant to sections 302.133 to 302.138. The completion of a driver-improvement program or a motorcycle-rider training course shall not be accepted in lieu of points more than one time in any thirty-six-month period and shall be completed within sixty days of the date of conviction in order to be accepted in lieu of the assessment of points. Every court having jurisdiction pursuant to the provisions of this subsection shall, within fifteen days after completion of the driver-improvement program or motorcycle-rider training course by an operator, forward a record of the completion to the director, all other provisions of the law to the contrary notwithstanding. The director shall establish procedures for record keeping and the administration of this subsection." and

Further amend the title and enacting clause accordingly.

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

Senator Caskey offered **SA 6**:

SENATE AMENDMENT NO. 6

Amend Senate Substitute for House Bill No. 198, Page 39, Section 544.170, Line 12, by inserting immediately after said line the following:

"558.021. 1. The court shall find the defendant to be a prior offender, persistent offender, dangerous offender, persistent sexual offender or predatory sexual offender if:

(1) The indictment or information, original or amended, or the information in lieu of an indictment pleads all essential facts warranting a finding that the defendant is a prior offender, persistent offender, dangerous offender, persistent sexual offender or predatory sexual offender; and

(2) Evidence is introduced that establishes sufficient facts pleaded to warrant a finding beyond a reasonable doubt that the defendant is a prior offender, persistent offender, dangerous offender, persistent sexual offender or predatory sexual offender; and

(3) The court makes findings of fact that warrant a finding beyond a reasonable doubt by the court that the defendant is a prior offender, persistent offender, dangerous offender, persistent sexual offender or predatory sexual offender.

2. In a jury trial, the facts shall be pleaded, established and found prior to submission to the jury outside of its hearing, except the facts required by subdivision (1) of subsection 4 of section 558.016 may be established and found at a later time, but prior to sentencing, and may be

established by judicial notice of prior testimony before the jury. **The time specified under this subsection for pleading, establishing and finding the facts shall not apply to appellate reversals or remands following the defendant's conviction, but in such case the facts shall otherwise be pleaded, established and found in accordance with this section.**

3. In a trial without a jury or upon a plea of guilty, the court may defer the proof and findings of such facts to a later time, but prior to sentencing. The facts required by subdivision (1) of subsection 4 of section 558.016 may be established by judicial notice of prior testimony or the plea of guilty. **The time specified under this subsection for proof and finding of such facts shall not apply to appellate reversals or remands following the defendant's conviction, but in such case the facts shall otherwise be pleaded, established and found in accordance with this section.**

4. The defendant shall be accorded full rights of confrontation and cross-examination, with the opportunity to present evidence, at such hearings.

5. The defendant may waive proof of the facts alleged.

6. Nothing in this section shall prevent the use of presentence investigations or commitments under sections 557.026 and 557.031, RSMo.

7. At the sentencing hearing both the state and the defendant shall be permitted to present additional information bearing on the issue of sentence."; and

Further amend the title and enacting clause accordingly.

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

Senator Shields offered **SA 7**:

SENATE AMENDMENT NO. 7

Amend Senate Substitute for House Bill No. 198, Page 61, Section 589.414, Line 9, by inserting after all of said line the following:

"610.021. Except to the extent disclosure is otherwise required by law, a public governmental body is authorized to close meetings, records and votes, to the extent they relate to the following:

(1) Legal actions, causes of action or litigation involving a public governmental body and any confidential or privileged communications between a public governmental body or its representatives and its attorneys. However, any minutes, vote or settlement agreement relating to legal actions, causes of action or litigation involving a public governmental body or any agent or entity representing its interests or acting on its behalf or with its authority, including any insurance company acting on behalf of a public government body as its insured, shall be made public upon final disposition of the matter voted upon or upon the signing by the parties of the settlement agreement, unless, prior to final disposition, the settlement agreement is ordered closed by a court after a written finding that the adverse impact to a plaintiff or plaintiffs to the action clearly outweighs the public policy considerations of section 610.011, however, the amount of any moneys paid by, or on behalf of, the public governmental body shall be disclosed; provided, however, in matters involving the exercise of the power of eminent domain, the vote shall be announced or become public immediately following the action on the motion to authorize institution of such a legal action. Legal work product shall be considered a closed record;

(2) Leasing, purchase or sale of real estate by a public governmental body where public knowledge of the transaction might adversely affect the legal consideration therefor. However, any minutes, vote or public record approving a contract relating to the leasing, purchase or sale of real estate by a public governmental body shall be made public within seventy-two hours after execution of the lease, purchase or sale of the real estate;

(3) Hiring, firing, disciplining or promoting of

particular employees by a public governmental body when personal information about the employee is discussed or recorded. However, any vote on a final decision, when taken by a public governmental body, to hire, fire, promote or discipline an employee of a public governmental body must be made available with a record of how each member voted to the public within seventy-two hours of the close of the meeting where such action occurs; provided, however, that any employee so affected shall be entitled to prompt notice of such decision during the seventy-two-hour period before such decision is made available to the public. As used in this subdivision, the term "personal information" means information relating to the performance or merit of individual employees;

(4) The state militia or national guard or any part thereof;

(5) Nonjudicial mental or physical health proceedings involving identifiable persons, including medical, psychiatric, psychological, or alcoholism or drug dependency diagnosis or treatment;

(6) Scholastic probation, expulsion, or graduation of identifiable individuals, including records of individual test or examination scores; however, personally identifiable student records maintained by public educational institutions shall be open for inspection by the parents, guardian or other custodian of students under the age of eighteen years and by the parents, guardian or other custodian and the student if the student is over the age of eighteen years;

(7) Testing and examination materials, before the test or examination is given or, if it is to be given again, before so given again;

(8) Welfare cases of identifiable individuals;

(9) Preparation, including any discussions or work product, on behalf of a public governmental body or its representatives for negotiations with employee groups;

(10) Software codes for electronic data processing and documentation thereof;

(11) Specifications for competitive bidding, until either the specifications are officially approved by the public governmental body or the specifications are published for bid;

(12) Sealed bids and related documents, until the bids are opened; and sealed proposals and related documents or any documents related to a negotiated contract until a contract is executed, or all proposals are rejected;

(13) Individually identifiable personnel records, performance ratings or records pertaining to employees or applicants for employment, except that this exemption shall not apply to the names, positions, salaries and lengths of service of officers and employees of public agencies once they are employed as such;

(14) Records which are protected from disclosure by law;

(15) Meetings and public records relating to scientific and technological innovations in which the owner has a proprietary interest;

(16) Records relating to municipal hot lines established for the reporting of abuse and wrongdoing;

(17) Confidential or privileged communications between a public governmental body and its auditor, including all auditor work product;

(18) A municipal utility receiving a public records request for information about existing or proposed security systems and structural plans of real property owned or leased by the municipal utility, the public disclosure of which would threaten public safety, shall within three business days act upon such public records request, pursuant to section 610.023. Records related to the procurement of or expenditures relating to security systems shall be open except to the extent provided in this section;

(19) Existing or proposed security systems and structural plans of real property owned or leased by a public governmental body, the public disclosure of which would threaten public safety. Records related to the procurement of or expenditures relating to security systems shall be open except to the extent provided in this section. When seeking to close information pursuant to this exception, the public governmental body shall affirmatively state in writing that disclosure would impair the public governmental body's ability to protect the security or safety of persons or real property, and shall in the same writing state that the public interest in nondisclosure outweighs the public interest in disclosure of the records. This exception shall sunset on December 31, 2006;

(20) Records that identify the configuration of components or the operation of a computer, computer system, computer network, or telecommunications network, and would allow unauthorized access to or unlawful disruption of a computer, computer system, computer network, or telecommunications network of a public governmental body. This exception shall not be used to limit or deny access to otherwise public records in a file, document, data file or database containing public records. Records related to the procurement of or expenditures relating to such computer, computer system, computer network, or telecommunications network, including the amount of moneys paid by, or on behalf of, a public governmental body for such computer, computer system, computer network, or telecommunications network shall be open except to the extent provided in this section; **[**and**]**

(21) Credit card numbers, personal identification numbers, digital certificates, physical and virtual keys, access codes or authorization codes that are used to protect the security of electronic transactions between a public governmental body and a person or entity doing business with a public governmental body. Nothing in this section shall be deemed to close the record of a person or entity using a credit card held in the name of a public governmental body or any record of a transaction made by a person using a credit card or other method of payment for which reimbursement is made by a public governmental body**; and**

(22) Operational plans, guidelines, policies, or procedures developed, adopted, or maintained by any agency or officer responsible for law enforcement, public safety, first response, or public health for use in responding to or preventing any critical incident, meaning an event which is or appears to be terrorist, criminal, or hostile in nature and which has the potential to endanger individual or public safety or health, including the safety or health of first responders. Nothing in this exception shall be deemed to close information regarding expenditures, purchases, or contracts made by an agency in implementing these plans, guidelines, policies, or procedures."; and

Further amend the title and enacting clause accordingly.

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

Senator Jacob offered **SA 8**:

SENATE AMENDMENT NO. 8

Amend Senate Substitute for House Bill No. 198, Page 61, Section 589.414, Line 9 of said page, by inserting immediately after said line the following:

"610.106. **[**Any person as to whom imposition of sentence was suspended prior to September 28, 1981, may make a motion to the court in which the action was prosecuted after his discharge from the court's jurisdiction for closure of official records pertaining to the case. If the prosecuting authority opposes the motion, an informal hearing shall be held in which technical rules of evidence shall not apply. Having regard to the nature and circumstances of the offense and the history and character of the defendant and upon a finding that the ends of justice are so served, the court may

order official records pertaining to the case to be closed, except as provided in section 610.120.**] 1. In the event a person is charged with a criminal offense and subsequently enters a guilty plea or is found guilty and imposition of sentence is suspended in the case for a period of time while the person is on court-ordered probation:**

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

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

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

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

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

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

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

Further amend the title and enacting clause accordingly.

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

Senator Loudon offered **SA 9**:

SENATE AMENDMENT NO. 9

Amend Senate Substitute for House Bill No. 198, Page 2, Section 537.046, Line 3, by inserting after all of said line the following:

“**537.800. 1. Any action seeking money damages against a person for conduct or speech undertaken or made in connection with a public issue, or a public hearing or public meeting, in a quasi-judicial proceeding before a tribunal or decision-making body of any political subdivision of the state is subject to a special motion to dismiss, motion for judgment on the pleadings, or motion for summary judgment that shall be considered by the court on a priority or expedited basis to ensure the early consideration of the issues raised by the motion and to prevent the unnecessary expense of litigation. The court shall grant such special motion, unless the party against whom the motion is made shows by clear and convincing evidence that:**

(a) The moving party’s conduct or speech was devoid of any reasonable factual support or any arguable basis in law; and

(b) The moving party’s acts caused actual injury to the responding party.

Upon the filing of any special motion described in this subsection, all discovery shall be suspended pending a decision on the motion by the court and the exhaustion of all appeals regarding the special motion.

2. If a court grants a motion to dismiss, a motion for judgment on the pleadings or a motion for summary judgment, the court shall ward reasonable attorney fees and costs incurred by the moving party in defending the action and may award punitive damages upon a demonstration that the action was primarily commenced or continued for the purpose of harassing, intimidating, punishing, or otherwise maliciously inhibiting the free exercise of speech, petition, or association rights. If the court finds that a special motion to dismiss or motion for judgment on the pleadings or motion for summary judgment is frivolous or solely intended to cause unnecessary delay, the court shall award costs and reasonable attorney fees to the party prevailing on the motion.

3. Any party shall have the right to an expedited appeal from a trial court order on the special motions described in subsection 2 of this section or from a trial court's failure to rule on the motion on an expedited basis.

4. The state or any local governmental entity to which the moving party's conduct or speech is made or directed or the attorney general may intervene to defend or otherwise support the moving party on any special motion.

5. As used in this section, a "public meeting in a quasi-judicial proceeding" means and includes any meeting established and held by state or local governmental entity, including without limitations, meetings or presentations before state, county, city, town or village councils, planning commissions, review boards or commissions.

6. Nothing in this section limits or prohibits the exercise of a right or remedy of a party granted pursuant to another constitutional, statutory, common law or administrative provision, including civil actions for defamation.

7. If any provision of this section or the application of any provision of this section to a person or circumstance is held invalid, the invalidity shall not affect other provisions or applications of this section that can be given effect without the invalid provision or application, and to this end the provisions of this section are severable."; and

Further amend the title and enacting clause accordingly.

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

Senator Dolan offered **SA 10**:

SENATE AMENDMENT NO. 10

Amend Senate Substitute for House Bill No. 198, Page 26, Section 478.610, Line 2, by inserting immediately after said line the following:

"**479.051. 1. Any city, county or township may provide by ordinance an administrative adjudication system for adjudicating parking and other non-moving municipal code violations to the extent permitted by court rules. The adoption by a city, county, or township of an administrative adjudication system does not preclude the city, county, or township from using other methods to enforce ordinances. This statute shall not affect the validity of other administrative adjudication systems authorized by state law and created prior to the effective date of this statute.**

2. An ordinance establishing an administrative adjudication system shall provide for an administrative adjudication unit or alternative, which could include the municipal division of a circuit court, define the jurisdiction and role of that unit and describe the means by which the municipality shall provide suitable facilities and operating resources for operating the administrative adjudication system. The ordinance shall designate the types of municipal code violations deemed appropriate for administrative

adjudication consistent with applicable state law. The administrative adjudication unit shall operate under the supervision of the circuit court.

3. The administrative adjudication unit, as provided in this section, shall establish and maintain a system for adjudicating parking violations and any other municipal code violations designated for administrative adjudication by ordinance. The administrative adjudication system shall include operating policies and procedures, including but not limited to, appeal criteria, documentation requirements, notification deadlines, and forms, subject to the approval of the circuit court. The administrative adjudication system shall afford parties due process of law.

4. The adjudication process may involve a one-step administrative hearing or a two-step administrative review and administrative hearing. If the city, county, or township adopts a one-step process, individuals must apply for an administrative hearing to contest a municipal code violation. If the city, county, or township adopts a two-step process, individuals must first apply for an administrative review to contest a municipal code violation and then, if dissatisfied with the results of the administrative review, may apply for an administrative hearing. Any failure to request an administrative review or hearing in accordance with the rules established by the administrative adjudication unit, as provided in this section, shall be considered an admission of liability.

5. The administrative reviews and hearings authorized pursuant to this section shall be designed to ensure a fair and impartial consideration of the contested code violation. The formal and technical rules of evidence shall not apply in any administrative review or hearing authorized pursuant to this section. Evidence, including hearsay, may be admitted only if it is the type of evidence commonly relied upon by reasonably prudent persons in the conduct of their affairs. The officer or person who issued the notice of municipal code violation shall not be required to participate in an administrative review or hearing. The agency that issued the municipal code violation need not produce any evidence other than the notice of municipal code violation or copy thereof and information received from an appropriate state or local agency identifying the property owner of record. Such documentation in proper form shall be prima facie evidence of the municipal code violation.

6. An administrative review shall entail an informal review process through which the individual may contest a municipal code violation by mail, in person or other means approved by the administrative adjudication unit, as provided in subsection 2 of this section. The individual's right to an administrative review shall expire if the city does not receive a documented challenge to the municipal code violation within seven calendar days of issuing the original violation or the time period prescribed by local ordinance, whichever is later. In a city, county, or township adopting the two-step administrative adjudication process, individuals who fail to exercise their right to an administrative review in accordance with the prescribed rules shall also lose their right to an administrative hearing. The administrative adjudication unit, as provided in subsection 2 of this section, shall appoint or contract with qualified individuals to conduct administrative reviews.

7. An administrative hearing shall entail a formal hearing through which the individual may contest a municipal code violation or, for a city, county, or township with a two-step appeal process, an administrative review finding in person before an administrative hearing officer. Administrative hearings shall be scheduled with reasonable promptness and any notice of an administrative hearing shall include the code

violation type and nature, the administrative hearing date and location, the legal authority and jurisdiction of the administrative adjudication unit, as provided in this section, and the penalties for failing to appear at the hearing. The individual's right to an administrative hearing shall expire if the city does not receive a written challenge to the administrative review results within seven calendar days of notifying the individual of the results of the administrative review or, if the municipality has a one-step appeal process, fourteen calendar days of issuing the original violation.

8. The administrative adjudication unit, as provided in this section, shall appoint or contract with qualified administrative hearing officers to preside over administrative hearings. As impartial and independent fact finders, administrative hearing officers may:

(1) Hear testimony and review relevant evidence;

(2) Issue subpoenas directing witnesses to appear and give relevant testimony;

(3) Preserve and authenticate hearing records and evidence;

(4) Issue written findings of fact and conclusions of law, including the fine, penalty, or action with which the parties must comply; and

(5) Impose penalties and assess costs consistent with applicable law.

An administrative hearing officer shall be an attorney licensed to practice law in the state of Missouri for at least three years and possess sufficient competence to adjudicate municipal code violations, including, but not limited to, experience in administrative law, familiarity with the rules of procedure for administrative hearings, and a working knowledge of each subject area of the municipal code violations that they will adjudicate. An administrative hearing officer's employment and compensation shall not, directly or indirectly, be linked to the amount of fines. The municipality may establish additional policies and procedures for ensuring that administrative hearing officers demonstrate the objectivity and qualifications necessary to conduct fair, impartial, and expeditious hearings.

9. An administrative adjudication unit may not impose a penalty of incarceration or a fine in excess of the amount allowed by state or local law. Any fine, other sanction, or costs imposed, or part of any fine, other sanction, or costs imposed, remaining unpaid after the exhaustion of or the failure to exhaust judicial review procedures pursuant to chapter 536, RSMo, are a debt due and owing the municipality and may be collected in accordance with applicable law. Any fine, sanction, costs, or other charges assessed by the administrative adjudication unit shall be deposited into the municipal treasury in accordance with applicable state and local laws and rules for that particular municipality.

10. Any final decision by an administrative adjudication unit, as provided in this section, that a code violation does or does not exist shall constitute a final determination for purposes of judicial review and shall be subject to review pursuant to chapter 536, RSMo.

11. After expiration of the period in which judicial review pursuant to chapter 536, RSMo, may be sought for a final determination of a municipal code violation, unless stayed by a court of competent jurisdiction, the findings of fact and conclusions of law of the administrative hearing officer may be enforced in the same manner as a judgment entered by a court of competent jurisdiction. If a defendant fails to comply with an order of the administrative hearing officer, any expenses incurred by the municipality to enforce the order, including, but not limited to, attorney, court, administrative, vehicle storage, and property demolition or foreclosure costs, after they are fixed by an

administrative hearing officer or a court of competent jurisdiction, shall be a debt due the municipality and may be collected in accordance with applicable law. Upon being recorded in the manner required by state law or the uniform commercial code, a lien may be imposed on the real or personal property, or both, of the defendant in the amount of any debt due the municipality pursuant to this section. The lien may be enforced in the same manner as a judgment lien pursuant to a judgment of a court of competent jurisdiction."; and

Further amend the title and enacting clause accordingly.

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

Senator Jacob offered **SA 11**:

SENATE AMENDMENT NO. 11

Amend Senate Substitute for House Bill No. 198, page 16, Section 302.060, Line 4 of said page, by inserting immediately after said line the following:

"302.304. 1. The director shall notify by ordinary mail any operator of the point value charged against the operator's record when the record shows four or more points have been accumulated in a twelve-month period.

2. In an action to suspend or revoke a license or driving privilege under this section points shall be accumulated on the date of conviction. No case file of any conviction for a driving violation for which points may be assessed pursuant to section 302.302 may be closed until such time as a copy of the record of such conviction is forwarded to the department of revenue.

3. The director shall suspend the license and driving privileges of any person whose driving record shows the driver has accumulated eight points in eighteen months.

4. The license and driving privilege of any person whose license and driving privilege have been suspended under the provisions of sections 302.010 to 302.540 except those persons whose license and driving privilege have been suspended under the provisions of subdivision (8) of subsection 1 of section 302.302 or has accumulated sufficient points together with a conviction under subdivision (10) of subsection 1 of section 302.302 and who has filed proof of financial responsibility with the department of revenue, in accordance with chapter 303, RSMo, and is otherwise eligible, shall be reinstated as follows:

(1) In the case of an initial suspension, thirty days after the effective date of the suspension;

(2) In the case of a second suspension, sixty days after the effective date of the suspension;

(3) In the case of the third and subsequent suspensions, ninety days after the effective date of the suspension.

Unless proof of financial responsibility is filed with the department of revenue, a suspension shall continue in effect for two years from its effective date.

5. The period of suspension of the driver's license and driving privilege of any person under the provisions of subdivision (8) of subsection 1 of section 302.302 or who has accumulated sufficient points together with a conviction under subdivision (10) of subsection 1 of section 302.302 shall be thirty days, followed by a sixty-day period of restricted driving privilege as defined in section 302.010. Upon completion of such period of restricted driving privilege, upon compliance with other requirements of law and upon filing of proof of financial responsibility with the department of revenue, in accordance with chapter 303, RSMo, the license and driving privilege shall be reinstated.

6. If the person fails to maintain proof of financial responsibility in accordance with chapter 303, RSMo, the person's driving privilege and license shall be resuspended.

7. The director shall revoke the license and driving privilege of any person when the person's

driving record shows such person has accumulated twelve points in twelve months or eighteen points in twenty-four months or twenty-four points in thirty-six months. The revocation period of any person whose license and driving privilege have been revoked under the provisions of sections 302.010 to 302.540 and who has filed proof of financial responsibility with the department of revenue in accordance with chapter 303, RSMo, and is otherwise eligible, shall be terminated by a notice from the director of revenue after one year from the effective date of the revocation. Unless proof of financial responsibility is filed with the department of revenue, except as provided in subsection 2 of section 302.541, the revocation shall remain in effect for a period of two years from its effective date. **The revocation period of any person whose license and driving privilege have been revoked a second time pursuant to this subsection and who has filed proof of financial responsibility with the department of revenue in accordance with section 303.173, RSMo, shall be terminated by a notice from the director of revenue after three years from the effective date of the revocation. The revocation period of any person whose license and driving privilege have been revoked a third time pursuant to this subsection and who has filed proof of financial responsibility with the department of revenue in accordance with section 303.173, RSMo, shall be terminated by a notice from the director of revenue after five years from the effective date of the revocation. The revocation period of any person whose license and driving privilege have been revoked a fourth time pursuant to this subsection and who has filed proof of financial responsibility with the department of revenue in accordance with section 303.173, RSMo, shall be terminated by a notice from the director of revenue after seven years from the effective date of the revocation. The revocation period of any person whose license and driving privilege have been revoked a fifth or subsequent time pursuant to this subsection and who has filed proof of financial responsibility with the department of revenue in accordance with section 303.173, RSMo, shall be terminated by a notice from the director of revenue after ten years from the effective date of the revocation.** If the person fails to maintain proof of financial responsibility in accordance with chapter 303, RSMo, the person's license and driving privilege shall be rerevoked. Any person whose license and driving privilege have been revoked under the provisions of sections 302.010 to 302.540 shall, upon receipt of the notice of termination of the revocation from the director, pass the complete driver examination and apply for a new license before again operating a motor vehicle upon the highways of this state.

8. If, prior to conviction for an offense that would require suspension or revocation of a person's license under the provisions of this section, the person's total points accumulated are reduced, pursuant to the provisions of section 302.306, below the number of points required for suspension or revocation pursuant to the provisions of this section, then the person's license shall not be suspended or revoked until the necessary points are again obtained and accumulated.

9. If any person shall neglect or refuse to surrender the person's license, as provided herein, the director shall direct the state highway patrol or any peace or police officer to secure possession thereof and return it to the director.

10. Upon the issuance of a reinstatement or termination notice after a suspension or revocation of any person's license and driving privilege under the provisions of sections 302.010 to 302.540, the accumulated point value shall be reduced to four points, except that the points of any person serving as a member of the armed forces of the United States outside the limits of the United States during a period of suspension or revocation shall be reduced to zero upon the date of the reinstatement or termination of notice. It shall be the responsibility of such member of the armed forces

to submit copies of official orders to the director of revenue to substantiate such overseas service. Any other provision of sections 302.010 to 302.540 to the contrary notwithstanding, the effective date of the four points remaining on the record upon reinstatement or termination shall be the date of the reinstatement or termination notice.

11. No credit toward reduction of points shall be given during periods of suspension or revocation or any period of driving under a limited driving privilege granted by a court or the director of revenue.

12. Any person or nonresident whose license or privilege to operate a motor vehicle in this state has been suspended or revoked under this or any other law shall, before having the license or privilege to operate a motor vehicle reinstated, pay to the director a reinstatement fee of twenty dollars which shall be in addition to all other fees provided by law.

13. **[**Notwithstanding any other provision of law to the contrary, if after two years from the effective date of any suspension or revocation issued under this chapter, the person or nonresident has not paid the reinstatement fee of twenty dollars, the director shall reinstate such license or privilege to operate a motor vehicle in this state.

14.**]** No person who has had a license to operate a motor vehicle suspended or revoked as a result of an assessment of points for a violation under subdivision (8), (9) or (10) of subsection 1 of section 302.302 shall have that license reinstated until such person has participated in and successfully completed a substance abuse traffic offender program defined in section 302.010, or a program determined to be comparable by the department. Assignment recommendations, based upon the needs assessment as described in subdivision (22) of section 302.010, shall be delivered in writing to the person with written notice that the person is entitled to have such assignment recommendations reviewed by the court if the person objects to the recommendations. The person may file a motion in the associate division of the circuit court of the county in which such assignment was given, on a printed form provided by the state courts administrator, to have the court hear and determine such motion pursuant to the provisions of chapter 517, RSMo. The motion shall name the person or entity making the needs assessment as the respondent and a copy of the motion shall be served upon the respondent in any manner allowed by law. Upon hearing the motion, the court may modify or waive any assignment recommendation that the court determines to be unwarranted based upon a review of the needs assessment, the person's driving record, the circumstances surrounding the offense, and the likelihood of the person committing a like offense in the future, except that the court may modify but may not waive the assignment to an education or rehabilitation program of a person determined to be a prior or persistent offender as defined in section 577.023, RSMo, or of a person determined to have operated a motor vehicle with fifteen-hundredths of one percent or more by weight in such person's blood. Compliance with the court determination of the motion shall satisfy the provisions of this section for the purpose of reinstating such person's license to operate a motor vehicle. The respondent's personal appearance at any hearing conducted pursuant to this subsection shall not be necessary unless directed by the court.

[15.**] 14.** The fees for the program authorized in subsection **[**14**] 13** of this section, or a portion thereof to be determined by the department of mental health, shall be paid by the person enrolled in the program. Any person who is enrolled in the program shall pay, in addition to any fee charged for the program, a supplemental fee of sixty dollars. The administrator of the program shall remit to the division of alcohol and drug abuse of the department of mental health the supplemental fee for all persons enrolled in the program, less two percent for administrative costs. The supplemental fees received by the department of mental health pursuant to this section shall be deposited in the

mental health earnings fund which is created in section 630.053, RSMo."; and

Further amend said bill, page 24, Section 302.541, line 19 of said page, by inserting immediately after said line the following:

"**303.173. 1. The license and driving privilege of any person whose license and driving privilege have been revoked for the first time pursuant to subsection 7 of section 302.304, RSMo, shall not be reinstated unless the person is qualified for reinstatement, has met all requirements for reinstatement, and has filed proof of financial responsibility with the department of revenue demonstrating that such person has obtained an automobile liability insurance policy with respect to each motor vehicle owned, in whole or in part, by such person, subject to the following minimum limits for liability coverage:**

(1) Not less than fifty thousand dollars because of bodily injury to or death of one person in any one accident;

(2) Subject to said limit for one person, not less than one hundred thousand dollars because of bodily injury to or death of two or more persons in any one accident; and

(3) Not less than twenty-five thousand dollars because of injury to or destruction of property of others in any one accident.

2. The license and driving privilege of any person whose license and driving privilege have been revoked a second time pursuant to subsection 7 of section 302.304, RSMo, shall not be reinstated unless the person is qualified for reinstatement, has met all requirements for reinstatement, and has filed proof of financial responsibility with the department of revenue demonstrating that such person has obtained an automobile liability insurance policy with respect to each motor vehicle owned, in whole or in part, by such person, subject to the following minimum limits of liability coverage:

(1) Not less than seventy-five thousand dollars because of bodily injury to or death of one person in any one accident;

(2) Subject to said limit for one person, not less than one hundred fifty thousand dollars because of bodily injury to or death of two or more persons in any one accident; and

(3) Not less than fifty thousand dollars because of injury to or destruction of property of others in any one accident.

3. The license and driving privilege of any person whose license and driving privilege have been revoked a third time pursuant to subsection 7 of section 302.304, RSMo, shall not be reinstated unless the person is qualified for reinstatement, has met all requirements for reinstatement, and has filed proof of financial responsibility with the department of revenue demonstrating that such person has obtained an automobile liability insurance policy with respect to each motor vehicle owned, in whole or in part, by such person, subject to the following minimum limits of liability coverage:

(1) Not less than one hundred thousand dollars because of bodily injury to or death of one person in any one accident;

(2) Subject to said limit for one person, not less than two hundred thousand dollars because of bodily injury to or death of two or more persons in any one accident; and

(3) Not less than seventy-five thousand dollars because of injury to or destruction of property of others in any one accident.

4. The license and driving privilege of any person whose license and driving privilege have been revoked a fourth or subsequent time pursuant to subsection 7 of section 302.304, RSMo, shall not be reinstated unless the person is qualified for reinstatement, has met all requirements for reinstatement, and has filed proof of financial responsibility with the department of revenue demonstrating that such

person has obtained an automobile liability insurance policy with respect to each motor vehicle owned, in whole or in part, by such person, subject to the following minimum limits of liability coverage:

(1) Not less than two hundred fifty thousand dollars because of bodily injury to or death of one person in any one accident;

(2) Subject to said limit for one person, not less than five hundred thousand dollars because of bodily injury to or death of two or more persons in any one accident; and

(3) Not less than one hundred thousand dollars because of injury to or destruction of property of others in any one accident.

5. If any person required by this section to file proof of financial responsibility demonstrating that such person has obtained an automobile liability insurance policy subject to certain minimum amounts of coverage, thereafter fails to maintain proof of the required coverage during any period of time such person owns, in whole or in part, any motor vehicle, the person's license and driving privilege shall be rerevoked."; and

Further amend the title and enacting clause accordingly.

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

Senator Bartle offered **SA 12**:

SENATE AMENDMENT NO. 12

Amend Senate Substitute for House Bill No. 198, Page 3, Section 43.650, Line 10 of said page, by inserting after all of said line the following:

"67.657. 1. Nothing contained in sections 67.650 to 67.658 shall impair the powers of any county, municipality or other political subdivision to acquire, own, operate, develop or improve any facility of the type the authority is given the right and power to own, operate, develop or improve.

2. Any county, municipality or other political subdivision or public agency is authorized to make gifts, donations, grants and contributions of money or real or personal property to the authority, whether such money or property is derived from tax revenues or from any other source.

3. The state of Missouri or any agency, department or instrumentality thereof and the county, the city, or any political subdivision, public agency or public body, or any combination thereof pursuant to sections 70.210 to 70.325, RSMo, or otherwise, are authorized to enter into contracts, agreements, leases and subleases with each other, the authority and others to acquire, sell, convey, lease, sublease, own, operate, finance, develop or improve, or any combination thereof, any facility of the type the authority is given the right to construct, own, operate, develop or improve, including without limitation to agree to pay rents or other fees or charges, subject to annual appropriations, and to mortgage, pledge, assign, convey, or grant security in any interest which any such entity may have in such facility.

4. In addition to any other tax imposed by law, and notwithstanding the provisions of subdivision (2) of subsection 5 of section 67.619, to the contrary, the governing body of the county may submit to the voters of the county a tax not to exceed three and one-half percent on the amount of sales or charges for all sleeping rooms paid by the transient guests of hotels and motels situated within the county involved, and doing business within such county for the purpose of funding a regional convention and sports complex authority and for other recreational and entertainment purposes. If the governing body so orders, the election officials of the county shall submit a proposition to the voters of such county at the next statewide or countywide election or at a special election called for that purpose, such special election to be held at the expense of the regional convention and sports complex authority. Such proposition shall be submitted to the voters in substantially the following form at such election:

Shall a sales tax of ..... percent on the amount of sales or charges for all rooms paid by the transient guests of hotels and motels be levied in the county of ..... to provide certain funds for the regional convention and sports complex authority and for general revenue purposes?

[ ] YES **[ ]** NO

In the event that a majority of the voters voting on such proposition in such county at such election approve such proposition, then such sales tax shall be in full force and effect as of the first day of the calendar quarter following the calendar quarter in which the election was held.

5. On and after the effective day of any tax authorized under the provisions of subsection 4 of this section, the governing body of the county may adopt one of the two following provisions for the collection and administration of the tax:

(1) The collector of revenue in such county may collect the tax pursuant to rules and regulations promulgated by the governing body of the county. The tax to be collected by the collector of revenue, less an amount not less than one percent and not more than three percent which may be retained for costs of collection, shall be remitted to the county and deposited in a special trust fund to be known as the "County Convention and Recreation Trust Fund" not later than thirty days following the end of each month;

(2) The governing body of the county may enter into an agreement with the director of revenue of the state of Missouri for the purpose of collecting the tax authorized in subsection 4 of this section. In the event the governing body enters into an agreement with the director of revenue of the state of Missouri for the collection of the tax authorized in subsection 4 of this section, the director of revenue shall perform all functions incident to the administration, collection, enforcement, and operation of such tax, and the director of revenue shall collect such additional tax. The tax shall be collected and reported upon such forms and under such administrative rules and regulations as may be prescribed by the director of revenue, and the director of revenue shall retain not less than one percent nor more than three percent for cost of collection and shall transfer all other moneys collected for such tax to the county for deposit in the county convention and recreation trust fund.

6. All funds deposited in the county convention and recreation trust fund shall, subject to annual appropriation, be disbursed by the county only for deposit in the regional convention and sports complex fund to pay the county's share of any rent, fees or charges payable pursuant to any contract, agreement, lease or sublease provided for in subsection 3 of this section; provided that in the event the county chooses to participate in a qualifying project and enters into any such contract, agreement, lease or sublease, then any funds in excess of its obligations hereunder which are deposited in the county convention and recreation trust fund in any year pursuant to subsection 4 of this section may be appropriated and disbursed by the county for general revenue purposes.

7. Notwithstanding any provision of subsection 6 of this section to the contrary, funds deposited in the county convention and recreation trust fund pursuant to subsection 5 of this section in excess of amounts payable as the county's share of any rent, fees or charges payable pursuant to any contract, agreement, lease or sublease provided for in subsection 3 of this section, including reasonable reserves for future payments of such amounts, shall not be appropriated or paid except for funding of the regional convention and sports complex authority or for regional convention and tourism purposes to the regional convention and visitors commission established by section 67.601 if it is providing management and operations services for a facility of the regional convention and sports complex authority of which the state of Missouri, the city, and St. Louis County are lessees pursuant to a contract, agreement or sublease with such

lessees.

8. In addition to any other tax imposed by law, and notwithstanding the provisions of subdivision (1) of subsection 5 of section 67.619 to the contrary, the governing body of the city may repeal a present two-dollar license fee per occupied room levied in such city on hotels and motels and submit to the voters of the city a tax not to exceed three and one-half percent on the amount of sales or charges for all sleeping rooms paid by the transient guests of hotels and motels situated within the city involved, and doing business within such city for the purposes of funding debt service, lease payments or other expenses of an existing convention center, including any southern expansion thereof, of such city, a regional convention and sports complex authority or a regional convention and visitors commission or any combination thereof as herein provided. If the governing body so orders, the election officials of the city shall submit a proposition to the voters of such city at the next statewide or citywide election or at a special election called for that purpose, such special election to be held at the expense of the city. Such proposition shall be submitted to the voters in substantially the following form at such election:

Shall the present two-dollar license fee per occupied room levied in the city of ..... on hotels and motels be repealed and a sales tax of ..... percent on the amount of sales or charges for all rooms paid by the transient guests of hotels and motels be levied in the city of ..... to provide funds for convention, tourism and sports facilities purposes and agencies?

[ ] YES **[ ]** NO

In the event that a majority of the voters voting on such proposition in such city at such election approve such proposition, then such two-dollar license fee per occupied room shall be repealed and such sales tax shall be in full force and effect as of the first day of the calendar quarter following the calendar quarter in which the election was held.

9. On and after the effective date of any tax authorized under the provisions of subsection 8 of this section, the governing body of the city may adopt one of the two following provisions for the collection and administration of the tax:

(1) The collector of revenue in such city may collect the tax pursuant to rules and regulations promulgated by the governing body of the city. The tax to be collected by the collector of revenue, less an amount not less than one percent and not more than three percent which may be retained for costs of collection, shall be remitted to the city and deposited in a special trust fund to be known as the "City Convention and Sports Facility Trust Fund" not later than thirty days following the end of each month;

(2) The governing body of the city may enter into an agreement with the director of revenue of the state of Missouri for the purpose of collecting the tax authorized in subsection 8 of this section. In the event the governing body enters into an agreement with the director of revenue of the state of Missouri for the collection of the tax authorized in subsection 8 of this section, the director of revenue shall perform all functions incident to the administration, collection, enforcement and operation of such tax, and the director of revenue shall collect such additional tax. The tax shall be collected and reported upon such forms and under such administrative rules and regulations as may be prescribed by the director of revenue, and the director of revenue shall retain not less than one percent nor more than three percent for cost of collection and shall transfer all other moneys collected for such tax to the city for deposit in the convention and sports facility trust fund.

10. **A civil fine, which shall not exceed five thousand dollars, shall be enforceable in the circuit court where the violation occurred may be assessed against any person who intentionally enters a restricted area in use as a playing surface during a professional sporting event without the consent of the owner or**

manager of the facility.

11. All funds deposited in the city convention and sports facility trust fund shall, subject to annual appropriation, be disbursed by the city only for first, debt service, lease payments or other expenses related to an existing convention center, including any southern expansion thereof, of such city, second, to pay the city's share of any rent, fees or charges payable pursuant to any lease provided for in subsection 3 of this section and third, the remainder, if any, annually to the regional convention and visitors commission established by section 67.601 if it is providing management and operations services for a facility of the regional convention and sports complex authority of which the state of Missouri, the city, and St. Louis County are lessees pursuant to a contract, agreement or sublease with such lessees.

90.760. **1.** The duties of the authority created in section 90.750 shall include, but are not limited to, the study and review of all current major sports leagues, clubs or franchises operating in Kansas City and the analysis of possibilities for future growth and expansion of existing and new major sports leagues, clubs or franchises in that and surrounding areas.

2. Unless and until otherwise provided, the authority shall make an annual report by December first of every year, to the governor, the president pro tem of the senate and the speaker of the house of representatives, and the director of the department of economic development. Such report shall set forth in detail the authority's findings and recommendations.

3. A civil fine, which shall not exceed five thousand dollars, shall be enforceable in the circuit court where the violation occurred may be assessed against any person who intentionally enters a restricted area in use as a playing surface during a professional sporting event without the consent of the owner or manager of the facility."; and

Further amend said bill, page 42, Section 565.305, line 7 of said page, by inserting immediately after said line the following:

"**569.135. A person commits the crime of interference of a sporting event, if during a professional sporting event, a person enters a restricted area in use as a playing surface without the consent of the owner or manager of the facility. Violation of the section is a class A misdemeanor.**"; and

Further amend the title and enacting clause accordingly.

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

Senator Quick offered **SA 13**:

SENATE AMENDMENT NO. 13

Amend Senate Substitute for House Bill No. 198, Page 39, Section 544.170, Line 12, by inserting after all of said line the following:

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

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

Further amend the title and enacting clause accordingly.

Senator Quick moved that the above amendment be adopted.

Senator Gibbons offered **SA 1** to **SA 13**, which was read:

SENATE AMENDMENT NO. 1 TO
SENATE AMENDMENT NO. 13

Amend Senate Amendment No. 13 to Senate Substitute for House Bill No. 198, Page 1, Section 565.020, Line 14 of said amendment by deleting "**eighteenth**" and inserting the word "**seventeenth**".

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

SA 13, as amended, was again taken up.

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

Senator Bartle offered **SA 14**:

SENATE AMENDMENT NO. 14

Amend Senate Substitute for House Bill No. 198, Page 61, Section 1, Line 13, by inserting after all of said line the following:

"**Section 2. If any provision of this act or the application thereof to anyone or to any circumstances is held invalid, the remainder of those sections and the application of such provisions to others or other circumstances shall not be affected thereby.**"; and

Further amend the title and enacting clause accordingly.

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

Senator Caskey offered **SA 15**:

SENATE AMENDMENT NO. 15

Amend Senate Substitute for House Bill No. 198, Page 25, Section 416.680, Line 15, by inserting after all of said line the following:

"**430.225. 1. As used in sections 430.225 to 430.250, the following terms shall mean:**

(1) "Claim", a claim of a patient for:

(a) Damages from a tort-feasor; or

(b) Benefits from an insurance carrier;

(2) "Clinic", a group practice of health practitioners or a sole practice of a health practitioner who has incorporated his or her practice;

(3) "Health practitioner", a chiropractor licensed pursuant to chapter 331, RSMo, a podiatrist licensed pursuant to chapter 330, RSMo, a dentist licensed pursuant to chapter 332, RSMo, a physician or surgeon licensed pursuant to chapter 334, RSMo, or an optometrist licensed pursuant to chapter 336, RSMo, while acting within the scope of their practice;

(4) "Insurance carrier", any person, firm, corporation, association or aggregation of persons conducting an insurance business pursuant to chapter 375, 376, 377, 378, 379, 380, 381, or 383, RSMo;

(5) "Other institution", a legal entity existing pursuant to the laws of this state which delivers treatment, care or maintenance to patients who are sick or injured;

(6) "Patient", any person to whom a health practitioner, hospital, clinic or other institution delivers treatment, care or maintenance for sickness or injury caused by a tort-feasor from whom such person seeks damages or any insurance carrier which has insured such tort-feasor.

2. Clinics, health practitioners and other institutions, as defined in this section shall have the same rights granted to hospitals in sections 430.230 to 430.250.

3. If the liens of such health practitioners, hospitals, clinics or other institutions exceed fifty percent of the amount due the patient, every health care practitioner, hospital, clinic or other institution giving notice of its lien, as aforesaid, shall share in up to fifty percent of the net proceeds due the patient, in the proportion that each claim bears to the total amount of all other liens of health care

practitioners, hospitals, clinics or other institutions. "Net proceeds", as used in this section, means the amount remaining after the payment of contractual attorney fees, if any, and other expenses of recovery.

4. In administering the lien of the health care provider, the insurance carrier may pay the amount due secured by the lien of the health care provider directly, if the claimant authorizes it and does not challenge the amount of the customary charges or that the treatment provided was for injuries caused by the tort-feasor.

5. Any health care provider electing to receive benefits hereunder releases the claimant from further liability on the cost of the services and treatment provided to that point in time.

[430.225. 1. As used in sections 430.225 to 430.250, the following terms shall mean:

(1) "Claim", a claim of a patient for:

(a) Damages from a tort-feasor; or

(b) Benefits from an insurance carrier;

(2) "Clinic", a group practice of health practitioners or a sole practice of a health practitioner who has incorporated his or her practice;

(3) "Health practitioner", a chiropractor licensed pursuant to chapter 331, RSMo, a podiatrist licensed pursuant to chapter 330, RSMo, a dentist licensed pursuant to chapter 332, RSMo, a physician or surgeon licensed pursuant to chapter 334, RSMo, or an optometrist licensed pursuant to chapter 336, RSMo, while acting within the scope of their practice;

(4) "Insurance carrier", any person, firm, corporation, association or aggregation of persons conducting an insurance business pursuant to chapter 375, 376, 377, 378, 379, 380, 381 or 383, RSMo;

(5) "Other institution", a legal entity existing pursuant to the laws of this state which delivers treatment, care or maintenance to patients who are sick or injured;

(6) "Patient", any person to whom a health practitioner, hospital, clinic or other institution delivers treatment, care or maintenance for sickness or injury caused by a tort-feasor from whom such person seeks damages or any insurance carrier which has insured such tort-feasor.

2. Clinics, health practitioners and other institutions, as defined in this section shall have the same rights granted to hospitals in sections 430.230 to 430.250.

3. If the liens of such health practitioners, hospitals, clinics or other institutions exceed fifty percent of the amount due the patient, every health care practitioner, hospital, clinic or other institution giving notice of its lien, as aforesaid, shall share in up to fifty percent of the net proceeds due the patient, in the proportion that each claim bears to the total amount of all other liens of health care practitioners, hospitals, clinics or other institutions. "Net proceeds", as used in this section, means the amount remaining after the payment of contractual attorney fees, if any, and other expenses of recovery.

4. In administering the lien of the health care provider, the insurance carrier may pay the amount due secured by the lien of the health care provider directly, if the claimant authorizes it and does not

challenge the amount of the customary charges or that the treatment provided was for injuries cause by the tort-feasor.

5. Any health care provider electing to receive benefits hereunder releases the claimant from further liability on the cost of the services and treatment provided to that point in time.**]**"; and

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

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

Senator Steelman offered **SA 16**:

SENATE AMENDMENT NO. 16

Amend Senate Substitute for House Bill No. 198, Page 6, Section 115.157, Line 14, by inserting after all of said line the following:

"**196.1010. As used in sections 196.1010 to 196.1025, the following terms shall mean:**

(1) "Brand family", all styles of cigarettes sold under same trade mark and differentiated from one another by means of additional modifiers or descriptors, including but not limited to, "menthol", "lights", "kings", and "100s", and includes any brand name (alone or in conjunction with any other word) trademark, logo, symbol, motto, selling message, recognizable pattern of colors, or any other indicia of product identification identical or similar to, or identifiable with, a previously known brand of cigarettes;

(2) "Cigarette", the same meaning as such term is defined in section 196.1000;

(3) "Director", the director of the Missouri department of revenue;

(4) "Escrow-electing manufacturer", any tobacco product manufacturer that is not a participating manufacturer;

(5) "Participating manufacturer", the same meaning as such term is given in Section II(jj) of the Master Settlement Agreement, as defined in section 196.1000, and all amendments thereto;

(6) "Qualified escrow fund", the same meaning as such term is defined in section 196.1000;

(7) "Stamping agent", a person that is authorized to affix tax stamps to packages or other containers or cigarettes under chapter 149, RSMo, or any person that is required to pay the tax imposed pursuant to chapter 149, RSMo, on other tobacco products;

(8) "Tobacco product manufacturer", an entity that after the date of enactment of this act directly, and not exclusively through any affiliate:

(a) Manufactures cigarettes anywhere that such manufacturer intends to be sold in the United States, including cigarettes intended to be sold in the United States through an importer, except where such importer is an original participating manufacturer as that term is defined in the Master Settlement agreement, that will be responsible for the payments under the Master Settlement agreement with respect to such cigarettes as a result of the provisions of subsection II(mm) of the Master Settlement agreement and that pays the taxes specified in subsection II(z) of the Master Settlement agreement, and provided that the manufacturer of such cigarettes does not market or advertise such cigarettes in the United States;

(b) Is the first purchaser anywhere for resale in the United States of cigarettes manufactured anywhere that the manufacturer does not intend to be sold in the United States; or

(c) Becomes a successor of an entity described in subdivisions (1) or (2) of this section.

(9) "Units sold", the same meaning as such term is defined in section 196.1000.

196.1013. 1. Every tobacco product manufacturer whose cigarettes are sold in this state, whether directly or through a distributor, retailer or similar intermediary or intermediaries, shall execute and deliver on a form or in the manner prescribed by the attorney general a certification to the director and the attorney general no later than the thirtieth day of April each year, certifying that, as of the date of such certification, such tobacco product manufacturer is a participating manufacturer or is in full compliance with sections 196.1000 and 196.1003, including all installment payments required by section 196.1019.

(1) A participating manufacturer shall include in its certification a list of its brand families. The participating manufacturer shall update such list thirty days prior to any addition to or modification of its brand families by executing and delivering a supplemental certification to the attorney general.

(2) A escrow-electing manufacturer shall include in its certification:

(a) A list of all of its brand families and the number of units sold for each brand family that were sold in the state during the preceding calendar year;

(b) A list of all of its brand families that have been sold in the state at any time during the current calendar year;

(c) Indicating by an asterisk, any brand family sold in the state during the preceding calendar year that is no longer being sold in the state as of the date of such certification; and

(d) Identifying by name and address any other manufacturer of such brand families in the preceding or current calendar year.

The escrow-electing manufacturer shall update such list thirty days prior to any addition to or modification of its brand families by executing and delivering a supplemental certification to the attorney general.

(3) In the case of a escrow-electing manufacturer, such certification shall further certify:

(a) That such escrow-electing manufacturer is registered to do business in the state or has appointed an agent for service of process and provided notice thereof as required in section 196.1016;

(b) That such escrow-electing manufacturer has (i) established and continues to maintain a qualified escrow fund, as defined in section 196.1000, and (ii) executed a qualified escrow agreement that has been reviewed and approved by the attorney general and that governs the qualified escrow fund;

(c) That such escrow-electing manufacturer is in full compliance with this section and section 196.1003, and any regulations promulgated pursuant thereto;

(d) (i) The name, address, and telephone number of the financial institution where the escrow-electing manufacturer has established such qualified escrow fund required by section 196.1003 and all regulations promulgated thereto, and (ii) the account number of such qualified escrow fund and any subaccount number for the state of Missouri, and (iii) the amount such escrow-electing manufacturer placed in such fund for cigarettes sold in the state during the preceding calendar year, the date, and amount of each such deposit, and such evidence or verification as may be deemed necessary by the attorney general to confirm the foregoing, and (iv) the amount and date of any withdrawal or transfer of funds the escrow-electing manufacturer made at any time from such fund or from any other qualified escrow fund into which it ever made escrow payments pursuant to section 196.1003 and all regulations promulgated thereto.

(4) A tobacco product manufacturer may

not include a brand family in its certification unless (i) in the case of a participating manufacturer, said participating manufacturer affirms that the brand family is to be deemed to be its cigarettes for purposes of calculating its payments under the Master Settlement Agreement, as defined in section 196.1000, for the relevant year, in the volume and shares determined pursuant to the Master Settlement Agreement, and (ii) in the case of a escrow-electing manufacturer, said escrow-electing manufacturer affirms that the brand family is to be deemed to be its cigarettes for purposes of section 196.1003. Nothing in this section shall be construed as limiting or otherwise affecting the state's right to maintain that a brand family constitutes cigarettes of a different tobacco product manufacturer for purposes of calculating payments under the Master Settlement Agreement or for purposes of section 196.1003.

(5) The tobacco product manufacturer shall maintain all invoices and documentation of sales and other such information relied upon for such certification for a period of five years, unless otherwise required by law to maintain them for a greater period of time.

2. Not later than January 1, 2004, the attorney general shall develop and make available for public inspection or publish on its website a directory listing of all tobacco product manufacturers that have provided current and accurate certifications conforming to the requirements of subsection 1 of this section and all brand families that are listed in such certifications, except as noted below.

(1) The attorney general shall not include or retain in such directory the name or brand families of any escrow-electing manufacturer that fails to provide the required certification or whose certification the attorney general determines is not in compliance with subdivisions (2) and (3) of subsection 1 of this section, unless the attorney general has determined that such violation has been cured to the satisfaction of the attorney general.

(2) Neither a tobacco product manufacturer nor brand family shall be included or retained in the directory if the attorney general concludes in the case of a escrow-electing manufacturer that (i) any escrow payment required pursuant to section 196.1003 for any period for any brand family, whether or not listed by such escrow-electing manufacturer, have not been fully paid into a qualified escrow fund governed by a qualified escrow agreement that has been approved by the attorney general, or (ii) any outstanding final judgment, including interest thereon, for violations of section 196.1003 have not been fully satisfied for such brand family and such manufacturer.

(3) The attorney general shall update the directory as necessary in order to correct mistakes and to add or remove a tobacco product manufacturer or brand family to keep the directory in conformity with the requirements of sections 196.1010 to 196.1025. The attorney general shall transmit by electronic mail or other practical means to each stamping agent, and to each retailer who supplies an electronic mail address for that purpose, notice of any addition to or removal from the directory of any tobacco product manufacturer or brand family. Unless otherwise provided by an agreement between a stamping agent and a tobacco product manufacturer, the stamping agent shall be entitled to a refund from a tobacco product manufacturer for any money paid by the stamping agent to the tobacco product manufacturer for any cigarettes of the tobacco product manufacturer in the possession of the stamping agent on the date of notice by the attorney general of the removal from the directory of that tobacco product manufacturer or the brand family of the cigarettes. Unless otherwise provided by agreement between a retail dealer and a

stamping agent or a tobacco product manufacturer, a retail dealer shall be entitled to a refund from a stamping agent or a tobacco product manufacturer for any money paid by the retail dealer to such stamping agent or tobacco product manufacturer for any cigarettes of the tobacco product manufacturer still in the possession of the retail dealer on the effective date of removal from the directory of that tobacco product manufacturer or brand family of cigarettes. The attorney general shall not restore to the directory the tobacco product manufacturer or the brand family until the tobacco product manufacturer has paid each stamping agent or retail dealer any refund due.

(4) Every stamping agent shall provide and update as necessary an electronic mail address to the attorney general for the purpose of receiving any notifications as may be required by sections 196.1010 to 196.1025.

(5) The attorney general shall electronically transmit to each stamping agent notice of any addition to or removal from the directory of any tobacco product manufacturer or brand family.

3. It shall be unlawful for any person to affix a stamp to a package or other container of cigarettes of a tobacco product manufacturer or brand family not included in the directory, or to sell, offer or possess for sale in this state cigarettes of a tobacco product manufacturer or brand family not included in the directory.

196.1016. 1. Any nonresident or foreign escrow-electing manufacturer that has not registered to do business in this state as a foreign corporation or business entity shall, as a condition precedent to having its brand families listed or retained in the directory, appoint and continually engage without interruption the services of an agent in this state to act as agent for the service of process on whom all process, and any action or proceeding against it concerning or arising out of the enforcement of sections 196.1003 and 196.1010 to 196.1025, may be served in any manner authorized by law. Such service shall constitute legal and valid service of process on the escrow-electing manufacturer. The escrow-electing manufacturer shall provide the name, address, phone number, and proof of the appointment and availability of such agent to and to the satisfaction of the attorney general.

2. The escrow-electing manufacturer shall provide notice to the attorney general thirty calendar days prior to termination of the authority of an agent and shall further provide proof to the satisfaction of the attorney general of the appointment of a new agent no less than five calendar days prior to the termination of an existing agent appointment. In the event an agent terminates an agency appointment, the escrow-electing manufacturer shall notify the attorney general of said termination within five calendar days and shall include proof to the satisfaction of the attorney general of the appointment of a new agent.

196.1019. 1. Not later than twenty days after the end of each calendar quarter, and more frequently if so directed by the attorney general, each stamping agent shall submit such information as the attorney general requires to facilitate compliance with this section, including but not limited to a list by brand family of the total number of cigarettes or in the case of roll your own, the equivalent stick count for which the stamping agent affixed stamps during the previous calendar quarter or otherwise paid the tax due for such cigarettes. The stamping agent shall maintain, and make available to the attorney general all invoices and documentation of sales of all escrow-electing manufacturer cigarettes and any other information relied upon in reporting to the attorney general for a period of five years.

2. The director of the department of revenue is authorized to disclose to the attorney general any information received under sections

196.1010 to 196.1025 and requested by the attorney general for purposes of determining compliance with and enforcing the provisions of sections 196.1010 to 196.1025. The director and attorney general shall share with each other the information received under sections 196.1010 to 196.1025, and may share such information with other federal, state, or local agencies only for purposes of enforcement of sections 196.1010 to 196.1025, or corresponding laws of other states.

3. The attorney general may require at any time from the escrow-electing manufacturer proof from the financial institution in which such manufacturer has established a qualified escrow fund for the purpose of compliance with section 196.1003 of the amount of money in such fund, exclusive of interest, and the amount and date of each deposit to such fund, and the amount and date of each withdrawal from such fund.

4. In addition to any other information required to be submitted by law, the attorney general may require a stamping agent or tobacco product manufacturer to submit any additional information, including but not limited to, samples of the packaging or labeling of each brand family, as is necessary to enable the attorney general to determine whether a tobacco product manufacturer is in compliance with sections 196.1010 to 196.1025.

5. To promote compliance with the provisions of sections 196.1010 to 196.1025, the attorney general may promulgate rules requiring a tobacco product manufacturer subject to the requirements of subdivision (2) of subsection 1 of section 196.1013 to make escrow deposits required in installments during the year in which the sales covered by such deposits are made. The attorney general may require production of information sufficient to enable the attorney general to determine the adequacy of the amount of the installment deposit. The attorney general may require installment payments where the attorney general reasonably concludes that an escrow-electing manufacturer may not fully and timely comply with section 196.1000 and where an escrow-electing manufacturer has not made an escrow deposit pursuant to section 196.1000 during the preceding calendar year.

196.1022. 1. In addition to or in lieu of any other civil or criminal remedy provided by law, upon a determination that a stamping agent or any person has violated subsection 3 of section 196.1013 or any regulation adopted pursuant thereto, the director may revoke or suspend the license of any stamping agent in the manner provided in chapter 149, RSMo. Each stamp affixed and each sale or offer to sell cigarettes in violation of subsection 3 of section 196.1013 shall constitute a separate violation. The director may also impose a civil penalty in an amount not to exceed the greater of five hundred percent of the retail value of the cigarettes sold or five thousand dollars upon a determination of a violation of subsection 3 of section 196.1013 or any regulations adopted pursuant thereto.

2. Any cigarettes that have been sold, offered for sale, or possessed for sale in this state in violation of subsection 3 of section 196.1013 shall be deemed contraband and such cigarettes shall be subject to seizure and forfeiture as provided by law, and all such cigarettes so seized and forfeited shall be destroyed and not resold.

3. The attorney general, on behalf of the director, may seek an injunction to restrain a threatened or actual violation of subsection 3 of section 196.1013, or subsection 1 or 5 of section 196.1019, by a stamping agent and to compel the stamping agent to comply with such provisions. In any action brought pursuant to this section, the state shall be entitled to recover the costs of investigation, costs of the action and reasonable attorney fees.

4. It shall be unlawful for a person to sell or distribute cigarettes, or acquire, hold, own, possess, transport, import, or cause to be imported cigarettes that the person knows or should know are intended for distribution or sale in the state in violation of subsection 3 of section 196.1013. A violation of this section is a class A misdemeanor.

5. A person who violates subsection 3 of section 196.1013 engages in an unfair practice in violation of section 407.020, RSMo.

196.1025. 1. A determination of the attorney general not to list or to remove from the directory a brand family or tobacco product manufacturer shall be subject to review pursuant to chapter 621, RSMo.

2. For the year 2003, if the effective date of sections 196.1010 to 196.1025 is later than March 16, 2003, the first report of stamping agents required by subsection 1 of section 196.1019 shall be due thirty days after the effective date of sections 196.1010 to 196.1025; the certifications by the tobacco product manufacturer described in subsection 1 of section 196.1013 shall be due forty-five days after such effective date; and the directory described in subsection 2 of section 196.1013 shall be published or made available within ninety days after such effective date.

3. The attorney general may promulgate rules necessary to effect the purpose of sections 196.1010 to 196.1025.

4. In any action brought by the state to enforce sections 196.1010 to 196.1025, the state shall be entitled to recover the costs of investigation, expert witness fees, costs of the action, and reasonable attorney fees.

5. If a court of competent jurisdiction determines that a person has violated sections 196.1010 to 196.1025, the court shall order any profits, gains, gross receipts, or other benefit from the violation to be disgorged and paid to the state treasurer for deposit in the "Tobacco Control Special Fund", which is hereby created. Unless otherwise expressly provided the remedies or penalties provided by sections 196.1010 to 196.1025 are cumulative to each other and to the remedies or penalties available under all other laws of this state."; and

Further amend the title and enacting clause accordingly.

Senator Steelman moved that the above amendment be adopted.

Senator Loudon raised the point of order that **SA 16** 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, who ruled it well taken.

Senator Stoll offered **SA 17**:

SENATE AMENDMENT NO. 17

Amend Senate Substitute for House Bill No. 198, Page 61, Section 1, Line 13, by inserting after all of said line the following:

"**Section 2. Any county in this state may enact an ordinance, rule or regulation that makes it a peace disturbance to permit the continued barking of a dog under a person's ownership or control. The violation of such ordinance, rule or regulation shall subject the person to a fine of no more than $500 dollars and the payment of any applicable court costs.**"; and further amend the title and enacting clause accordingly.

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

Senator Dougherty offered **SA 18**:

SENATE AMENDMENT NO. 18

Amend Senate Substitute for House Bill No. 198, Page 2, Section 32.056, Line 15, by inserting after all of said line the following:

"43.500. As used in sections 43.500 to **[**43.530**]** **43.543**, the following terms mean:

(1) "Administration of criminal justice", the

performance of any of the following activities: Detection, apprehension, detention, pretrial release, post-trial release, prosecution, adjudication, correctional supervision, or rehabilitation of accused persons or criminal offenders. The administration of criminal justice shall include criminal identification activities and the collection, storage, and dissemination of criminal history information, including fingerprint searches, photographs, and other indicia of identification;

[(1)**] (2)** "Central repository", the Missouri state highway patrol criminal records **and identification** division for compiling and disseminating complete and accurate criminal history records **and for compiling, maintaining, and disseminating criminal incident and arrest reports and statistics**;

[(2)**] (3)** "Committee", criminal records **and justice information** advisory committee;

[(3)**] (4)** "Criminal history record information", information collected by criminal justice agencies on individuals consisting of identifiable descriptions and notations of arrests, detentions, indictments, informations, or other formal criminal charges, and any disposition arising therefrom, sentencing, correctional supervision, and release;

[(4)**] (5)** "Final disposition", the formal conclusion of a criminal proceeding at whatever stage it occurs in the criminal justice system;

(6) "Missouri charge code", a unique number assigned by the office of state courts administrator to an offense for tracking and grouping offenses. Beginning January 1, 2005, the complete charge code shall consist of the digits assigned by the office of state courts administrator, the two digit national crime information center modifiers, and a single digit designating attempt, accessory, or conspiracy. The only exception to the January 1, 2005, date shall be the courts that are not using the statewide court automation case management pursuant to section 476.055, RSMo; the effective date will be as soon thereafter as economically feasible for all other courts;

[(5)**] (7)** "State offense cycle number", a **[**preprinted**] unique** number**, supplied by or approved by the Missouri state highway patrol,** on the state **criminal** fingerprint card **[**which**]. The offense cycle number** is used to **[**identify each arrest which may include multiple offenses for which a person is fingerprinted. This number**] link the identity of a person, through fingerprints, to one or many offenses for which the person is arrested or charged. The offense cycle number** will be **[**associated with**] used to track** an offense incident from the date of arrest to the **[**date**] final disposition when** the offender exits from the criminal justice system**[**;

(6) "Without undue delay", as soon as possible but not later than thirty days after the criminal history event;

(7) "Administration of criminal justice", performance of any of the following activities: detection, apprehension, detention, pretrial release, post-trial release, prosecution, adjudication, correctional supervision, or rehabilitation of accused persons or criminal offenders. The administration of criminal justice shall include criminal identification activities and the collection, storage, and dissemination of criminal history record information, including fingerprint searches, photographs, and other indicia of identification**]**.

43.503. 1. For the purpose of maintaining complete and accurate criminal history record information, all police officers of this state, the clerk of each court, the department of corrections, the sheriff of each county, the chief law enforcement official of a city not within a county and the prosecuting attorney of each county or the circuit attorney of a city not within a county shall submit certain criminal arrest, charge, and disposition information to the central repository for filing without undue delay in the form and manner required by sections 43.500 to **[**43.530**] 43.543**.

2. All law enforcement agencies making misdemeanor and felony arrests as determined by section 43.506 shall furnish without undue delay, to the central repository, fingerprints, charges, **appropriate charge codes,** and descriptions of all persons who are arrested for such offenses on standard fingerprint forms supplied **or approved** by the highway patrol **or electronically in a format and manner approved by the highway patrol**. All such agencies shall also notify the central repository of all decisions not to refer such arrests for prosecution. An agency making such arrests may enter into arrangements with other law enforcement agencies for the purpose of furnishing without undue delay such fingerprints, charges, **appropriate charge codes,** and descriptions to the central repository upon its behalf.

3. In instances where an individual less than seventeen years of age **and not currently certified as an adult** is taken into custody for an offense which would be **[**considered**]** a felony if committed by an adult, the arresting officer shall take **[**one set of**]** fingerprints for the central repository **[**and may take another set for inclusion in a local or regional automated fingerprint identification system**]**. These fingerprints shall be taken on fingerprint cards **[**which are plainly marked "juvenile card" and shall be provided by the central repository**] supplied by or approved by the highway patrol or transmitted electronically in a format and manner approved by the highway patrol**. The fingerprint cards shall be so constructed that **[**only the fingerprints, unique identifying number, and the court of jurisdiction are**] the name of the juvenile should not be** made available to the central **[**or local**]** repository. **[**The remainder of the card which bears**]** The individual's **[**identification**] name** and the **[**duplicate**]** unique number **associated with the fingerprints and other pertinent information** shall be provided to the court of jurisdiction **by the agency taking the juvenile into custody**. The **[**appropriate portion of the juvenile fingerprint card**] juvenile's fingerprints and other information** shall be forwarded to the central repository and the courts without undue delay. The fingerprint information from the card shall be captured and stored in the automated fingerprint identification system operated by the central repository. **[**The juvenile fingerprint card shall be stored in a secure location, separate from all other fingerprint cards.**]** In the event the fingerprints **[**from this card**]** are found to match **other tenprints or unsolved** latent prints **[**searched in the automated fingerprint identification system**]**, **the central repository shall notify the submitting agency who shall notify** the court of jurisdiction **[**shall be so advised**] as per local agreement**.

4. Upon certification of the individual as an adult, the court shall order a law enforcement agency to immediately fingerprint the individual. The law enforcement agency shall submit such fingerprints to the central repository within fifteen days and shall furnish the offense cycle number associated with the fingerprints to the prosecuting attorney or the circuit attorney of a city not within a county and to the clerk of the court ordering the subject fingerprinted. If the juvenile is acquitted of the crime and is no longer certified as an adult, the prosecuting attorney shall notify within fifteen days the central repository of the change of status of the juvenile. Records of a child who has been fingerprinted and photographed after being taken into custody shall be closed records as provided pursuant to section 610.100, RSMo, if a petition has not been filed within thirty days of the date that the child was taken into custody; and if a petition for the child has not been filed within one year of the date the child was taken into custody, any records relating to the child concerning the alleged offense may be expunged under the procedures in sections 610.122 to 610.126, RSMo.

[3.**] 5.** The prosecuting attorney of each county or the circuit attorney of a city not within a county shall notify the central repository on standard forms supplied by the highway patrol **or in a manner approved by the highway patrol** of all

charges filed, including all those added subsequent to the filing of a criminal court case, and whether charges were not filed in criminal cases for which the central repository has a record of an arrest. All records forwarded to the central repository by prosecutors or circuit attorneys as required by sections 43.500 to 43.530 shall include the state offense cycle number of the offense, **the charge code for the offense,** and the originating agency identifier number of the reporting prosecutor, using such numbers as assigned by the highway patrol.

[4.**] 6.** The clerk of the courts of each county or city not within a county shall furnish the central repository, on standard forms supplied by the highway patrol **or in a manner approved by the highway patrol**, with all final dispositions of **[**criminal**]** cases for which the central repository has a record of an arrest or a record of fingerprints reported pursuant to **[**subsections 6 and 7 of this section**]** **sections 43.500 to 43.506**. Such information shall include, for each charge:

(1) All judgments of not guilty, acquittals on the ground of mental disease or defect excluding responsibility, judgments**,** or pleas of guilty including the sentence, if any, or probation, if any, pronounced by the court, nolle pros, discharges, releases**,** and dismissals in the trial court;

(2) Court orders filed with the clerk of the courts which reverse a reported conviction or vacate or modify a sentence;

(3) Judgments terminating or revoking a sentence to probation, supervision**,** or conditional release and any resentencing after such revocation; and

(4) The offense cycle number of the offense, and the originating agency identifier number of the **[**reporting**]** **sentencing** court, using such numbers as assigned by the highway patrol.

[5.**] 7.** The clerk of the courts of each county or city not within a county shall furnish**, to the department of corrections or department of mental health,** court judgment and sentence documents and the state offense cycle number **and the charge code** of the offense**[**,**]** which **[**result**]** **resulted** in the commitment or assignment of an offender**[**,**]** to the jurisdiction of the department of corrections or the department of mental health if the person is committed pursuant to chapter 552, RSMo. This information shall be reported to the department of corrections or the department of mental health at the time of commitment or assignment. If the offender was already in the custody of the department of corrections or the department of mental health at the time of such subsequent conviction, the clerk shall furnish notice of such subsequent conviction to the appropriate department by certified mail, return receipt requested **or in a manner and format mutually agree to**, within **[**ten**]** **fifteen** days of such disposition.

[6. After the court pronounces sentence, including an order of supervision or an order of probation granted for any offense which is required by statute to be collected, maintained, or disseminated by the central repository, or commits a person to the department of mental health pursuant to chapter 552, RSMo,**] 8. Information and fingerprints, and other indicia forwarded to the central repository, normally obtained from a person at the time of the arrest, may be obtained at any time the subject is in the criminal justice system or committed to the department of mental health. A law enforcement agency or the department of corrections may fingerprint the person and obtain the necessary information at any time the subject is in custody. If at the time of disposition, the defendant has not been fingerprinted for an offense in which a fingerprint is required by statute to be collected, maintained, or disseminated by the central repository,** the court shall order a law enforcement agency to fingerprint immediately **[**all persons appearing before the court to be sentenced or committed who have not previously been fingerprinted for the same case**]** **the defendant**. The law enforcement agency shall submit such fingerprints to the central repository without undue

delay **and shall furnish the offense cycle number associated with the fingerprints to the prosecuting attorney or the circuit attorney of a city not within a county and to the clerk of the court ordering the subject fingerprinted**.

[7.**] 9.** The department of corrections and the department of mental health shall furnish the central repository with all information concerning the receipt, escape, execution, death, release, pardon, parole, commutation of sentence, granting of executive clemency, **legal name change,** or discharge of an individual who has been sentenced to that department's custody for any offenses which are mandated by law to be collected, maintained or disseminated by the central repository. All records forwarded to the central repository by the department as required by sections 43.500 to 43.530 shall include the offense cycle number of the offense, and the originating agency identifier number of the department using such numbers as assigned by the highway patrol.

43.506. 1. Those offenses considered reportable for the purposes of sections 43.500 to **[**43.530**] 43.543** include all felonies and serious or aggravated misdemeanors consistent with the reporting standards established by the National Crime Information Center, Federal Bureau of Investigation, for the Federal Interstate Identification Index System. In addition, all cases arising pursuant to sections 566.010 to 566.141, RSMo, where the defendant pleads guilty to an offense involving a child under seventeen years of age and the court imposes a suspended imposition of sentence shall be reported. The following types of offenses shall not be considered reportable for the purposes of sections 57.403, RSMo, 43.500 to **[**43.530**] 43.543**, and 595.200 to 595.218, RSMo: disturbing the peace, curfew violation, loitering, false fire alarm, disorderly conduct, nonspecific charges of suspicion or investigation, and general traffic violations and all misdemeanor violations of the state wildlife code. All violations for driving under the influence of drugs or alcohol are reportable. All offenses considered reportable shall be reviewed annually and noted in the Missouri charge code manual established in section 43.512. All information collected pursuant to sections 43.500 to **[**43.530**] 43.543** shall be available only as set forth in section 610.120, RSMo.

2. **[**With the exception of the manual reporting of arrests and fingerprints by law enforcement agencies as noted in subsection 2 of section 43.503, and notwithstanding subsections 2 to 7 of section 43.503,**]** Law enforcement agencies, court clerks, prosecutors and custody agencies may report required information by electronic medium either directly to the central repository or indirectly to the central repository via other criminal justice agency computer systems in the state with the approval of the **[**advisory committee**] highway patrol, based upon standards established by the advisory committee**.

3. In addition to the repository of fingerprint records for individual offenders **and applicants**, the central repository of criminal history **and identification** records for the state shall maintain a repository of latent prints**, palm prints, and other prints submitted to the repository**.

43.527. For purposes of sections 43.500 to **[**43.530**] 43.543** all **[**federal and nonstate of Missouri**]** agencies **and persons** shall pay for criminal records checks, fingerprint searches, and any of the information as defined in subdivision (3) of section 43.500, when such information is not related to the administration of criminal justice. **There shall be no charge for information supplied to criminal justice agencies for the administration of criminal justice. There shall be no charge for information requested by Missouri state agencies screening their state employees or applicants for state employment.** For purposes of sections 43.500 to **[**43.530**] 43.543** the administration of criminal justice is defined in subdivision (7) of section 43.500 **and shall be available only as set forth in section 610.120, RSMo**.

43.530. **1.** For each request **requiring the**

payment of a fee received by the central repository, **[**as defined in subdivision (1) of section 43.500,**]** the requesting entity shall pay a fee of not more than five dollars per request for criminal history record information **not based on a fingerprint search** and pay a fee of not more than fourteen dollars per request for **[**classification and search of fingerprints**] criminal history record information based on a fingerprint search**. Each such request shall be limited to check and search on one individual. Each request shall be accompanied by a check, warrant, voucher, or money order payable to the state of Missouri-criminal record system **or payment shall be made in a manner approved by the highway patrol**. There is hereby established by the treasurer of the state of Missouri a fund to be entitled as the "Criminal Record System Fund". Notwithstanding the provisions of section 33.080, RSMo, to the contrary, if the moneys collected and deposited into this fund are not totally expended annually for the purposes set forth in **[**section 43.527**] sections 43.500 to 43.543**, the unexpended moneys in such fund shall remain in the fund and the balance shall be kept in the fund to accumulate from year to year.

2. For purposes of obtaining criminal records prior to issuance of a school bus operator's permit pursuant to section 302.272, RSMo, and for determining eligibility for such permit, the applicant for such permit shall submit two sets of fingerprints to the director of revenue when applying for the permit. The fingerprints shall be collected in a manner approved by the superintendent of the highway patrol. The school bus permit applicant shall pay the appropriate fee described in this section and pay the appropriate fee determined by the Federal Bureau of Investigation for the federal criminal history record when he or she applies for the school bus permit. Collections for records described in this subsection shall be deposited in the criminal record system fund.

43.532. 1. Criminal history and identification records obtained from the central repository shall be used solely for the purpose for which they were obtained. The subject of the record shall be afforded the opportunity to challenge the correctness, accuracy, and completeness of a criminal history record.

2. The central records repository shall have authority to engage in the practice of collecting, assembling, or disseminating criminal history record information for the purpose of retaining manually or electronically stored criminal history information. Any person obtaining criminal history record information from the central repository under false pretenses, advertise or engage in the practice of collecting, assembling, or disseminating as a business enterprise other than for the purpose of furnishing criminal history information to the authorized requestor for its intended purpose is guilty of a class A misdemeanor.

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

(1) "Authorized state agency", a division of state government or an office of state government designated by the statutes of this state to issue or renew a license, permit, certification, or registration of authority to a qualified entity;

(2) "Care", the provision of care, treatment, education, training, instruction, supervision, or recreation;

[(1)**] (3)** "**Missouri** criminal record review", a **[**request to the highway patrol for information concerning any criminal history record for a felony or misdemeanor and any offense for which the person has registered pursuant to sections 589.400 to 589.425, RSMo**] review of criminal history records maintained by the highway patrol in the criminal records repository**;

(4) "National criminal record review", a review of the criminal history records maintained by the Federal Bureau of Investigation;

[(2)**] (5)** "Patient or resident", a person who by reason of **[**aging**] age**, illness, disease**,** or physical or mental infirmity receives or requires care or services furnished by a provider, as defined in this section, or who resides or boards in, or is otherwise kept, cared for, treated**,** or accommodated in a facility as defined in section 198.006, RSMo, for a period exceeding twenty-four consecutive hours;

[(3) "Patrol", the Missouri state highway patrol;

(4)**] (6)** "Provider", **[**any licensed day care home, licensed day care center, licensed child-placing agency, licensed residential care facility for children, licensed group home, licensed foster family group home, licensed foster family home or any operator licensed pursuant to chapter 198, RSMo, any employer of nurses or nursing assistants for temporary or intermittent placement in health care facilities or any entity licensed pursuant to chapter 197, RSMo**] a person who:**

(a) Is employed by or seeks employment with a qualified entity; or

(b) Volunteers or seeks to volunteer with a qualified entity; or

(c) Owns or operates a qualified entity; and

(d) Has or may have unsupervised access to children, the elderly, or persons with disabilities;

(7) "Qualified entity", a person, business, or organization, whether public or private, for profit, not-for-profit, or voluntary, that provides care, placement, or educational services, for children, the elderly or persons with disabilities as patients or residents, including a business or organization that licenses or certifies others to provide care or placement services;

[(5)**] (8)** "Youth services agency", any public or private agency, school, or association which provides programs, care or treatment for or which exercises supervision over minors.

2. **[**Upon receipt of a written request from a private investigatory agency, a youth service agency or a provider, with the written consent of the applicant, the highway patrol shall conduct a criminal record review of an applicant for a paid or voluntary position with the agency or provider if such position would place the applicant in contact with minors, patients or residents.

3. Any request for information made pursuant to the provisions of this section shall be on a form provided by the highway patrol and shall be signed by the person who is the subject of the request.

4. The patrol shall respond in writing to the youth service agency or provider making a request for information pursuant to this section and shall inform such youth service agency or provider of the address and offense for which the offender registered pursuant to sections 589.400 to 589.425, RSMo, and the nature of the offense, and the date, place and court for any other offenses contained in the criminal record review. Notwithstanding any other provision of law to the contrary, the youth service agency or provider making such request shall have access to all records of arrests resulting in an adjudication where the applicant was found guilty or entered a plea of guilty or nolo contendere in a prosecution pursuant to chapter 565, RSMo, sections 566.010 to 566.141, RSMo, or under the laws of any state or the United States for offenses described in sections 566.010 to 566.141, RSMo, or chapter 565, RSMo, during the period of any probation imposed by the sentencing court.

5. Any information received by a provider or a youth services agency pursuant to this section shall be used solely for the provider's or youth service agency's internal purposes in determining the suitability of an applicant or volunteer. The information shall be confidential and any person who discloses the information beyond the scope allowed in this section is guilty of a class A misdemeanor. The patrol shall inform, in writing, the provider or youth services agency of the requirements of this subsection and the penalties provided in this subsection at the time it releases any information pursuant to this section.**] A**

qualified entity may obtain a criminal record review of a provider from the highway patrol by furnishing information on forms and in the manner approved by the highway patrol.

3. A qualified entity may request a Missouri criminal record review and a national criminal review of a provider through an authorized state agency. No authorized state agency is required by this section to process Missouri or national criminal record reviews for a qualified entity, however, if an authorized state agency agrees to process Missouri and national criminal record reviews for a qualified entity, the qualified entity shall provide to the authorized state agency on forms and in a manner approved by the highway patrol the following:

(1) Two sets of fingerprints of the provider;

(2) A statement signed by the provider which contains:

(a) The provider's name, address, and date of birth;

(b) Whether or not the provider has been convicted of or has pled guilty to a crime which includes a suspended imposition of sentence;

(c) If the provider has been convicted of or has pled guilty to a crime, a description of the crime, and the particulars of the conviction or plea;

(d) The authority of the qualified entity to check the provider's criminal history;

(e) The right of the provider to review the report received by the qualified entity; and

(f) The right of the provider to challenge the accuracy of the report. If the challenge is to the accuracy of the criminal record review, the challenge shall be made to the highway patrol.

4. The authorized state agency shall forward the required forms and fees to the highway patrol. The results of the record review shall be forwarded to the authorized state agency who will notify the qualified entity. The authorized state agency may assess a fee to the qualified entity to cover the cost of handling the criminal record review and may establish an account solely for the collection and dissemination of fees associated with the criminal record reviews.

5. Any information received by an authorized state agency or a qualified entity pursuant to the provisions of this section shall be used solely for the internal purposes of determining the suitability of a provider. The dissemination of criminal history information from the Federal Bureau of Investigation beyond the authorized state agency or related governmental entity is prohibited. All criminal record check information shall be confidential and any person who discloses the information beyond the scope allowed is guilty of a class A misdemeanor.

6. The highway patrol shall make available or approve the necessary forms, procedures, and agreements necessary to implement the provisions of this section.

43.542. In order to facilitate the authorized interstate exchange of criminal history information for non criminal justice purposes to adopt the National Crime Prevention and Privacy Compact, 42 U.S.C. 14616, the general assembly approves and adopts the compact. The chief administrator of the state's criminal history records repository shall execute the compact on behalf of the state of Missouri.

43.543. Any state agency listed in section 621.045, RSMo, **[**or any state agency which provides programs, care or treatment for or which exercises supervision over minors shall submit two sets of fingerprints for any person seeking employment with such agency or provider or for any person who is seeking the issuance or renewal of a license, permit or certificate of registration or authority from such agency, for the purpose of checking the person's prior criminal history when

the state agency determines a nationwide check is warranted. The fingerprint cards and any required fees shall be sent to the Missouri state highway patrol's criminal records division. The first set of fingerprints shall be used for searching the state repository of criminal history information. If no identification is made, the second set of fingerprints shall be forwarded to the Federal Bureau of Investigation, Identification Division, for the searching of the federal criminal history files. The patrol shall notify the submitting state agency of any criminal history information or lack of criminal history information discovered on the individual.**] the division of professional registration of the department of economic development, the department of social services, the state supreme court, the department of elementary and secondary education, the Missouri lottery, and the gaming commission may for persons seeking employment with such agency or issuance or renewal of a license, permit, certificate, or registration of authority from such agency, or any state agency or committee which is authorized by state statute or executive order to screen applicants or candidates seeking or considered for employment, assignment, or appointment to a position within state government; or the police officers standards and training commission pursuant to chapter 630, RSMo, may for persons not employed by a criminal justice agency who seek enrollment or access into a certified POST training academy police school; or law enforcement agencies may for persons seeking issuance or renewal of a license, permit, certificate, or registration to purchase or posses a firearm; shall submit two sets of fingerprints to the highway patrol. Such fingerprints shall be used by the highway patrol to search the criminal records repository and the second set shall be submitted to the Federal Bureau of Investigation to be used for searching the federal criminal history files if necessary. The fingerprints shall be submitted on forms and in the manner prescribed by the highway patrol. Fees assessed for the searches shall be paid in the manner prescribed by the highway patrol.** Notwithstanding the provisions of section 610.120, RSMo, all records related to any criminal history information discovered shall be accessible and available to the state agency making the record request."; and

Further amend said bill, Page 6, Section 115.157, Line 14, by inserting after all of said line the following:

"210.909. 1. Upon submission of a completed registration form by a child-care worker, elder-care worker or personal-care attendant, the department shall:

(1) Determine if a probable cause finding of child abuse or neglect involving the applicant has been recorded pursuant to sections 210.109 to 210.183 and, as of January 1, 2003, if there is a probable cause finding of financial exploitation of the elderly or disabled pursuant to section 570.145, RSMo;

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

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

(4) As of January 1, 2003, determine if the applicant is listed on the department of mental health's employee disqualification registry;

(5) Determine through a request to the patrol pursuant to section 43.540, RSMo, whether the applicant has any **[**conviction, plea of guilty or nolo contendere, or a suspended execution of sentence to a charge of any offense pursuant to chapters 198, 334, 560, 565, 566, 568, 569, 573, 575 and 578, RSMo**] criminal history record for a felony or misdemeanor or any offense for which the person has registered pursuant to sections 589.400 to 589.425, RSMo**; and

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

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

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

210.922. The department **of health and senior services, department of mental health, and department of social services** may use the registry information to carry out the duties assigned to the department pursuant to this chapter and chapters 190, 195, 197, 198**, 630,** and 660, RSMo."; and

Further amend said bill, Page 61, Section 589.414, Line 9, by inserting after all of said line the following:

"610.120. 1. Records required to be closed shall not be destroyed; they shall be inaccessible to the general public and to all persons other than the defendant except as provided in this section and section 43.507, RSMo. **[**They shall be available to**]** **The closed records shall be available to: criminal justice agencies for the administration of criminal justice pursuant to section 43.500, RSMo, criminal justice employment, screening persons with access to criminal justice facilities, procedures and sensitive information; to law enforcement agencies for issuance or renewal of a license, permit, certification, or registration of authority from such agency; those agencies authorized pursuant to section 43.543, RSMo, to submit and when submitting fingerprints to the central repository;** the sentencing advisory commission created in section 558.019, RSMo, for the purpose of studying sentencing practices**[**, and only to courts, law enforcement agencies,**]** **in accordance with section 43.507, RSMo; to qualified entities for the purpose of screening providers defined in section 43.540, RSMo; the** child care agencies, department of revenue for **[**driving record purposes, facilities as defined in section 198.006, RSMo, in-home services provider agencies as defined in section 660.250, RSMo,**]** **driver license administration;** the division of workers' compensation for the purposes of determining eligibility for crime victims' compensation pursuant to sections 595.010 to 595.075, RSMo, **department of health and senior services for the purpose of licensing and regulating facilities and regulating in-home services provider agencies** and federal agencies for purposes of **[**prosecution, sentencing, parole consideration**]** **criminal justice administration**, criminal justice employment, child**, elderly, or disabled** care **[**employment, nursing home employment**],** and **[**to federal agencies**]** for such investigative purposes as authorized by law or presidential executive order.

2. These records shall be made available **only** for the **[**above**]** purposes **[**regardless of any previous statutory provision which had closed such records to certain agencies or for certain purposes.**]** **and to the entities listed in this section. A criminal justice agency receiving a request for criminal history information under its control may require positive identification, to include fingerprints of the subject of the record search, prior to releasing closed record information. Dissemination of closed and open records from the state criminal records repository shall be in accordance with administrative rules and regulations established in accordance with section 43.509, RSMo.** All records which are closed records shall be removed from the records of the courts, administrative agencies, and law

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

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

610.123. 1. Any person who wishes to have a record of arrest expunged pursuant to section 610.122 may file a verified petition for expungement in the civil division of the circuit court in the county of the arrest as provided in subsection 4 of this section. The petition shall include the following information or shall be dismissed if the information is not given:

(1) The petitioner's:

(a) Full name;

(b) Sex;

(c) Race;

(d) Date of birth;

(e) Driver's license number;

(f) Social Security number; and

(g) Address at the time of the arrest;

(2) The offense charged against the petitioner;

(3) The date the petitioner was arrested;

(4) The name of the county where the petitioner was arrested and if the arrest occurred in a municipality, the name of the municipality;

(5) The name of the agency that arrested the petitioner;

(6) The case number and court of the offense**;**

(7) Petitioner's fingerprints on a standard fingerprint card at the time of filing a petition to expunge a record that will be forwarded to the central repository for the sole purpose of positively identifying the petitioner.

2. The petition shall name as defendants all law enforcement agencies, courts, prosecuting attorneys, central state depositories of criminal records or others who the petitioner has reason to believe may possess the records subject to expungement. The court's order shall not affect any person or entity not named as a defendant in the action.

3. The court shall set a hearing on the matter no sooner than thirty days from the filing of the petition and shall give reasonable notice of the hearing to each official or agency or other entity named in the petition.

4. If the court finds that the petitioner is entitled to expungement of any record that is the subject of the petition, it shall enter an order directing expungement. A copy of the order shall be provided to each agency identified in the petition pursuant to subsection 2 of this section.

5. The supreme court shall promulgate rules establishing procedures for the handling of cases filed pursuant to the provisions of this section and section 610.122. Such procedures shall be similar to the procedures established in chapter 482, RSMo, for the handling of small claims."; and

Further amend said bill, Page 61, Section 589.414, Line 9, by inserting after all of said line the following:

"630.170. 1. A person **who is listed on the department of mental health disqualification registry pursuant to this section, who is listed on the department of social services, or the department of health and senior services employee disqualification list pursuant to**

section 660.315, RSMo, or who has been convicted of**, pled guilty to or nolo contendere to** any crime pursuant to section 630.155 or 630.160 shall be disqualified from holding any position in any public or private facility or day program operated, funded or licensed by the department or in any mental health facility or mental health program in which people are admitted on a voluntary or involuntary basis or are civilly detained pursuant to chapter 632, RSMo.

2. A person **who has been** convicted of**, pled guilty to or nolo contendere to** any felony offense against persons as defined in chapter 565, RSMo; **[**of**]** any felony sexual offense as defined in chapter 566, RSMo; **[**of**]** any felony offense defined in section **568.020,** 568.045, 568.050, 568.060, 569.020, **569.025,** 569.030, **569.035,** 569.040 **[**or**],** 569.050, **569.070, or 569.160,** RSMo, or of an equivalent felony offense**, or who has been convicted of or pled guilty or nolo contendere to any violation of subsection 3 of section 198.070, RSMo,** shall be disqualified from holding any direct-care position in any public or private facility, day program, residential facility or specialized service operated, funded or licensed by the department or any mental health facility or mental health program in which people are admitted on a voluntary basis or are civilly detained pursuant to chapter 632, RSMo.

3. A person who has received a suspended imposition of sentence or a suspended execution of sentence following a plea of guilty to any of the disqualifying crimes listed in subsection 1 or 2 of this section shall remain disqualified.

[3.**] 4.** Any person disqualified pursuant to the provisions of subsection 1 or 2 of this section may **[**appeal**] seek an exception to** the disqualification **[**to**] from** the director of the department or the director's designee. The request shall be written and may not be made more than once every twelve months. The request may be granted by the director or designee if in the judgment of the director or designee a clear showing has been made by written submission only, that the person will not commit any additional acts for which the person had originally been disqualified for or any other acts that would be harmful to a patient, resident or client of a facility, program or service. The director or designee may grant **[**the appeal**] an exception** subject to any conditions deemed appropriate and failure to comply with such terms may result in the person again being disqualified. Decisions by the director or designee pursuant to the provisions of this subsection shall not be subject to appeal. The right to **[**appeal**] request an exception** pursuant to this subsection shall not apply to persons **[**convicted of**] who are disqualified due to being listed on the department of social services or department of health and senior services employee disqualification list pursuant to section 660.315, RSMo, nor to persons disqualified from employment due to** any crime pursuant to the provisions of chapter 566 **[**or 568**]**, RSMo, or section 565.020 or 565.021, RSMo**, section 568.020 or 568.060, RSMo, or section 569.025 or 569.070, RSMo**.

5. An applicant for a direct care position in any public or private facility, day program, residential facility, or specialized service operated, funded, or licensed by the department or any mental health facility or mental health program in which people are admitted on a voluntary basis or are civilly detained pursuant to chapter 632, RSMo, shall:

(1) Sign a consent form as required by section 43.540, RSMo, to provide written consent for a criminal record review;

(2) Disclose the applicant's criminal history. For the purposes of this subdivision, "criminal history" includes any suspended imposition of sentence, any suspended execution of sentence, or any period of probation or parole; and

(3) Disclose if the applicant is listed on the employee disqualification list as provided in section 660.315, RSMo, or the department of mental health disqualification registry as

provided for in this section.

6. Any person who has received a good cause waiver issued by the division of aging or division of senior services pursuant to subsection 9 of section 660.317, RSMo, shall not require an additional exception pursuant to this section in order to be employed in a long-term care facility licensed pursuant to chapter 198, RSMo.

7. Any public or private residential facility, day program, or specialized service licensed, certified, or funded by the department shall, not later than two working days of hiring any person for a full-time, part-time, or temporary position to have contact with clients or residents or patients shall:

(1) Request a criminal background check as provided in section 43.540, RSMo;

(2) Make an inquiry to the department of social services and department of health and senior services whether the person is listed on the employee disqualification list as provided in section 660.315, RSMo; and

(3) Make an inquiry to the department of mental health whether the person is listed on the disqualification registry as provided in this section.

8. An applicant who knowingly fails to disclose his or her criminal history as required in subsection 5 of this section is guilty of a class A misdemeanor. A provider is guilty of a class A misdemeanor if the provider knowingly hires a person to hold a direct care position if that persons has been disqualified pursuant to the provisions of subsection 1 or 2 of this section.

[4.**]** **9.** The department may maintain a disqualification registry and place on the registry the names of any persons who have been finally determined by the department to be disqualified pursuant to this section, or who have had administrative substantiations made against them for abuse or neglect pursuant to department rule. Such list shall reflect that the person is barred from holding any position in any public or private facility or day program operated, funded or licensed by the department, or any mental health facility or mental health program in which persons are admitted on a voluntary basis or are civilly detained pursuant to chapter 632, RSMo."; and

Further amend said bill, Page 61, Section 1, Line 13, by inserting after all of said line the following:

"**[**43.521. Sections 43.500 to 43.530 shall not require fingerprinting of juvenile offenders or reporting of information pertaining to a proceeding pursuant to the Missouri juvenile code, except in those cases where a juvenile is certified to the circuit court to stand trial as an adult.**]**

[210.937. The provisions of sections 210.900 to 210.936 shall terminate on January 1, 2004.**]**"; and

Further amend the title and enacting clause accordingly.

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

Senator Goode offered **SA 19**:

SENATE AMENDMENT NO. 19

Amend Senate Substitute for House Bill No. 198, Page 39, Section 544.170, Line 12, by inserting after all of said line the following:

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

2. Where murder in the first degree is submitted to the trier without a waiver of the death penalty, the trial shall proceed in two stages before

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

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

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

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

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

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

(4) If the trier decides under all of the circumstances not to assess and declare the punishment at death. If the trier is a jury it shall be so instructed.

If the trier assesses and declares the punishment at death it shall, in its findings or verdict, set out in writing the aggravating circumstance or circumstances listed in subsection 2 of section 565.032 which it found beyond a reasonable doubt. If the trier is a jury **[**it shall be instructed before the case is submitted that if it**] and** is unable to **unanimously** decide or agree upon **setting** the punishment **at death,** the court shall assess and declare the punishment at life imprisonment without eligibility for probation, parole, or release except by act of the governor **[**or death**]; and the jury shall be accordingly instructed before the case is submitted**. The court shall follow the same procedure as set out in this section whenever it is required to determine punishment for murder in the first degree.

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

section.

6. As used in this section, the terms "mental retardation" or "mentally retarded" refer to a condition involving substantial limitations in general functioning characterized by significantly subaverage intellectual functioning with continual extensive related deficits and limitations in two or more adaptive behaviors such as communication, self-care, home living, social skills, community use, self-direction, health and safety, functional academics, leisure and work, which conditions are manifested and documented before eighteen years of age.

7. The provisions of this section shall only govern offenses committed on or after August 28, **[**2001**] 2003**."; and

Further amend the title and enacting clause accordingly.

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

Senator Cauthorn offered **SA 20**:

SENATE AMENDMENT NO. 20

Amend Senate Substitute for House Bill No. 198, Page 9, Section 217.305, Line 18 of said page, by striking the word "certified"; and further amend said line, by striking the opening bracket "["; and further amend said line, by striking the closing bracket "]"; and further amend line 19 of said page, by striking the opening bracket "["; and further amend line 20 of said page, by striking the closing bracket "]".

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

Senator Bray offered **SA 21**:

SENATE AMENDMENT NO. 21

Amend Senate Substitute for House Bill No. 198, Page 13, Section 226.531, Line 1 of said page, by inserting after all of said line the following:

"300.330. The driver of a **motor** vehicle shall not drive within any sidewalk area except as a permanent or temporary driveway. **A bicycle lane shall not be obstructed by a parked or standing motor vehicle or other stationary object. A motor vehicle may be driven in a bicycle lane only for the purpose of a lawful maneuver to cross the lane or provide for safe travel. Where a bicycle lane is present, a driver making a lawful maneuver must first merge into the bicycle lane after yielding to any traffic that may be present.**

300.410. Notwithstanding the foregoing provisions of sections 300.155 to 300.410, every driver of a vehicle shall exercise the highest degree of care to avoid colliding with any pedestrian **[**upon any roadway and shall give warning by sounding the horn when necessary**], any person propelling a human powered vehicle, or any person operating a motorcycle,** and shall exercise proper precaution upon observing any child or any confused or incapacitated person upon a roadway."; and

Further amend said bill, Page 16, Section 302.060, Line 4 of said page, by inserting after all of said line the following:

"302.302. 1. The director of revenue shall put into effect a point system for the suspension and revocation of licenses. Points shall be assessed only after a conviction or forfeiture of collateral. The initial point value is as follows:

(1) Any moving violation of a state law or county or municipal or federal traffic ordinance or regulation not listed in this section, other than a violation of vehicle equipment provisions or a court-ordered supervision as provided in section 302.303 . . . . . 2 points

(except any violation of municipal stop sign ordinance where no accident is involved

. . . . . 1 point)

(2) Speeding

In violation of a state law . . . . . 3 points

In violation of a county or municipal ordinance . . . . . 2 points

(3) Leaving the scene of an accident in violation of section 577.060, RSMo . . 12 points
In violation of any county or municipal ordinance . . . . . 6 points

(4) Careless and imprudent driving in violation of subsection 4 of section 304.016, RSMo . . . . . 4 points
In violation of a county or municipal ordinance . . . . . 2 points

(5) Operating without a valid license in violation of subdivision (1) or (2) of subsection 1 of section 302.020:

(a) For the first conviction ..... 2 points

(b) For the second conviction ..... 4 points

(c) For the third conviction ..... 6 points

(6) Operating with a suspended or revoked license prior to restoration of operating privileges . . . . . 12 points

(7) Obtaining a license by misrepresentation ..... 12 points

(8) For the first conviction of driving while in an intoxicated condition or under the influence of controlled substances or drugs . . . . . 8 points

(9) For the second or subsequent conviction of any of the following offenses however combined: driving while in an intoxicated condition, driving under the influence of controlled substances or drugs or driving with a blood alcohol content of eight-hundredths of one percent or more by weight ..... 12 points

(10) For the first conviction for driving with blood alcohol content eight-hundredths of one percent or more by weight
In violation of state law ..... 8 points
In violation of a county or municipal ordinance or federal law or regulation ..... 8 points

(11) Any felony involving the use of a motor vehicle ..... 12 points

(12) Knowingly permitting unlicensed operator to operate a motor vehicle ..... 4 points

(13) For a conviction for failure to maintain financial responsibility pursuant to county or municipal ordinance or pursuant to section 303.025, RSMo ..... 4 points

(14) For a conviction for colliding with a pedestrian, bicyclist, or motorcyclist thereby causing personal injury to the pedestrian, bicyclist, or motorcyclist pursuant to section 565.070, RSMo:

(a) For the first conviction ..... 4 points

(b) For the second and subsequent conviction ..... 6 points

2. The director shall, as provided in subdivision (5) of subsection 1 of this section, assess an operator points for a conviction pursuant to subdivision (1) or (2) of subsection 1 of section 302.020, when the director issues such operator a license or permit pursuant to the provisions of sections 302.010 to 302.340.

3. An additional two points shall be assessed when personal injury or property damage results from any violation listed in subsection 1 of this section and if found to be warranted and certified by the reporting court.

4. When any of the acts listed in subdivision

(2), (3), (4) or (8) of subsection 1 of this section constitutes both a violation of a state law and a violation of a county or municipal ordinance, points may be assessed for either violation but not for both. Notwithstanding that an offense arising out of the same occurrence could be construed to be a violation of subdivisions (8), (9) and (10) of subsection 1 of this section, no person shall be tried or convicted for more than one offense pursuant to subdivisions (8), (9) and (10) of subsection 1 of this section for offenses arising out of the same occurrence.

5. The director of revenue shall put into effect a system for staying the assessment of points against an operator. The system shall provide that the satisfactory completion of a driver-improvement program or, in the case of violations committed while operating a motorcycle, a motorcycle-rider training course approved by the director of the department of public safety, by an operator, when so ordered and verified by any court having jurisdiction over any law of this state or county or municipal ordinance, regulating motor vehicles, other than a violation committed in a commercial motor vehicle as defined in section 302.700, shall be accepted by the director in lieu of the assessment of points for a violation pursuant to subdivision (1), (2) or (4) of subsection 1 of this section or pursuant to subsection 3 of this section. For the purposes of this subsection, the driver-improvement program shall meet or exceed the standards of the National Safety Council's eight-hour "Defensive Driving Course" or, in the case of a violation which occurred during the operation of a motorcycle, the program shall meet the standards established by the director of the department of public safety pursuant to sections 302.133 to 302.138. The completion of a driver-improvement program or a motorcycle-rider training course shall not be accepted in lieu of points more than one time in any thirty-six-month period and shall be completed within sixty days of the date of conviction in order to be accepted in lieu of the assessment of points. Every court having jurisdiction pursuant to the provisions of this subsection shall, within fifteen days after completion of the driver-improvement program or motorcycle-rider training course by an operator, forward a record of the completion to the director, all other provisions of the law to the contrary notwithstanding. The director shall establish procedures for record keeping and the administration of this subsection."; and

Further amend said bill, Page 24, Section 302.541, Line 19 of said page, by inserting after all of said line the following:

"**304.675. 1. The governing body of a county or municipality may establish a maximum speed limit within a school zone not to exceed twenty miles per hour. Such speed limit shall be in force only during those times thirty minutes before, during, and thirty minutes after the periods of time when students are arriving at a regularly scheduled school session and leaving a regularly scheduled school session. As used in this section, the term "school zone" means school property on which a school building is located and the area adjacent to the school property that is designated by signs showing the posted limit. The state highways and transportation commission shall approve a twenty mile per hour speed limit in a school zone on state or federal highways before the same shall become effective.**

2. The governing body of a county or municipality may establish a speed limit within a school zone lower than twenty miles per hour if it finds, in conjunction with the school board, that a lower limit is needed to promote public safety, and the governing body of a county or municipality may extend the hours which the school zone speed limit is in force, if it finds, in conjunction with the school board, that extended hours for the school zone speed limit are needed to promote public safety. The establishment of any speed limit within a school zone lower than twenty miles per hour shall be

in accordance with sections 304.101, 304.120, and 304.130.

3. Any reduction of speed in cities, towns, or villages shall be designed to expedite flow of traffic on such state roads and highways to the extent consistent with public safety. The commission may declare any ordinance void if it finds that such ordinance is:

(1) Not primarily designed to expedite traffic flow; and

(2) Primarily designed to produce revenue for the city, town, or village which enacted such ordinance.

If an ordinance is declared void, the city, town, or village shall have any future proposed ordinance approved by the highways and transportation commission before such ordinance may take effect.

304.677. Notwithstanding any other provisions of the law to the contrary, every driver of a motor vehicle shall exercise the highest degree of care to avoid colliding with any pedestrian, any person propelling a human powered vehicle, or any person operating a motorcycle upon the roadway, and shall give an audible signal when necessary, and shall exercise proper precaution upon observing any child or any obviously confused, incapacitated, or intoxicated person."; and

Further amend said bill, Page 26, Section 516.600, Line 9 of said page, by inserting after all of said line the following:

"**537.038. Every driver of a motor vehicle shall exercise the highest degree of care to avoid colliding with any pedestrian, cyclist, or motorcyclist and thereby causing bodily injury or death to a pedestrian, cyclist, or motorcyclist.**"; and

Further amend said bill, Page 39, Section 544.170, Line 12 of said page, by inserting after all of said line the following:

"565.070. 1. A person commits the crime of assault in the third degree if:

(1) The person attempts to cause or recklessly causes physical injury to another person; or

(2) With criminal negligence the person causes physical injury to another person by means of a deadly weapon; or

(3) The person purposely places another person in apprehension of immediate physical injury; or

(4) The person recklessly engages in conduct which creates a grave risk of death or serious physical injury to another person; or

(5) The person knowingly causes physical contact with another person knowing the other person will regard the contact as offensive or provocative; or

(6) The person knowingly causes physical contact with an incapacitated person, as defined in section 475.010, RSMo, which a reasonable person, who is not incapacitated, would consider offensive or provocative**; or**

(7) The person knowingly collides with a pedestrian, cyclist, or motorcyclist and thereby causes bodily injury of death to the pedestrian, cyclist, or motorcyclist.

2. Except as provided in subsections 3 and 4 of this section, assault in the third degree is a class A misdemeanor.

3. A person who violates the provisions of subdivision (3) or (5) of subsection 1 of this section is guilty of a class C misdemeanor.

4. A person who has pled guilty to or been found guilty of the crime of assault in the third degree more than two times against any family or household member as defined in section 455.010, RSMo, is guilty of a class D felony for the third or any subsequent commission of the crime of assault in the third degree when a class A misdemeanor. The offenses described in this subsection may be

against the same family or household member or against different family or household members."; and

Further amend the title and enacting clause accordingly.

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

Senator Childers offered **SA 22**:

SENATE AMENDMENT NO. 22

Amend Senate Substitute for House Bill No. 198, Page 56, Section 578.160, Lines 10-13, by deleting said lines and inserting the following:

"**578.160. Any person who intentionally intercepts a cellular transmission and disseminates such intercepted information to any person other than the original intended recipient is guilty of a class A misdemeanor.**".

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

Senator Cauthorn offered **SA 23**:

SENATE AMENDMENT NO. 23

Amend Senate Substitute for House Bill No. 198, Page 61, Section 1, Line 13, by inserting after all of said line the following:

"**Section 2. Any veterinarian licensed and accredited in the state of Missouri is authorized by the Missouri department of agriculture or the federal Animal and Plant Health Inspection Service veterinarian in charge to impose any such restrictions on animals, persons, and vehicles as he or she sees fit to prevent the spread of contagious reportable diseases, a toxic agent, or radioactive contaminated animals or poultry. Any person who obstructs any action by a veterinarian imposing such restrictions shall be guilty of a class A misdemeanor.**"; and

Further amend the title and enacting clause accordingly.

Senator Cauthorn moved that the above amendment be adopted.

Senator Bartle raised the point of order that **SA 23** is out of order as it goes beyond the scope and title of the bill.

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

Senator Loudon offered **SA 24**:

SENATE AMENDMENT NO. 24

Amend Senate Substitute for House Bill No. 198, Page 26, Section 516.600, Lines 3-9 of said page, by striking all of said lines and inserting in lieu thereof the following:

"**516.600. Any action to recover damages for injury or illness caused by child sexual abuse in an action brought pursuant to section 537.046 shall be commenced within twelve years of the date the plaintiff attains the age of eighteen or within three years of the date that the plaintiff discovers, or reasonably should have discovered, that the injury or illness was caused by child sexual abuse, whichever occurs later.**".

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

Senator Griesheimer offered **SA 25**:

SENATE AMENDMENT NO. 25

Amend Senate Substitute for House Bill No. 198, Page 42, Section 565.305, Line 7, by inserting after all of said line the following:

"571.070. 1. A person commits the crime of unlawful possession of a **[**concealable**]** firearm if he has any **[**concealable**]** firearm in his possession and:

(1) He has pled guilty to or has been convicted of a dangerous felony, as defined in section 556.061, RSMo, or of an attempt to commit a dangerous felony, or of a crime under the laws of any state or of the United States which, if committed within this state, would be a dangerous felony, or confined therefor in this state or

elsewhere during the five-year period immediately preceding the date of such possession; or

(2) He is a fugitive from justice, is habitually in an intoxicated or drugged condition, or is currently adjudged mentally incompetent.

2. Unlawful possession of a **[**concealable**]** firearm is a class C felony."; and

Further amend the title and enacting clause accordingly.

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

Senator Caskey offered **SA 26**:

SENATE AMENDMENT NO. 26

Amend Senate Substitute for House Bill No. 198, Page 26, Section 478.610, Line 2:

"**488.026. As provided by section 56.807, RSMo, there shall be assessed and collected a surcharge of four dollars in all criminal cases filed in the courts of this state, including violations of any county ordinance or any violation of criminal or traffic laws of this state, including infractions, but no such surcharge shall be assessed when the costs are waived or are to be paid by the state, county or municipality or when a criminal proceeding or the defendant has been dismissed by the court *or against any person who has pled guilty and paid their fine pursuant to section 476.385.4.* For purposes of this section, the term "county ordinance" shall include any ordinance of the City of St. Louis. The clerk responsible for collecting court costs in criminal cases shall collect and disburse such amounts as provided by sections 488.010 to 488.020. Such funds shall be payable to the "Prosecuting Attorneys and Circuit Attorneys' Retirement Fund.**

56.807. 1. **Beginning August 28, 1989 and continuing monthly thereafter until August 27, 2003** the funds for prosecuting attorneys and circuit attorneys provided for in this section shall be paid from county or city funds.

2. Beginning **[**thirty days after the establishment of this system**] August 28, 1989** and **continuing** monthly thereafter **until August 27, 2003** each county treasurer shall pay to the system the following amounts to be drawn from the general revenues of the county:

(1) For counties of the third and fourth classification except as provided in subdivision (3) of this subsection, three hundred seventy-five dollars;

(2) For counties of the second classification, five hundred forty-one dollars and sixty-seven cents;

(3) For counties of the first classification, counties which pursuant to section 56.363 elect to make the position of prosecuting attorney a full-time position after August 28, 2001, or whose county commission has elected a full-time retirement benefit pursuant to subsection 3 of section 56.363, and the city of St. Louis, one thousand two hundred ninety-one dollars and sixty-seven cents.

3. **Beginning August 28, 1989 and continuing until August 27, 2003 [**T**]**the county treasurer shall at least monthly transmit the sums specified in subsection 2 of this section to the Missouri office of prosecution services for deposit to the credit of the "Missouri Prosecuting Attorneys and Circuit Attorneys' Retirement System Fund", which is hereby created. All moneys held by the state treasurer on behalf of the system shall be paid to the system within ninety days after August 28, 1993. Moneys in the Missouri prosecuting attorneys and circuit attorneys' retirement system fund shall be used only for the purposes provided in sections 56.800 to 56.840 and for no other purpose.

4. Beginning August 28, 2003 the funds for prosecuting attorneys and circuit attorneys provided for in this section shall be paid from county or city funds and the surcharge established in this section and collected as provided by this section and sections 488.010 to

488.020.

5. Beginning August 28, 2003 each county treasurer shall pay to the system the following amounts to be drawn from the general revenues of the county:

(1) For counties of the third and fourth classification except as provided in subdivision (3) of this subsection, one hundred eighty-seven dollars;

(2) For counties of the second classification, two hundred seventy-one dollars;

(3) For counties of the first classification, counties which pursuant to section 56.363 elect to make the position of prosecuting attorney a full-time position after August 28, 2001, or whose county commission has elected a full-time retirement benefit pursuant to subsection 3 of section 56.363, and the city of St. Louis, six hundred forty six dollars.

6. Beginning August 28, 2003 the county treasurer shall at least monthly transmit the sums specified in subsection 5 of this section to the Missouri office of prosecution services for deposit to the credit of the "Missouri Prosecuting Attorneys and Circuit Attorneys' Retirement System Fund". Moneys in the Missouri prosecuting attorneys and circuit attorneys' retirement system fund shall be used only for the purposes provided in sections 56.800 to 56.840 and for no other purpose.

7. Beginning August 28, 2003 the following surcharge for prosecuting attorneys and circuit attorneys shall be collected and paid as follows:

(1) There shall be assessed and collected a surcharge of four dollars in all criminal cases filed in the courts of this state including violation of any county ordinance or any violation of criminal or traffic laws of this state, including infractions, but no such surcharge shall be assessed when the costs are waived or are to be paid by the state, county or municipality or when a criminal proceeding or the defendant has been dismissed by the court or against any person who has pled guilty and paid their fine pursuant to section 476.385.4. For purposes of this section, the term "county ordinance" shall include any ordinance of the City of St. Louis.

(2) The clerk responsible for collecting court costs in criminal cases shall collect and disburse such amounts as provided by sections 488.010 to 488.026. Such funds shall be payable to the Prosecuting Attorneys and Circuit Attorneys' Retirement Fund Moneys credited to the "Prosecuting Attorneys and Circuit Attorneys' Retirement Fund" shall be used only for the purposes provided for in sections 56.800 to 56.840 and for no other purpose.

[4.**] 8.** The board may accept gifts, donations, grants and bequests from private or public sources to the Missouri prosecuting attorneys and circuit attorneys' retirement system fund.

[5.**] 9.** No state moneys shall be used to fund section 56.700 and sections 56.800 to 56.840 unless provided for by law."

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

Senator Bartle moved that **SS** for **HB 198**, as amended, be adopted, which motion prevailed.

Senator Nodler moved that **SS** for **HB 198**, as amended, be read the 3rd time and finally passed.

Senator Nodler was recognized to close.

President Pro Tem Kinder referred **SS** for **HB 198**, as amended, to the Committee on Governmental Accountability and Fiscal Oversight.

REPORTS OF STANDING COMMITTEES

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

Mr. President: Your Committee on Governmental Accountability and Fiscal Oversight, to which was referred **SS** for **SCS** for **HB 286**,

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 Substitute for Senate Committee Substitute for House Bill No. 286, Page 7, Section B, Line 7 of said page, by striking the words "section 208.565" and inserting in lieu thereof "sections 208.565 and 338.500 to 338.550".

HOUSE BILLS ON THIRD READING

Senator Shields moved that **SS** for **SCS** for **HB 286**, with **SCA 1**, be called from the Informal Calendar and again taken up for 3rd reading and final passage, which motion prevailed.

SCA 1 was taken up.

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

Senator Childers assumed the Chair.

On motion of Senator Shields, **SS** for **SCS** for **HB 286**, as amended, was read the 3rd time and passed by the following vote:

YEAS—Senators

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

NAYS—Senators—None

Absent—Senators—None

Absent with leave—Senators

DePasco Klindt—2

The President declared the bill passed.

The emergency clause was adopted by the following vote:

YEAS—Senators

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

NAYS—Senators—None

Absent—Senators—None

Absent with leave—Senators

DePasco Klindt—2

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.

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 12**, entitled:

An Act to amend chapter 1, RSMo, by adding thereto two new sections relating to prohibition of interference with the free exercise of religion.

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 **SS**

for **SCS** for **HS** for **HB 470**, as amended. Representatives: Mayer, Stevenson, Goodman, Jolly and Kuessner.

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** for **HB 412**, as amended. Representatives: Goodman, Lager, Crowell, Seigfried and Abel.

CONFERENCE COMMITTEE APPOINTMENTS

President Pro Tem Kinder appointed the following conference committee to act with a like committee from the House on **SS** for **HB 412**, as amended: Senators Childers, Gibbons, Yeckel, Days and Mathewson.

On motion of Senator Gibbons, the Senate recessed until 1:30 p.m.

RECESS

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

Senator Shields requested unanimous consent of the Senate to suspend the rules for the purpose of allowing the conferees on **SS** for **HS** for **HCS** for **HBs 679** and **396**, as amended, to meet while the Senate is in session, which request was granted.

President Pro Tem Kinder assumed the Chair.

REPORTS OF STANDING COMMITTEES

Senator Scott, Chairman of the Committee on Pensions and General Laws, submitted the following report:

Mr. President: Your Committee on Pensions and General Laws, to which was referred **HS** for **HB 267**, begs leave to report that it has considered the same and recommends that the Senate Committee Substitute, hereto attached, do pass.

Senator Loudon, Chairman of the Committee on Small Business, Insurance and Industrial Relations, submitted the following report:

Mr. President: Your Committee on Small Business, Insurance and Industrial Relations, to which was referred **HCS** for **HB 322**, begs leave to report that it has considered the same and recommends that the bill do pass.

The Senate paused in a moment of silence in memory of Mrs. Juanita Klindt.

President Maxwell assumed the Chair.

THIRD READING OF SENATE BILLS

SB 159, with **SCS**, introduced by Senator Bland, entitled:

An Act to repeal section 161.102, RSMo, and to enact in lieu thereof one new section relating to the coordination of school health programs.

Was called from the Consent Calendar and taken up.

SCS for **SB 159**, entitled:

SENATE COMMITTEE SUBSTITUTE FOR SENATE BILL NO. 159

An Act to repeal section 161.102, RSMo, and to enact in lieu thereof one new section relating to the coordination of school health programs.

Was taken up.

Senator Shields assumed the Chair.

Senator Bland moved that **SCS** for **SB 159** be adopted, which motion prevailed.

On motion of Senator Bland, **SCS** for **SB 159** was read the 3rd time and passed by the following vote:

YEAS—Senators

Bartle	Bland	Bray	Caskey
Cauthorn	Champion	Childers	Coleman
Days	Dougherty	Foster	Gibbons
Goode	Griesheimer	Jacob	Kennedy

Mathewson	Nodler	Quick	Scott
Shields	Steelman	Stoll	Wheeler—24

NAYS—Senators

Clemens	Gross	Kinder	Loudon
Russell	Vogel	Yeckel—7	

Absent—Senator Dolan—1

Absent with leave—Senators

DePasco Klindt—2

The President declared the bill passed.

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

Senator Bland 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

HB 208, with **SCS**, entitled:

An Act to repeal section 393.110, RSMo, and to enact in lieu thereof one new section relating to the public service commission's jurisdiction of consumer-owned electric corporations.

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

SCS for **HB 208**, entitled:

SENATE COMMITTEE SUBSTITUTE FOR
HOUSE BILL NO. 208

An Act to repeal sections 386.210 and 393.110, RSMo, and to enact in lieu thereof three new sections relating to the public service commission.

Was taken up.

President Maxwell assumed the Chair.

Senator Kinder moved that **SCS** for **HB 208** be adopted.

Senator Kinder offered **SS** for **SCS** for **HB 208**, entitled:

SENATE SUBSTITUTE FOR
SENATE COMMITTEE SUBSTITUTE FOR
HOUSE BILL NO. 208

An Act to repeal sections 91.030, 386.050, 386.210, 392.200, 393.110, and 393.310, RSMo, and to enact in lieu thereof nine new sections relating to the public service commission, with an emergency clause for certain sections.

Senator Kinder moved that **SS** for **SCS** for **HB 208** be adopted.

Senator Goode offered **SA 1**:

SENATE AMENDMENT NO. 1

Amend Senate Substitute for Senate Committee Substitute for House Bill No. 208, Page 19, Section 393.310, Line 11 of said page, by inserting after all of said line the following:

"**393.1000. As used in sections 393.1000 to 393.1006, the following terms mean:**

(1) "Appropriate pretax revenues", the revenues necessary to produce net operating income equal to:

(a) The water corporation's weighted cost of capital multiplied by the net original cost of eligible infrastructure system replacements, including recognition of accumulated deferred income taxes and accumulated depreciation associated with eligible infrastructure system replacements which are included in a currently effective ISRS; and

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

(c) Recover all other ISRS costs;

(2) "Commission", the Missouri public service commission;

(3) "Eligible infrastructure system replacements", water utility plant projects that:

(a) Replace or extend the useful life of existing infrastructure;

(b) Are in service and used and useful;

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

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

(4) "ISRS", infrastructure system replacement surcharge;

(5) "ISRS costs", depreciation expenses, and property taxes that will be due within twelve months of the ISRS filing;

(6) "ISRS revenues", revenues produced through an ISRS, exclusive of revenues from all other rates and charges;

(7) "Water corporation", 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 to more than ten thousand customers;

(8) "Water utility plant projects", may consist only of the following:

(a) Mains, and associated valves and hydrants, installed as replacements for existing facilities that have worn out or are in deteriorated condition;

(b) Main cleaning and relining projects; and

(c) Facilities relocations required due to construction or improvement of a highway, road, street, public way, or other public work by or on behalf of the United States, this state, a political subdivision of this state, or another entity having the power of eminent domain provided that the costs related to such projects have not been reimbursed to the water corporation.

393.1003. 1. Notwithstanding any provisions of chapter 386, RSMo, and this chapter to the contrary, as of August 28, 2003, a water corporation providing water service in a county with a charter form of government and with more than one million inhabitants may file a petition and proposed rate schedules with the commission to establish or change ISRS rate schedules that will allow for the adjustment of the water corporation's rates and charges to provide for the recovery of costs for eligible infrastructure system replacements made in such county with a charter form of government and with more than one million inhabitants; provided that an ISRS, on an annualized basis, must produce ISRS revenues of at least one million dollars but not in excess of ten percent of the water corporation's base revenue level approved by the commission in the water corporation's most recent general rate proceeding. An ISRS and any future changes thereto shall be calculated and implemented in accordance with the provisions of sections 393.1000 to 393.1006. ISRS revenues shall be subject to refund based upon a finding and order of the commission, to the extent provided in subsections 5 and 8 of section 393.1006.

2. The commission shall not approve an ISRS for a water corporation in a county with a charter form of government and with more than one million inhabitants that has not had a general rate proceeding decided or dismissed by issuance of a commission order within the past three years, unless the water corporation has filed for or is the subject of a new general rate proceeding.

3. In no event shall a water corporation collect an ISRS for a period exceeding three years unless the water corporation has filed for or is the subject of a new general rate proceeding; provided that the ISRS may be

collected until the effective date of new rate schedules established as a result of the new general rate proceeding, or until the subject general rate proceeding is otherwise decided or dismissed by issuance of a commission order without new rates being established.

393.1006. 1. (1) At the time that a water corporation files a petition with the commission seeking to establish or change an ISRS, it shall submit proposed ISRS rate schedules and its supporting documentation regarding the calculation of the proposed ISRS with the petition, and shall serve the office of the public counsel with a copy of its petition, its proposed rate schedules and its supporting documentation.

(2) Upon the filing of a petition, and any associated rate schedules, seeking to establish or change an ISRS, the commission shall publish notice of the filing.

2. (1) When a petition, along with any associated proposed rate schedules, is filed pursuant to the provisions of sections 393.1000 to 393.1006, the commission shall conduct an examination of the proposed ISRS.

(2) The staff of the commission may examine information of the water corporation to confirm that the underlying costs are in accordance with the provisions of sections 393.1000 to 393.1006, and to confirm proper calculation of the proposed charge, and may submit a report regarding its examination to the commission not later than sixty days after the petition is filed. No other revenue requirement or ratemaking issues shall be examined in consideration of the petition or associated proposed rate schedules filed pursuant to the provisions of sections 393.1000 to 393.1006.

(3) The commission may hold a hearing on the petition and any associated rate schedules and shall issue an order to become effective 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 sections 393.1000 to 393.1006, the commission shall enter an order authorizing the water corporation to impose an ISRS that is sufficient to recover appropriate pretax revenues, as determined by the commission pursuant to the provisions of sections 393.1000 to 393.1006.

3. A water corporation may effectuate a change in its rate pursuant to this section no more often than two times every twelve months.

4. In determining the appropriate pretax revenues, the commission shall consider only the following factors:

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

(2) The water corporation's actual regulatory capital structure as determined during 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 during the most recent general rate proceeding of the water corporation;

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

(5) The current property tax rate or rates applicable to the eligible infrastructure system replacements;

(6) The current depreciation rates applicable to the eligible infrastructure system replacements;

(7) In the event information called for in subdivisions (2), (3), and (4) is unavailable and the commission is not provided with such information on an agreed-upon basis, the commission shall refer to the testimony

submitted during the most recent general rate proceeding of the water corporation and use, in lieu of any such unavailable information, the recommended capital structure, recommended cost rates for debt and preferred stock, and recommended cost of common equity that would produce the average weighted cost of capital based upon the various recommendations contained in such testimony.

5. (1) An ISRS shall be calculated based upon the amount of ISRS costs that are eligible for recovery during the period in which the surcharge will be in effect and upon the applicable customer class billing determinants utilized in designing the water corporation's customer rates in its most recent general rate proceeding. The commission shall, however, only allow such surcharges to apply to classes of customers receiving a benefit from the subject water utility plant projects or shall prorate the surcharge according to the benefit received by each class of customers; provided that the ISRS shall be applied in a manner consistent with the customer class cost-of-service study recognized by the commission in the water corporation's most recent general rate proceeding, if applicable, and with the rate design methodology utilized to develop the water corporation's rates resulting from its most recent general rate proceeding.

(2) At the end of each twelve-month calendar period that an ISRS is in effect, the water corporation shall reconcile the differences between the revenues resulting from an ISRS and the appropriate pretax revenues as found by the commission for that period and shall submit the reconciliation and a proposed ISRS adjustment to the commission for approval to recover or refund the difference, as appropriate, through adjustment of an ISRS.

6. (1) A water corporation that has implemented an ISRS pursuant to the provisions of sections 393.1000 to 393.1006 shall file revised rate schedules to reset the ISRS to zero when new base rates and charges become effective for the water corporation following a commission order establishing customer rates in a general rate proceeding that incorporates in the utility's base rates subject to subsections 8 and 9 of this section eligible costs previously reflected in an ISRS.

(2) Upon the inclusion in a water corporation's base rates subject to subsections 8 and 9 of this section of eligible costs previously reflected in an ISRS, the water corporation shall immediately thereafter reconcile any previously unreconciled ISRS revenues as necessary to ensure that revenues resulting from the ISRS match as closely as possible the appropriate pretax revenues as found by the commission for that period.

7. A water corporation's filing of a petition to establish or change an ISRS pursuant to the provisions of sections 393.1000 to 393.1006 shall not be considered a request for a general increase in the water corporation's base rates and charges.

8. Commission approval of a petition, and any associated rate schedules, to establish or change an ISRS pursuant to the provisions of sections 393.1000 to 393.1006 shall in no way be binding upon the commission in determining the ratemaking treatment to be applied to eligible infrastructure system replacements during a subsequent general rate proceeding when the commission may undertake to review the prudence of such costs. In the event the commission disallows, during a subsequent general rate proceeding, recovery of costs associated with eligible infrastructure system replacements previously included in an ISRS, the water corporation shall offset its ISRS in the future as necessary to recognize and account for any such overcollections.

9. Nothing contained in sections 393.1000 to 393.1006 shall be construed to impair in any

way the authority of the commission to review the reasonableness of the rates or charges of a water corporation, including review of the prudence of eligible infrastructure system replacements made by a water corporation, pursuant to the provisions of section 386.390 RSMo.

10. The commission shall have authority to promulgate rules for the implementation of sections 393.1000 to 393.1006, but only to the extent such rules are consistent with, and do not delay the implementation of, the provisions of sections 393.1000 to 393.1006. Any rule or portion of a rule, as that term is defined in section 536.010, RSMo, that is created under the authority delegated in this section shall become effective only if it complies with and is subject to all of the provisions of chapter 536, RSMo, and, if applicable, section 536.028, RSMo. This section and chapter 536, RSMo, are nonseverable and if any of the powers vested with the general assembly pursuant to chapter 536, RSMo, to review, to delay the effective date, or to disapprove and annul a rule are subsequently held unconstitutional, then the grant of rulemaking authority and any rule proposed or adopted after August 28, 2003, shall be invalid and void.

393.1009. As used in sections 393.1009 to 393.1015, the following terms mean:

(1) "Appropriate pretax revenues", the revenues necessary to produce net operating income equal to:

(a) The gas corporation's weighted cost of capital multiplied by the net original cost of eligible infrastructure system replacements, including recognition of accumulated deferred income taxes and accumulated depreciation associated with eligible infrastructure system replacements which are included in a currently effective ISRS; and

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

(c) Recover all other ISRS costs;

(2) "Commission", the Missouri public service commission;

(3) "Eligible infrastructure system replacements", gas utility plant projects that:

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

(b) Are in service and used and useful;

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

(d) Replace, or extend the useful life of an existing infrastructure;

(4) "Gas corporation", 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 gas plant operating for public use under privilege, license, or franchise now or hereafter granted by the state or any political subdivision, county, or municipality thereof as defined in section 386.020, RSMo;

(5) "Gas utility plant projects", may consist only of the following:

(a) Mains, valves, service lines, regulator stations, vaults, and other pipeline system components installed to comply with state or federal safety requirements as replacements for existing facilities that have worn out or are in deteriorated condition;

(b) Main relining projects, service line insertion projects, joint encapsulation projects, and other similar projects extending the useful life, or enhancing the integrity of pipeline system components undertaken to comply with state or federal safety requirements; and

(c) Facilities relocations required due to construction or improvement of a highway, road, street, public way, or other public work by or on behalf of the United States, this state, a political subdivision of this state, or another entity having the power of eminent domain provided that the costs related to such projects have not been reimbursed to the gas corporation;

(6) "ISRS", infrastructure system replacement surcharge;

(7) "ISRS costs", depreciation expense and property taxes that will be due within twelve months of the ISRS filing;

(8) "ISRS revenues", revenues produced through an ISRS exclusive of revenues from all other rates and charges.

393.1012. 1. Notwithstanding any provisions of chapter 386, RSMo, and this chapter to the contrary, beginning August 28, 2003, a gas corporation providing gas service may file a petition and proposed rate schedules with the commission to establish or change ISRS rate schedules that will allow for the adjustment of the gas corporation's rates and charges to provide for the recovery of costs for eligible infrastructure system replacements. The commission may not approve an ISRS to the extent it would produce total annualized ISRS revenues below the lesser of one million dollars or one-half of one percent of the gas corporation's base revenue level approved by the commission in the gas corporation's most recent general rate proceeding. The commission may not approve an ISRS to the extent it would produce total annualized ISRS revenues exceeding ten percent of the gas corporation's base revenue level approved by the commission in the gas corporation's most recent general rate proceeding. An ISRS and any future changes thereto shall be calculated and implemented in accordance with the provisions of sections 393.1009 to 393.1015. ISRS revenues shall be subject to a refund based upon a finding and order of the commission to the extent provided in subsections 5 and 8 of section 393.1009.

2. The commission shall not approve an ISRS for any gas corporation that has not had a general rate proceeding decided or dismissed by issuance of a commission order within the past three years, unless the gas corporation has filed for or is the subject of a new general rate proceeding.

3. In no event shall a gas corporation collect an ISRS for a period exceeding three years unless the gas corporation has filed for or is the subject of a new general rate proceeding; provided that the ISRS may be collected until the effective date of new rate schedules established as a result of the new general rate proceeding, or until the subject general rate proceeding is otherwise decided or dismissed by issuance of a commission order without new rates being established.

393.1015. 1. (1) At the time that a gas corporation files a petition with the commission seeking the establish or change an ISRS, it shall submit proposed ISRS rate schedules and its supporting documentation regarding the calculation of the proposed ISRS with the petition, and shall serve the office of the public counsel with a copy of its petition, its proposed rate schedules, and its supporting documentation.

(2) Upon the filing of a petition, and any associated rate schedules, seeking to establish or change an ISRS, the commission shall publish notice of the filing.

2. (1) When a petition, along with any associated proposed rate schedules, is filed pursuant to the provisions of sections 393.1009 to 393.1015, the commission shall conduct an examination of the proposed ISRS.

(2) The staff of the commission may examine information of the gas corporation to

confirm that the underlying costs are in accordance with the provisions of sections 393.1009 to 393.1015, and to confirm proper calculation of the proposed charge, and may submit a report regarding its examination to the commission not later than sixty days after the petition is filed. No other revenue requirement or ratemaking issues may be examined in consideration of the petition or associated proposed rate schedules filed pursuant to the provisions of sections 393.1009 to 393.1015.

(3) The commission may hold a hearing on the petition and any associated rate schedules and shall issue an order to become effective 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 sections 393.1009 to 393.1015, the commission shall enter an order authorizing the corporation to impose an ISRS that is sufficient to recover appropriate pretax revenue, as determined by the commission pursuant to the provisions of sections 393.1009 to 393.1015.

3. A gas corporation may effectuate a change in its rate pursuant to the provisions of this section no more often than two times every twelve months.

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

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

(2) The gas corporation's actual regulatory capital structure as determined during the most recent general rate proceeding of the gas corporation;

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

(4) The gas corporation's cost of common equity as determined during the most recent general rate proceeding of the gas corporation;

(5) The current property tax rate or rates applicable to the eligible infrastructure system replacements;

(6) The current depreciation rates applicable to the eligible infrastructure system replacements; and

(7) In the event information pursuant to subdivisions (2), (3), and (4) of this subsection is unavailable and the commission is not provided with such information on an agreed upon basis, the commission shall refer to the testimony submitted during the most recent general rate proceeding of the gas corporation and use, in lieu of any such unavailable information, the recommended capital structure, recommended cost rates for debt and preferred stock, and recommended cost of common equity that would produce the average weighted cost of capital based upon the various recommendations contained in such testimony.

5. (1) The monthly ISRS charge may be calculated based on a reasonable estimate of billing units in the period in which the charge will be in effect, which shall be conclusively established by dividing the appropriate pretax revenues by the customer numbers reported by the gas corporation in the annual report it most recently filed with the commission pursuant to subdivision (6) of section 393.140, and then further dividing this quotient by twelve. Provided, however, that the monthly ISRS may vary according to customer class and may be calculated based on customer numbers as determined during the most recent general rate proceeding of the gas corporation so long as the monthly ISRS for each customer class maintains a proportional relationship equivalent to the proportional relationship of the monthly customer charge for each customer class.

(2) At the end of each twelve month calendar period the ISRS is in effect, the gas corporation shall reconcile the differences between the revenues resulting from an ISRS and the appropriate pretax revenues as found by the commission for that period and shall submit the reconciliation and a proposed ISRS adjustment to the commission for approval to recover or refund the difference, as appropriate, through adjustments of an ISRS charge.

6. (1) A gas corporation that has implemented an ISRS pursuant to the provisions of sections 393.1009 to 393.1015 shall file revised rate schedules to reset the ISRS to zero when new base rates and charges become effective for the gas corporation following a commission order establishing customer rates in a general rate proceeding that incorporates in the utility's base rates subject to subsections 8 and 9 of this section eligible costs previously reflected in an ISRS.

(2) Upon the inclusion in a gas corporation's base rates subject to subsections 8 and 9 of this section of eligible costs previously reflected in an ISRS, the gas corporation shall immediately thereafter reconcile any previously unreconciled ISRS revenues as necessary to ensure that revenues resulting from the ISRS match as closely as possible the appropriate pretax revenues as found by the commission for that period.

7. A gas corporation's filing of a petition or change an ISRS pursuant to the provisions of sections 393.1009 to 393.1015 shall not be considered a request for a general increase in the gas corporation's base rates and charges.

8. Commission approval of a petition, and any associated rate schedules, to establish or change an ISRS pursuant to the provisions of sections 393.1009 to 393.1015 shall in no way be binding upon the commission in determining the ratemaking treatment to be applied to eligible infrastructure system replacements during a subsequent general rate proceeding when the commission may undertake to review the prudence of such costs. In the event the commission disallows, during a subsequent general rate proceeding, recovery of costs associated with eligible infrastructure system replacements previously included in an ISRS, the gas corporation shall offset its ISRS in the future as necessary to recognize and account for any such overcollections.

9. Nothing in this section shall be construed as limiting the authority of the commission to review and consider infrastructure system replacement costs along with other costs during any general rate proceeding of any gas corporation.

10. Nothing contained in sections 393.1009 to 393.1015 shall be construed to impair in any way the authority of the commission to review the reasonableness of the rates or charges of a gas corporation, including review of the prudence of eligible infrastructure system replacements made by a gas corporation, pursuant to the provisions of section 386.390, RSMo.

11. The commission shall have authority to promulgate rules for the implementation of sections 393.1009 to 393.1015, but only to the extent such rules are consistent with, and do not delay the implementation of, the provisions of sections 393.1009 to 393.1015. Any rule or portion of a rule, as that term is defined in section 536.010, RSMo, that is created under the authority delegated in this section shall become effective only if it complies with and is subject to all of the provisions of chapter 536, RSMo, and, if applicable, section 536.028, RSMo. This section and chapter 536, RSMo, are nonseverable and if any of the powers vested with the general assembly pursuant to chapter 536, RSMo, to review, to delay the effective date, or to disapprove and annul a rule are subsequently held unconstitutional, then the

grant of rulemaking authority and any rule proposed or adopted after August 28, 2003, shall be invalid and void."; and

Further amend the title and enacting clause accordingly.

Senator Goode moved that the above amendment be adopted.

Senator Kennedy requested a division of the question asking that a vote first be taken on Sections 393.1000, 393.1003 and 393.1006 and that a second vote be taken on Sections 393.1009, 393.1012 and 393.1015, which request was granted.

Senator Goode moved that Part I be adopted, which motion prevailed.

Senator Goode moved that Part II be adopted, which motion prevailed on a standing division vote.

Senator Steelman offered **SA 2**:

SENATE AMENDMENT NO. 2

Amend Senate Substitute for Senate Committee Substitute for House Bill No. 208, Page 16, Section 392.200, Line 13 of said page, by inserting after all of said line the following:

"393.015. 1. Notwithstanding any other provision of law to the contrary, any sewer corporation, municipality or sewer district established under the provisions of chapter 249 or 250, RSMo, or sections 204.250 to 204.470, RSMo, or any sewer district created and organized pursuant to constitutional authority, may contract with any water corporation**[**, municipality, or public water supply district established under chapter 247, RSMo,**]** to terminate water services to any customer premises for nonpayment of a sewer bill. No such termination of water service may occur until thirty days after the sewer corporation, municipality or statutory sewer district or sewer district created and organized pursuant to constitutional authority sends a written notice to the customer by certified mail, except that if the water corporation**[**, municipality or public water supply district**]** is performing a combined water and sewer billing service for the sewer corporation, municipality or sewer district, no additional notice or any additional waiting period shall be required other than the notice and waiting period already used by the water corporation**[**, municipality or public water supply district**]** to disconnect water service for nonpayment of the water bill. Acting pursuant to a contract, the water corporation**[**, municipality or public water supply district**]** shall discontinue water service until such time as the sewer charges and all related costs of termination and reestablishment of sewer and water services are paid by the customer.

2. A water corporation**[**, municipality, or public water supply district**]** acting pursuant to a contract with a sewer corporation, municipality or sewer district as provided in subsection 1 of this section shall not be liable for damages related to termination of water services unless such damage is caused by the negligence of such water corporation, **[**municipality, or public water supply district,**]** in which case the water corporation**[**, municipality, or public water supply district**]** shall be indemnified by the sewer corporation, municipality or sewer district. Unless otherwise specified in the contract, all costs related to the termination and reestablishment of services by the water corporation**[**, municipality or public water supply district**]** shall be reimbursed by the sewer corporation, municipality, sewer district or sewer district created and organized pursuant to constitutional authority.

393.018. 1. Notwithstanding any other provision of law to the contrary, any municipality providing water, or any water district established under the provisions of chapter 247, RSMo, shall upon request of any municipality providing sewer service or public sewer district established under the provisions of chapter 249 or 250, RSMo, or sections 204.250 to 204.470, RSMo, contract with such municipality or public sewer district to

terminate water services to any customer premises for nonpayment of a sewer bill or establish combined billing for water and sewer services to any customer premises prior to the thirteenth day of May, 2005.

2. In the event that the aforesaid municipality, or water district and the aforesaid municipality or sewer district are unable to reach an agreement as herein provided then the municipality or sewer district making the written request, may file with the circuit court in which the municipality, or water district was incorporated or formed, a petition requesting that three commissioners draft such an agreement.

3. Upon the filing of such petition, the party filing the petition shall include therein the name of one of the commissioners to be appointed by the court; the other party shall appoint one commissioner within thirty days of the service of the petition upon the second party. If the second party fails to appoint a commissioner within such a time period, the court shall appoint a commissioner on behalf of the second party within forty-five days of service of the petition upon the second party. Such two named commissioners shall agree to appoint a third commissioner within thirty days of the appointment of the second commissioner, but in the event that they fail to agree, the court shall appoint a third disinterested commissioner within forty-five days after appointment of the second commissioner.

4. The commissioners shall draft an agreement between the municipality or water district and the municipality or sewer district meeting the requirements set forth herein. Before drafting such agreement, the parties shall be given an opportunity to present evidence and information pertaining to such agreement at a hearing to be held by the commissioners. Each party shall receive fifteen days written notice of said hearing, however, at any time prior to the date of the hearing, either party may request an automatic thirty day extension by delivering notification in writing to the opposing party and the commissioners. The commissioners shall consider such evidence and information submitted to them and prepare such agreement as provided herein. The hearing may be continued from time to time at the discretion of the commissioners, until such time as both parties have had an opportunity to present evidence therein. Said agreement shall be submitted to the court within forty-five days of the completion of the hearing. The costs of said action shall be paid by the petitioning party, who shall also pay the reasonable costs of the commissioners, if any, as determined by the court.

5. If the court finds that such agreement meets the requirements of this section, then the court shall enter its judgment approving such agreement and order it to become effective not later than sixty days after the date of such judgment. Thereafter the parties shall abide by such agreement. If either party fails to do so, the other party may file an action to compel compliance. Venue shall be in the court issuing the judgment.

6. The judgment and order of the court shall be subject to an appeal as provided by law.

7. No such termination of water service may occur until thirty days after the municipality or sewer district sends a written notice to the customer, except that if the municipality or water district is performing a combined water and sewer billing service for the municipality or sewer district, no additional notice or any additional waiting period shall be required other than the notice and the waiting period already used by the municipality or water district to disconnect water service for the nonpayment of the water bill. Acting pursuant to a contract, the municipality or public water supply district shall discontinue water service

until such time as the customer pays the sewer charges and all related costs of termination and reestablishment of sewer and water services in full or payment arrangements have been accepted and approved by the municipality or sewer district.

8. Any municipality or water district disconnecting water services to collect a delinquent sewer charge at the written request of a municipality or sewer district pursuant to an agreement made under this section shall be absolutely immune from civil liability for damages or costs resulting from disconnection in accordance with the terms and conditions of such agreement.

9. Unless otherwise specified in the contract, all costs related to the termination and re-establishment of water service shall be reimbursed by the municipality or sewer district. Such reimbursement may include, but not be limited to, lost revenue and other reasonable expenses incurred as a result of such termination of water service. All costs paid the municipality or sewer district pursuant to the provisions of this section shall be charged to and paid by the customer whose service was terminated."; and

Further amend the title and enacting clause accordingly.

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

Senator Childers assumed the Chair.

Senator Bray offered **SA 3**, which was read:

SENATE AMENDMENT NO. 3

Amend Senate Substitute for Senate Committee Substitute for House Bill No. 208, Page 5, Section 386.050, Lines 15-28, by striking said lines; and further amend said section, page 6, lines 1-6, by striking all of said lines.

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

Senator Bland offered **SA 4**:

SENATE AMENDMENT NO. 4

Amend Senate Substitute for Senate Committee Substitute for House Bill No. 208, Page 10, Section 386.210, Line 18, by inserting after all of said line the following:

"**386.374. Notwithstanding any other provision of this chapter to the contrary, the commission may consider ability to pay as a factor in setting utility rates and may establish programs for low-income residential utility customers to ensure affordable, reliable, and continuous service to such customers. In ordering such programs, the commission may require public utilities to provide information on the coordination of the program with other available low-income bill payment and energy conservation resources and the effects of the program on:**

(1) The percentage of income that participating households devote to energy bills;

(2) The number of service disconnections;

(3) Utility collection costs; and

(4) Customer payment behavior, arrearages and bad debt."; and

Further amend the title and enacting clause accordingly.

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

Senator Griesheimer offered **SA 5**:

SENATE AMENDMENT NO. 5

Amend Senate Substitute for Senate Committee Substitute for House Bill No. 208, Page 10, Section 386.210, Line 18, by inserting after all of said line the following:

"386.756. 1. Except by an affiliate, a utility may not engage in HVAC services, unless otherwise provided in subsection 7 or subsection 8

of this section.

2. No affiliate or utility contractor may use any vehicles, service tools, instruments, employees, or any other utility assets, the cost of which are recoverable in the regulated rates for utility service, to engage in HVAC services unless the utility is compensated for the use of such assets at cost to the utility.

3. A utility may not use or allow any affiliate or utility contractor to use the name of such utility to engage in HVAC services unless the utility, affiliate or utility contractor discloses, in plain view and in bold type on the same page as the name is used on all advertisements or in plain audible language during all solicitations of such services, a disclaimer that states the services provided are not regulated by the public service commission.

4. A utility may not engage in or assist any affiliate or utility contractor in engaging in HVAC services in a manner which subsidizes the activities of such utility, affiliate or utility contractor to the extent of changing the rates or charges for the utility's regulated services above or below the rates or charges that would be in effect if the utility were not engaged in or assisting any affiliate or utility contractor in engaging in such activities.

5. Any affiliates or utility contractors engaged in HVAC services shall maintain accounts, books and records separate and distinct from the utility.

6. The provisions of this section shall apply to any affiliate or utility contractor engaged in HVAC services that is owned, controlled or under common control with a utility providing regulated utility service in this state or any other state.

7. A utility engaging in HVAC services in this state five years prior to August 28, 1998, may continue providing, to existing as well as new customers, the same type of services as those provided by the utility five years prior to August 28, 1998. **The provisions of this section only apply to the area of service which the utility was actually supplying service to on a regular basis prior to August 28, 1993. The provisions of this section shall not apply to any subsequently expanded areas of service made by a utility through either existing affiliates or subsidiaries or through affiliates or subsidiaries purchased after August 28, 1993, unless such services were being provided in the expanded area prior to August 28, 1993.**

8. The provisions of this section shall not be construed to prohibit a utility from providing emergency service, providing any service required by law or providing a program pursuant to an existing tariff, rule or order of the public service commission.

9. A utility that violates any provision of this section is guilty of a civil offense and may be subject to a civil penalty of up to twelve thousand five hundred dollars for each violation. **The attorney general may enforce the provisions of this section pursuant to any powers granted to him or her pursuant to any relevant provisions provided by Missouri statutes or the Missouri Constitution.**

10. Any utility claiming an exemption as provided in subsection 7 of this section shall comply with all applicable state and local laws, ordinances or regulations relating to the installation or maintenance of HVAC systems including all permit requirements. A continuing pattern of failure to comply with said requirements shall provide the basis for a finding by any court of competent jurisdiction or the public service commission that the utility has waived its claim of exemption pursuant to subsection 7 of this section."; and

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

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

Senator Dougherty offered **SA 6**:

SENATE AMENDMENT NO. 6

Amend Senate Substitute for Senate Committee Substitute for House Bill No. 208, Page 10, Section 386.210, Line 18, by inserting after all of said line the following:

"386.370. 1. The commission shall, prior to the beginning of each fiscal year beginning with the fiscal year commencing on July 1, 1947, make an estimate of the expenses to be incurred by it during such fiscal year reasonably attributable to the regulation of public utilities as provided in chapters 386, 392 and 393, RSMo, and shall also separately estimate the amount of such expenses directly attributable to such regulation of each of the following groups of public utilities: Electrical corporations, gas corporations, water corporations, heating companies and telephone corporations, telegraph corporations, sewer corporations, and any other public utility as defined in section 386.020, as well as the amount of such expenses not directly attributable to any such group.

2. The commission shall allocate to each such group of public utilities the estimated expenses directly attributable to the regulation of such group and an amount equal to such proportion of the estimated expenses not directly attributable to any group as the gross intrastate operating revenues of such group during the preceding calendar year bears to the total gross intrastate operating revenues of all public utilities subject to the jurisdiction of the commission, as aforesaid, during such calendar year. The commission shall then assess the amount so allocated to each group of public utilities, subject to reduction as herein provided, to the public utilities in such group in proportion to their respective gross intrastate operating revenues during the preceding calendar year, except that the **[**total**] sum of the** amount **[**so**]** assessed to all such public utilities **pursuant to this section and the assessment rendered pursuant to section 386.720** shall not exceed **[**one-fourth**] twenty-four hundredths** of one percent of the total gross intrastate operating revenues of all utilities subject to the jurisdiction of the commission.

3. The commission shall render a statement of such assessment to each such public utility on or before July first and the amount so assessed to each such public utility shall be paid by it to the director of revenue in full on or before July fifteenth next following the rendition of such statement, except that any such public utility may at its election pay such assessment in four equal installments not later than the following dates next following the rendition of said statement, to wit: July fifteenth, October fifteenth, January fifteenth and April fifteenth. The director of revenue shall remit such payments to the state treasurer.

4. The state treasurer shall credit such payments to a special fund, which is hereby created, to be known as "The Public Service Commission Fund", which fund, or its successor fund created pursuant to section 33.571, RSMo, shall be devoted solely to the payment of expenditures actually incurred by the commission and attributable to the regulation of such public utilities subject to the jurisdiction of the commission, as aforesaid. Any amount remaining in such special fund or its successor fund at the end of any fiscal year shall not revert to the general revenue fund, but shall be applicable by appropriation of the general assembly to the payment of such expenditures of the commission in the succeeding fiscal year and shall be applied by the commission to the reduction of the amount to be assessed to such public utilities in such succeeding fiscal year, such reduction to be allocated to each group of public utilities in proportion to the respective gross intrastate operating revenues of the respective groups during the preceding calendar year.

5. In order to enable the commission to make the allocations and assessments herein provided for, each public utility subject to the jurisdiction of the commission as aforesaid shall file with the commission, within ten days after August 28, 1996,

and thereafter on or before March thirty-first of each year, a statement under oath showing its gross intrastate operating revenues for the preceding calendar year, and if any public utility shall fail to file such statement within the time aforesaid the commission shall estimate such revenue which estimate shall be binding on such public utility for the purpose of this section.

386.720. 1. Beginning with the fiscal year commencing on July 1, 2003, the commission shall assess public utilities subject to the jurisdiction of the commission for an amount equal to the costs to be incurred by the public counsel reasonably attributable to the performance of duties pursuant to section 386.710. Such amount shall not exceed the amount appropriated for the office of the public counsel for the fiscal year commencing on July 1, 2002, as adjusted on July 1, 2003, and annually thereafter, by the same percentage as the increase in the general price level as measured by the Consumer Price Index for All Urban Consumers (CPI-U) for the United States, or its successor index, as defined and officially recorded by the United States Department of Labor or its successor agency. The commission shall assess such amount to the public utilities subject to the jurisdiction of the commission, subject to reduction as herein provided, in proportion to their respective gross intrastate operating revenues during the preceding calendar year. Any public utility subject to such assessment may recover its proportion of such assessment from customers and may list such recovery as a line item charge on such customers' bills. Customers subject to such a recovery charge shall be billed in proportion to their respective use of such utility's services. The total amount recovered from such customers in any year shall not exceed the utility's annual assessment.

2. The commission shall render annually a statement for the public counsel assessment to each such public utility on or before July first and the amount so assessed to each such public utility shall be paid by it to the director of revenue in full on or before July fifteenth next following the rendition of such statement; except that any such public utility may at its election pay such assessment in four equal installments not later than the following dates next following the rendition of such statement, to wit: July fifteenth, October fifteenth, January fifteenth, and April fifteenth. Such statement shall be included with the statement for the assessment rendered pursuant to section 386.370, provided that the amount for the assessment pursuant to this section and the amount for the assessment pursuant to section 386.370 shall be listed as separate line item charges on such statement. The director of revenue shall remit such payments to the state treasurer.

3. The state treasurer shall credit payments received for the public counsel to a special fund, with is hereby created, to be known as the "Public Counsel Fund" with such fund to be subject to appropriation and devoted solely to the payment of expenditures actually incurred by the public counsel and attributable to the performance of duties pursuant to section 386.710. Notwithstanding the provisions of section 33.080, RSMo, any amount remaining in such special fund at the end of any fiscal year shall not revert to the general revenue fund, but shall be applicable by appropriation of the general assembly to the payment of such expenditures of the public counsel in the succeeding fiscal year and shall be applied by the commission to the reduction of the amount to be assessed to such public utilities in such succeeding fiscal year, such reduction to be allocated to each group of public utilities in proportion to the respective gross intrastate operating revenues of the respective groups during the preceding calendar year. Prior to May sixteenth of each year, the public counsel shall provide the commission with an estimate

of the amount that will remain in the public counsel fund at the end of the fiscal year."; and

Further amend the title and enacting clause accordingly.

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

Senator Kinder moved that **SS** for **SCS** for **HB 208**, as amended, be adopted.

Senator Bray raised the point of order that **SS** for **SCS** for **HB 208**, as amended, is out of order, as it goes beyond the scope of the original bill.

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

Senator Kinder moved that **SS** for **SCS** for **HB 208**, as amended, be adopted, which motion prevailed.

On motion of Senator Kinder, **SS** for **SCS** for **HB 208**, as amended, was read the third time and passed by the following vote:

YEAS—Senators

Bartle	Bland	Caskey	Cauthorn
Champion	Childers	Coleman	Days
Dougherty	Foster	Gibbons	Goode
Griesheimer	Gross	Kennedy	Kinder
Loudon	Mathewson	Nodler	Quick
Scott	Shields	Steelman	Stoll
Vogel	Wheeler	Yeckel—27	

NAYS—Senators

Bray	Clemens	Dolan	Jacob—4

Absent—Senator Russell—1

Absent with leave—Senators

DePasco	Klindt—2

The President declared the bill passed.

The emergency clause was adopted by the following vote:

YEAS—Senators

Bartle	Bland	Caskey	Cauthorn
Champion	Childers	Clemens	Coleman
Days	Dougherty	Foster	Gibbons
Goode	Griesheimer	Gross	Kennedy
Kinder	Loudon	Mathewson	Nodler
Quick	Scott	Shields	Steelman
Stoll	Vogel	Wheeler	Yeckel—28

NAYS—Senators

Bray	Dolan	Jacob—3

Absent—Senator Russell—1

Absent with leave—Senators

DePasco	Klindt—2

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

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

Senator Gibbons 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 taken up and passed **HCS** for **SCS** for **SB 675**, entitled:

An Act to repeal sections 33.080, 166.300, 339.105, and 374.150, RSMo, and to enact in lieu thereof five new sections relating to certain special funds, with penalty provisions and an emergency clause and an effective date for a certain section.

With House Amendment No. 1 to House Amendment No. 1 and House Amendment No. 1, as amended.

HOUSE AMENDMENT NO. 1 TO
HOUSE AMENDMENT NO. 1

Amend House Committee Substitute for Senate Committee Substitute for Senate Bill No. 675, Page 1, Lines 12 and 13 of said amendment,

by deleting the words "**six million fifteen thousand eight hundred and fifty-five dollars**" and inserting in lieu thereof the words "**seven million two hundred thousand dollars**".

HOUSE AMENDMENT NO. 1

Amend House Committee Substitute for Senate Committee Substitute for Senate Bill No. 675, Pages 2 and 3, Section 33.080, Lines 35 and 36, Lines 51 and 52, Lines 61 and 62, by deleting all of said lines and renumbering the subsection accordingly; and

Further amend said bill, Page 3, Section 33.080, Line 72, by deleting the words "**after the effective date of this act**" and inserting in lieu thereof the words "**before October 1, 2003**"; and

Further amend said bill, Page 4, Section 42.252, Line 1, by deleting the number "**42.252**" and inserting in lieu thereof the number "**43.252**";

Further amend said bill, Page 8, Section 374.150, Lines 18 and 19, by deleting the words "**fifty-five percent of the balance**" and inserting in lieu thereof the words "**six million fifteen thousand eight hundred and fifty-five dollars**"; and

Further amend the 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 refuses to recede from its position on **HS** for **HCS** for **SS No. 2** for **SCS** for **SBs 248**, **100**, **118**, **233**, **247**, **341** and **420**, as amended, and grants the Senate a conference thereon and the conferees be allowed to exceed the differences.

Also,

Mr. President: I am instructed by the House of Representatives to inform the Senate that the Speaker has appointed the following conferees to act with a like committee from the Senate on **HS** for **HCS** for **SS No. 2** for **SCS** for **SBs 248**, **100**, **118**, **233**, **247**, **341** and **420**, as amended. Representatives Smith 118, Dempsey, Rupp, Davis 122 and Haywood.

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 **HCS** for **HB 228** 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 House has taken up and adopted the Conference Committee Report on **HS** for **HCS** for **SS** for **SCS** for **SB 555** and has taken up and passed **CCS** for **HS** for **HCS** for **SS** for **SCS** for **SB 555**.

Emergency clause adopted.

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 **SS** for **SCS** for **SB 30**, entitled:

An Act to amend chapter 210, RSMo, by adding thereto two new sections relating to missing persons, with penalty provisions.

With House Amendments Nos. 1 and 2.

HOUSE AMENDMENT NO. 1

Amend House Committee Substitute for Senate Substitute for Senate Committee Substitute for Senate Bill No. 30, Page 2, Section 210.1014, Line 10, by inserting after the word "of" the following: "**ten members of which**"; and

Further amend Line 10, by inserting at the end of said line the following: "**shall be**".

HOUSE AMENDMENT NO. 2

Amend House Committee Substitute for Senate Substitute for Senate Committee Substitute Senate Bill No. 30, Section 210.1012, Line 1, Page 1, by inserting before all of said line the following:

"43.400. As used in sections 43.400 to 43.410, the following terms mean:

(1) "Missing child" or "missing juvenile", any person who is under the age of seventeen years, whose temporary or permanent residence is in the state of Missouri or who is believed to be within the state of Missouri, whose location has not been determined, and who has been reported as missing to a law enforcement agency;

(2) "Missing child report", a report prepared on a standard form supplied by the Missouri state highway patrol for the use by private citizens and law enforcement agencies to report missing children or missing juvenile information to the Missouri state highway patrol;

(3) "Missing person", a person who is missing and meets one of the following characteristics:

(a) Is physically or mentally disabled to the degree that the person is dependent upon an agency or another individual;

(b) **[**Was or is in the company of another person**] Is missing** under circumstances indicating that the missing person's safety may be in danger;

(c) Is missing under **[**circumstances indicating that the disappearance was not voluntary**] involuntary or unknown circumstances; subject to the provisions of (a), (b), (d), (e), and (f) of this subsection**;

(d) Is a child or juvenile runaway from the residence of a parent **[**or**] ,** legal guardian**, or custodian**;

(e) Is a child and is missing under circumstances indicating that the person was or is in the presence of or under the control of a party whose presence or control was or is in violation of a permanent or temporary court order and fourteen or more days have elapsed, during which time the party has failed to file any pleading with the court seeking modification of the permanent or temporary court order;

(f) Is missing under circumstances indicating that the person was or is in the presence of or under the control of a party whose presence or control was or is in violation of a permanent or temporary court order and there are reasonable grounds to believe that the person may be taken outside of the United States;

(4) "Patrol", the Missouri state highway patrol;

(5) "Registrar", the state registrar of vital statistics."; 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 **HCS** for **SB 39**, entitled:

An Act to repeal sections 195.211, 195.417, and 650.105, RSMo, and to enact in lieu thereof seven new sections relating to methamphetamine, with penalty provisions.

With House Amendments Nos. 1, 2 and 3.

HOUSE AMENDMENT NO. 1

Amend House Committee Substitute for Senate Bill No. 39, Page 2, Section 195.417, Line 17 of said page, by deleting the word "**six**" and by inserting in lieu thereof the word "**ten**"; and

Further amend said Section, Page 2, Line 22 of said Page, by inserting after the word "**regulations**" the following: "**passed on or after**

April 15, 2003,"; and

Further amend said bill, Page 5, Section 650.350, Line 49, by inserting after said line the following:

"**Section 1. In any case where there is a violation of Chapter 195, RSMo, a judge may, upon a finding of guilt, order a defendant to pay for costs for testing of the substances at a private laboratory.**"; and

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

HOUSE AMENDMENT NO. 2

Amend House Committee Substitute for Senate Bill No. 39, Page 1, Section 195.211, Line 9 of said section, by inserting after the word "**university,**" the following: "**or on any school bus,**"; and

Further amend said Section, Line 10, by inserting immediately after said line the following:

"**3. Knowledge of the existence or location of the public or private elementary or secondary school, public vocational school, or a public or private junior college, college or university, or of the distance of the manufacture or production from said real property is not required for a person to be guilty of this offense.**"; and

Further amend said Bill, Page 1, Section 195.211, Lines 11 through 14, by renumbering the subsections accordingly; and

Further amend said Bill, Page 2, Section 195.215, Lines 1 through 6, by deleting said section; and

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

HOUSE AMENDMENT NO. 3

Amend House Committee Substitute for Senate Bill No. 39, Page 1, Section 195.211, Line 13, by inserting before the word "Any" the following:

"**Notwithstanding subsection 2,**"; and

Further amend said section, Line 13, by inserting after the word "to" the word "**growing**".

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 **SS** for **SB 13**.

Bill ordered enrolled.

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 No. 2** for **SCS** for **SBs 248**, **100**, **118**, **233**, **247**, **341** and **420**, as amended: Senators Gross, Russell, Scott, Quick and Goode.

President Maxwell assumed the Chair.

HOUSE BILLS ON THIRD READING

HB 598, with **SCS**, introduced by Representative Schlottach, et al, entitled:

An Act to repeal section 301.130, RSMo, and to enact in lieu thereof one new section relating to special license plates.

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

SCS for **HB 598**, entitled:

SENATE COMMITTEE SUBSTITUTE FOR HOUSE BILL NO. 598

An Act to repeal sections 301.130, 301.132, 301.141, 301.142, 301.144, 301.456, 301.463, 301.3098, 301.4000, 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 & 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 thirty-one new sections relating to motor vehicle registration, with penalty provisions and an effective date for certain sections.

Was taken up.

Senator Dolan moved that **SCS** for **HB 598** be adopted.

Senator Dolan offered **SS** for **SCS** for **HB 598**, entitled:

SENATE SUBSTITUTE FOR
SENATE COMMITTEE SUBSTITUTE FOR
HOUSE BILL NO. 598

An Act to repeal sections 301.130, 301.132, 301.141, 301.142, 301.144, 301.456, 301.463, 301.3098, 301.4000, 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 & 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 thirty-one new sections relating to motor vehicle registration, with penalty provisions and an effective date for certain sections.

Senator Dolan moved that **SS** for **SCS** for **HB 598** be adopted.

Senator Scott offered **SA 1**:

SENATE AMENDMENT NO. 1

Amend Senate Substitute for Senate Committee Substitute for House Bill No. 598, Page 66, Section 304.601, Line 14, by inserting after all of said line the following:

"307.125. **1.** Any person who shall place or drive or cause to be placed or driven, upon or along any state or supplementary state highway of this state any animal-driven vehicle whatsoever, whether in motion or at rest, shall after sunset to one-half hour before sunrise have attached to every such vehicle at the rear thereof a red taillight or a red reflecting device of not less than three inches in diameter of effective area or its equivalent in area. When such device shall consist of reflecting buttons there shall be no less than seven of such buttons covering an area equal to a circle with a three-inch diameter. The total subtended effective angle of reflection of every such device shall be no less than sixty degrees and the spread and efficiency of the reflected light shall be sufficient for the reflected light to be visible to the driver of any motor vehicle approaching such animal-drawn vehicle from the rear of a distance of not less than five hundred feet.

2. In addition, any person who operates any such animal-driven vehicle during the hours between sunset and one-half hour before sunrise shall have at least one light flashing at all times the vehicle is on any highway of this state. Such light or lights shall be amber in the front and red in the back and shall be placed on the left side of the vehicle at a height of no more than six feet from the ground and shall be visible from the front and the back of the vehicle at a distance of at least five hundred feet. Any person violating the provisions of this section shall be guilty of a class C misdemeanor.

3. Any person operating an animal-driven vehicle during the hours between sunset and one-half hour before sunrise may, in lieu of the requirements of subsection 2 of this section, use lamps or lanterns complying with the rules promulgated by the director of the department of public safety.

4. Any rule or portion of a rule, as that term is defined in section 536.010, RSMo, that is

created under the authority delegated in this section shall become effective only if it complies with and is subject to all of the provisions of chapter 536, RSMo, and, if applicable, section 536.028, RSMo. This section and chapter 536, RSMo, are nonseverable and if any of the powers vested with the general assembly pursuant to chapter 536, RSMo, to review, to delay the effective date, or to disapprove and annul a rule are subsequently held unconstitutional, then the grant of rulemaking authority and any rule proposed or adopted after August 28, 2003, shall be invalid and void.

307.127. 1. No person shall operate on any public highway of this state any slow-moving vehicle or equipment after sunset to one-half hour before sunrise, any animal-drawn vehicle, or any other machinery, designed for use or normally operated at speeds less than twenty-five miles per hour, including all road construction or maintenance machinery except when engaged in actual construction or maintenance work either guarded by a flagman or clearly visible warning signs, which normally travels or is normally used at a speed of less than twenty-five miles per hour unless there is displayed on the rear thereof an emblem as described in, and displayed as provided in subsection 2 in this section. The requirement of such emblem shall be in addition to any lighting devices required by section 307.115.

2. The emblem required by subsection 1 of this section shall be of substantial construction, and shall be a basedown equilateral triangle of fluorescent yellow-orange film or equivalent quality paint with a base of not less than fourteen inches and an altitude of not less than twelve inches. Such triangle shall be bordered with reflective red strips having a minimum width of one and three-fourths inches, with the vertices of the overall triangle truncated such that the remaining altitude shall be a minimum of fourteen inches. Such emblem shall be mounted on the rear of such vehicle near the horizontal geometric center of the rearmost vehicle at a height of not less than four feet above the roadway, and shall be maintained in a clean, reflective condition. The provisions of this section shall not apply to any vehicle or equipment being operated on a gravel or dirt surfaced public highway.

3. Any person who shall violate the provisions of this section shall be guilty of an infraction.

4. No emblem shall be required on machinery or equipment pulled or attached to a farm tractor providing the machinery or equipment does not extend more than twelve feet to the rear of the tractor and permits a clear view of the emblem on the tractor by vehicles approaching from the rear.

5. Any person operating an animal-drawn vehicle on any public highway of this state may, in lieu of displaying the emblem required by subsections 1 and 2 of this section, equip the animal-drawn vehicle with reflective material complying with rules and regulations promulgated by the director of the department of public safety. The reflective material shall be visible from a distance of not less than five hundred feet to the rear when illuminated by the lower beams of vehicle headlights. Any rule or portion of a rule, as that term is defined in section 536.010, RSMo, that is created under the authority delegated in this section shall become effective only if it complies with and is subject to all of the provisions of chapter 536, RSMo, and, if applicable, section 536.028, RSMo. This section and chapter 536, RSMo, are nonseverable and if any of the powers vested with the general assembly pursuant to chapter 536, RSMo, to review, to delay the effective date, or to disapprove and annul a rule are subsequently held unconstitutional, then the grant of rulemaking authority and any rule proposed or adopted after August 28, 2003, shall be invalid and void."; and

Further amend the title and enacting clause accordingly.

Senator Scott moved that the above

amendment be adopted, which motion prevailed.

Senator Cauthorn offered **SA 2**:

SENATE AMENDMENT NO. 2

Amend Senate Substitute for Senate Committee Substitute for House Bill No. 598, Page 61, Section 301.3144, Line 14, by inserting after all of said line the following:

"**301.3145. 1. Any member of the National Rifle Association, after an annual payment of an emblem-use authorization fee to the National Rifle Association, may receive special license plates for any vehicle the member owns, either solely or jointly, other than an apportioned motor vehicle or a commercial motor vehicle licensed in excess of eighteen thousand pounds gross weight. The National Rifle Association hereby authorizes the use of its official emblem to be affixed on multiyear personalized license plates within the plate area prescribed by the director of revenue and as provided in this section. Any contribution to the National Rifle Association derived from this section, except reasonable administrative costs, shall be used solely for the purposes of the National Rifle Association. Any member of the National Rifle Association may annually apply for the use of the emblem.**

2. Upon annual application and payment of a twenty-five dollar emblem-use contribution to the National Rifle Association, that organization shall issue to the vehicle owner, without further charge, an "emblem-use authorization statement", which shall be presented by the vehicle owner to the director of revenue at the time of registration. Upon presentation of the annual statement and payment of a fifteen dollar fee in addition to the regular registration fees, and presentation of any documents which may be required by law, the director of revenue shall issue to the vehicle owner a special license plate which shall bear the emblem of the National Rifle Association and the words "The Right to Keep and Bear Arms Shall Not Be Infringed" in place of the words "SHOW-ME STATE". Such license plates shall be made with fully reflective material with a common color scheme and design of the standard license plate, shall be clearly visible at night, shall have a reflective white background in the area of the plate configuration, and shall be aesthetically attractive, as prescribed by section 301.130. Notwithstanding the provisions of section 301.144, no additional fee shall be charged for the personalization of license plates pursuant to this section.

3. A vehicle owner who was previously issued a plate with the National Rifle Association emblem authorized by this section, but who does not provide an emblem-use authorization statement at a subsequent time of registration, shall be issued a new plate which does not bear the organization's emblem, as otherwise provided by law. The director of revenue shall make necessary rules and regulations for the enforcement of this section, and shall design all necessary forms required by this section."; and

Further amend the title and enacting clause accordingly.

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

Senator Steelman offered **SA 3**:

SENATE AMENDMENT NO. 3

Amend Senate Substitute for Senate Committee Substitute for House Bill No. 598, Page 3, Section 41.033, Line 8 of said page, by inserting after all of said line the following:

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

(1) "All-terrain vehicle", any motorized vehicle manufactured and used exclusively for

off-highway use which is fifty inches or less in width, with an unladen dry weight of **[**six hundred**]** **one thousand** pounds or less, traveling on three, four or more low pressure tires, with a seat designed to be straddled by the operator, **or with a seat designed to carry more than one person,** and handlebars for steering control;

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

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

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

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

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

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

(8) "Cotton trailer", a trailer designed and used exclusively for transporting cotton at speeds less than forty miles per hour from field to field or from field to market and return;

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

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

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

(12) "Dromedary", a box, deck, or plate mounted behind the cab and forward of the fifth wheel on the frame of the power unit of a truck tractor-semitrailer combination. A truck tractor equipped with a dromedary may carry part of a load when operating independently or in a combination with a semitrailer;

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

(14) "Fleet", any group of ten or more motor vehicles owned by the same owner;

(15) "Fleet vehicle", a motor vehicle which is included as part of a fleet;

(16) "Fullmount", a vehicle mounted completely on the frame of either the first or last vehicle in a saddlemount combination;

(17) "Gross weight", the weight of vehicle and/or vehicle combination without load, plus the weight of any load thereon;

(18) "Hail-damaged vehicle", any vehicle, the body of which has become dented as the result of the impact of hail;

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

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

(21) "Intersecting highway", any highway which joins another, whether or not it crosses the same;

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

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

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

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

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

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

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

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

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

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

(30) "Manufacturer", any person, firm, corporation or association engaged in the business

of manufacturing or assembling motor vehicles, trailers or vessels for sale;

(31) "Mobile scrap processor", a business located in Missouri or any other state that comes onto a salvage site and crushes motor vehicles and parts for transportation to a shredder or scrap metal operator for recycling;

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

(33) "Motor vehicle", any self-propelled vehicle not operated exclusively upon tracks, except farm tractors;

(34) "Motor vehicle primarily for business use", any vehicle other than a recreational motor vehicle, motorcycle, motortricycle, or any commercial motor vehicle licensed for over twelve thousand pounds:

(a) Offered for hire or lease; or

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

(35) "Motorcycle", a motor vehicle operated on two wheels;

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

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

(38) "Municipality", any city, town or village, whether incorporated or not;

(39) "Nonresident", a resident of a state or country other than the state of Missouri;

(40) "Non-USA-std motor vehicle", a motor vehicle not originally manufactured in compliance with United States emissions or safety standards;

(41) "Operator", any person who operates or drives a motor vehicle;

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

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

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

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

(46) "Recreational motor vehicle", any motor vehicle designed, constructed or substantially modified so that it may be used and is used for the purposes of temporary housing quarters, including therein sleeping and eating facilities which are either permanently attached to the motor vehicle or attached to a unit which is securely attached to the

motor vehicle. Nothing herein shall prevent any motor vehicle from being registered as a commercial motor vehicle if the motor vehicle could otherwise be so registered;

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

(48) "Saddlemount combination", a combination of vehicles in which a truck or truck tractor tows one or more trucks or truck tractors, each connected by a saddle to the frame or fifth wheel of the vehicle in front of it. The "saddle" is a mechanism that connects the front axle of the towed vehicle to the frame or fifth wheel of the vehicle in front and functions like a fifth wheel kingpin connection. When two vehicles are towed in this manner the combination is called a double saddlemount combination. When three vehicles are towed in this manner, the combination is called a triple saddlemount combination;

(49) "Salvage dealer and dismantler", a business that dismantles used motor vehicles for the sale of the parts thereof, and buys and sells used motor vehicle parts and accessories;

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

(51) "School bus", any motor vehicle used solely to transport students to or from school or to transport students to or from any place for educational purposes;

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

(53) "Special mobile equipment", every self-propelled vehicle not designed or used primarily for the transportation of persons or property and incidentally operated or moved over the highways, including farm equipment, implements of husbandry, road construction or maintenance machinery, ditch-digging apparatus, stone crushers, air compressors, power shovels, cranes, graders, rollers, well-drillers and wood-sawing equipment used for hire, asphalt spreaders, bituminous mixers, bucket loaders, ditchers, leveling graders, finished machines, motor graders, road rollers, scarifiers, earth-moving carryalls, scrapers, drag lines, concrete pump trucks, rock-drilling and earth-moving equipment. This enumeration shall be deemed partial and shall not operate to exclude other such vehicles which are within the general terms of this section;

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

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

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

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

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

(59) "Truck", a motor vehicle designed, used, or maintained for the transportation of property;

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

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

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

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

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

(65) "Wrecker" or "tow truck", any emergency commercial vehicle equipped, designed and used to assist or render aid and transport or tow disabled or wrecked vehicles from a highway, road, street or highway rights-of-way to a point of storage or repair, including towing a replacement vehicle to replace a disabled or wrecked vehicle;

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

Further amend said bill, Page 63, Section 301.4000, Line 14 of said page, by inserting after all of said line the following:

"304.013. 1. No person shall operate an all-terrain vehicle, as defined in section 301.010, RSMo, upon the highways of this state, except as follows:

(1) All-terrain vehicles owned and operated by a governmental entity for official use;

(2) All-terrain vehicles operated for agricultural purposes or industrial on-premises purposes between the official sunrise and sunset on the day of operation;

(3) All-terrain vehicles operated by handicapped persons for short distances occasionally only on the state's secondary roads when operated between the hours of sunrise and sunset;

(4) Governing bodies of cities may issue special permits to licensed drivers for special uses of all-terrain vehicles on highways within the city limits. Fees of fifteen dollars may be collected and retained by cities for such permits;

(5) Governing bodies of counties may issue special permits to licensed drivers for special uses of all-terrain vehicles on county roads within the county. Fees of fifteen dollars may be collected and retained by the counties for such permits.

2. No person shall operate an off-road vehicle within any stream or river in this state, except that off-road vehicles may be operated within waterways which flow within the boundaries of land which an off-road vehicle operator owns, or for agricultural purposes within the boundaries of land which an off-road vehicle operator owns or has permission to be upon, or for the purpose of fording such stream or river of this state at such road crossings as are customary or part of the highway system. All law enforcement officials or peace officers of this state and its political subdivisions or department of conservation agents or department of natural resources park rangers shall enforce the provisions of this subsection within the geographic area of their jurisdiction.

3. A person operating an all-terrain vehicle on a highway pursuant to an exception covered in this section shall have a valid operator's or chauffeur's license, except that a handicapped person operating such vehicle pursuant to subdivision (3) of subsection 1 of this section, but shall not be required to have passed an examination for the operation of a motorcycle, and the vehicle shall be operated at speeds of less than thirty miles per hour. When operated on a highway, an all-terrain vehicle shall have a bicycle safety flag, which extends not less than seven feet above the ground, attached to the rear of the vehicle. The bicycle safety flag shall be triangular in shape with an area of not less than thirty square inches and shall be day-glow in color.

4. No persons shall operate an all-terrain vehicle:

(1) In any careless way so as to endanger the person or property of another;

(2) While under the influence of alcohol or any controlled substance;

(3) Without a securely fastened safety helmet on the head of an individual who operates an all-terrain vehicle or who is being towed or otherwise propelled by an all-terrain vehicle, unless the individual is at least eighteen years of age.

5. No operator of an all-terrain vehicle shall carry a passenger, except for agricultural purposes. **The provisions of this subsection shall not apply to any all-terrain vehicle in which the seat of such vehicle is designed to carry more than one person.**

6. A violation of this section shall be a class C misdemeanor. In addition to other legal remedies, the attorney general or county prosecuting attorney may institute a civil action in a court of competent jurisdiction for injunctive relief to prevent such violation or future violations and for the assessment of a civil penalty not to exceed one thousand dollars per day of violation."; and

Further amend the title and enacting clause accordingly.

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

Senator Childers offered **SA 4**:

SENATE AMENDMENT NO. 4

Amend Senate Substitute for Senate Committee Substitute for House Bill No. 598, Page 1, Line 8 of said page, by inserting after all of said line the following:

"**227.338. The portion of U.S. Highway 71, located within a county of the third classification without a township form of government and with more than twenty-one thousand six hundred but less than twenty-one thousand seven hundred inhabitants shall be designated the "Corporal Bobbie J. Harper Memorial Highway".**"; and

Further amend the title and enacting clause accordingly.

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

Senator Griesheimer offered **SA 5**:

SENATE AMENDMENT NO. 5

Amend Senate Substitute for Senate Committee Substitute for House Bill No. 598, Page 74, Section 307.366, Line 5, by inserting after all of said line the following:

"**407.1200. As used in sections 407.1200 to 407.1227, the following terms shall mean:**

(1) "Administrator", the person who is responsible for the administration of the service contracts or the service contracts plan and who is responsible for any filings required by sections 407.1200 to 407.1227;

(2) "Consumer", a natural person who buys other than for purposes of resale any motor vehicle that is distributed in commerce and that is normally used for personal, family, or household purposes and not for business or research purposes;

(3) "Director", the director of the department of insurance;

(4) "Maintenance agreement", a contract of limited duration that provides for scheduled maintenance only;

(5) "Manufacturer", a person that:

(a) Manufacturers or produces the property and sells the property under its own name or label;

(b) Is a wholly owned subsidiary of the person who manufacturers or produces the property;

(c) Is a corporation which owns one hundred percent of the person who manufacturers or produces the property;

(d) Does not manufacture or produce the property, but the property is sold under its trade name label;

(e) Manufacturers or produces the property and the property is sold under the trade name or label of another person; or

(f) Does not manufacture or produce the property but, pursuant to a written contract, licenses the use of its trade name or label to another person that sells the property under the licensor's trade name or label;

(6) "Mechanical breakdown insurance", a policy, contract or agreement issued by an authorized insurer that provides for the repair, replacement or maintenance of a motor vehicle or indemnification for repair, replacement or service, for the operational or structural failure

of a motor vehicle due to a defect in materials or workmanship;

(7) "Motor vehicle extended service contract" or "service contract", a contract or agreement for a separately stated consideration or for a specific duration to perform the repair, replacement, or maintenance of a motor vehicle or indemnification for repair, replacement or maintenance, for the operational or structural failure due to a defect in materials, workmanship or normal wear and tear, with or without additional provision for incidental payment of indemnity under limited circumstances, including, but not limited to, towing, rental and emergency road service, but does not include mechanical breakdown insurance or maintenance agreements;

(8) "Non-original manufacturer's parts", replacement parts not made for or by the original manufacturer of the property, commonly referred to as "after market parts";

(9) "Person", an individual, partnership, corporation, incorporated or unincorporated association, joint stock company, reciprocal, syndicate or any similar entity or combination of entities acting in concert;

(10) "Premium", the consideration paid to an insurer for a reimbursement insurance policy;

(11) "Provider", a person who administers, issues, makes, provides, sells, or offers to sell a motor vehicle extended service contract, or who is contractually obligated to provide service under a motor vehicle extended service contract such as sellers, administrators, and other intermediaries;

(12) "Provider fee", the consideration paid for a service contract in excess of the premium;

(13) "Reimbursement insurance policy", a policy of insurance issued to a provider and pursuant to which the insurer agrees, for the benefit of the service contract holders, to discharge all of the obligations and liabilities of the provider under the terms of the service contracts in the event of non-performance by the provider. All obligations and liabilities include, but are not limited to, failure of the provider to perform under the service contract and the return of the unearned provider fee in the event of the provider's unwillingness or inability to reimburse the unearned provider fee in the event of termination of a service contract;

(14) "Service contract holder" or "contract holder", a person who is the purchaser or holder of a services contract;

(15) "Warranty", a warranty made solely by the manufacturer, importer or seller of property or services without charge, that is not negotiated or separated from the sale of the product and is incidental to the sale of the product, that guarantees indemnity for defective parts, mechanical or electrical breakdown, labor or other remedial measures, such as repair or replacement of the property or repetition of services.

407.1203. 1. Service contracts shall not be issued, sold, or offered for sale in this state unless the administrator or its designee has:

(1) Provided a receipt for the purchase of the service contract to the contract holder at the date of purchase;

(2) Provided a copy of the service contract to the service contract holder within a reasonable period of time from the date of purchase; and

(3) Complied with the provisions of sections 407.1200 to 407.1227.

2. All administrators of service contracts

sold in this state shall file a registration with the director on a form, at a fee and at a frequency prescribed by the director.

3. In order to assure the faithful performance of a provider's obligations to its contract holders, each provider who is contractually obligated to provide service under a service contract shall:

(1) Insure all service contracts under a reimbursement insurance policy issued by an insurer authorized to transact insurance in this state; or

(2) (a) Maintain a funded reserve account for its obligation under its contracts issued and outstanding in this state. The reserves shall not be less than forty percent of gross consideration received, less claims paid, on the sale of the service contract for all in-force contracts. The reserve account shall be subject to examination and review by the director; and

(b) Place in trust with the director a financial security deposit, having a value of not less than five percent of the gross consideration received, less claims paid, on the sale of the service contract for all service contracts issued and in force, but not less than twenty-five thousand dollars, consisting of one of the following:

a. A surety bond issued by an authorized surety;

b. Securities of the type eligible for deposit by authorized insurers in this state;

c. Cash;

d. A letter of credit issued by a qualified financial institution; or

e. Another form of security prescribed by regulations issued by the director; or

(3) (a) Maintain a net worth of one hundred million dollars; and

(b) Upon request, provide the director with a copy of the provider's or, if the provider's financial statements are consolidated with those of its parent company, the provider's parent company's most recent Form 10-K filed with the Securities and Exchange Commission (SEC) within the last calendar year, or if the company does not file with the SEC, a copy of the company's audited financial statements, which shows a net worth of the provider or its parent company of at least one hundred million dollars. If the provider's parent company's Form 10-K or audited financial statements are filed to meet the provider's financial stability requirement, then the parent company shall agree to guarantee the obligations of the obligor relating to service contracts sold by the provider in this state.

4. Provider fees collected on service contracts shall not be subject to premium taxes. Premiums for reimbursement insurance policies shall be subject to applicable premium taxes.

5. Except for the registration requirement in subsection 2 of this section, persons marketing, selling, or offering to sell service contracts for providers that comply with sections 407.1200 to 407.1227 are exempt from this state's licensing requirements.

6. Providers complying with the provisions of sections 407.1200 to 407.1227 are not required to comply with other provisions of chapters 374 or 375, or any other provisions governing insurance companies.

407.1206. Reimbursement insurance policies insuring service contracts issued, sold, or offered for sale in this state shall conspicuously state that, upon failure of the provider to perform under the contract, such as failure to return the unearned provider fee, the insurer that issued the policy shall pay on behalf of the provider any sums the provider is legally

obligated to pay or shall provide the service which the provider is legally obligated to perform according to the provider's contractual obligations under the service contracts issued or sold by the provider.

407.1209. 1. Service contracts issued, sold, or offered for sale in this state shall be written in clear, understandable language and the entire contract shall be printed or typed in easy to read ten point type or larger and conspicuously disclose the requirements in this section, as applicable.

2. Service contracts insured under a reimbursement insurance policy pursuant to subsection 3 of section 407.1203 shall contain a statement in substantially the following form: "Obligations of the provider under this service contract are guaranteed under a service contract reimbursement insurance policy. If the provider fails to pay or provide service on a claim within sixty days after proof of loss has been filed, the contract holder is entitled to make a claim directly against the insurance company." A claim against the provider shall also include a claim for return of the unearned provider fee. The service contract shall also conspicuously state the name and address of the insurer.

3. Service contracts not insured under a reimbursement insurance policy pursuant to subsection 3 of section 407.1203 shall contain a statement in substantially the following form: "Obligations of the provider under this service contract are backed only by the full faith and credit of the provider (insurer) and are not guaranteed under a service contract requirement insurance policy." A claim against the provider shall also include a claim for return of the unearned provider fee. The service contract shall also conspicuously state the name and address of the provider.

4. Service contracts shall identify any administrator, the provider obligated to perform the service under the contract, the service contract seller, and the service contract holder to the extent that the name and address of the service contract holder has been furnished by the service contract holder.

5. Service contracts shall conspicuously state the total purchase price and the terms under which the service contract is sold. The purchase price is not required to be pre-printed on the service contract and may be negotiated at the time of sale with the service contract holder.

6. If prior approval of repair work is required, the service contracts shall conspicuously state the procedure for obtaining prior approval and for making a claim, including a toll-free telephone number for claim service and a procedure for obtaining emergency repairs performed outside of normal business hours.

7. Service contracts shall conspicuously state the existence of any deductible amount.

8. Service contracts shall specify the merchandise and services to be provided and any limitations, exceptions, and exclusions.

9. Service contracts shall state the conditions upon which the use of non-original manufacturer's parts, or substitute service, may be allowed. Conditions stated shall comply with applicable state and federal laws.

10. Service contracts shall state any terms, restrictions, or conditions governing the transferability of the service contract.

11. Service contracts shall state the terms, restrictions, or conditions governing termination of the service contract by the service contract holder. The provider of the service contract shall mail a written notice to the contract holder within fifteen days of the date of termination.

12. Service contracts shall require every provider to permit the service contract holder to

return the contract within at least fifteen business days if the service contract is delivered at the time of sale or within a longer time period permitted under the contract. If no claim has been made under the contract, the contract is void and the provider shall refund to the contract holder the full purchase price of the contract. A ten percent penalty per month shall be added to a refund that is not paid within thirty days of return of the contract to the provider. The applicable free-look time periods on service contracts shall only apply to the original service contract purchaser.

13. Service contracts shall set forth all of the obligations and duties of the service contract holder, such as the duty to protect against any further damage and the requirement for certain service and maintenance.

14. Service contracts shall clearly state whether or not the service contract provides for or excludes consequential damages or preexisting conditions.

407.1212. 1. A provider shall not use in its name the words insurance, casualty, guaranty, surety, mutual, or any other words descriptive of the insurance, casualty, guaranty, or surety business; or a name deceptively similar to the name or description of any insurance or surety corporation, or any other provider. This section shall not apply to a company that was using any of the prohibited language in its name prior to August 28, 2003. However, a company using the prohibited language in its name shall conspicuously disclose in its service contract the following statement: "This agreement is not an insurance contract."

2. A provider or its representative shall not in its service contracts or literature make, permit, or cause to be made any false or misleading statement, or deliberately omit any material statement that would be considered misleading if omitted, in connection with the sale, offer to sell or advertisement of a service contract.

3. A person, such as a bank, savings and loan association, lending institution, manufacturer or seller of any product, shall not require the purchase of a service contract as a condition of a loan or a condition for the sale of any property.

407.1215. 1. An administrator, provider, or other intermediary shall keep accurate accounts, books, and records concerning transactions regulated by sections 407.1200 to 407.1227.

2. An administrator's, provider's, or other intermediary's accounts, books, and records shall include:

(1) Copies of each type of service contract issued;

(2) The name and address of each service contract holder to the extent that the name and address have been furnished by the service contract holder;

(3) A list of the provider locations where service contracts are marketed, sold, or offered for sale; and

(4) Claims files which shall contain at least the dates, amounts, and description of all receipts, claims, and expenditures related to the service contracts.

3. Except as provided in this section, an administrator shall retain all records pertaining to each service contract holder for at least three years after the specified period of coverage has expired.

4. An administrator, provider, or other intermediary may keep all records required pursuant to sections 407.1200 to 407.1227 on a computer disk or other similar technology. If an administrator maintains records in other than hard copy, records shall be accessible from a computer terminal available to the director and be capable of duplication to legible hard copy.

5. An administrator, provider, or other intermediary discontinuing business in this state shall maintain its records until it furnishes the commissioner satisfactory proof that it has discharged all obligations to contract holders in this state.

6. An administrator, provider, or other intermediary shall make all accounts, books, and records concerning transactions regulations pursuant to sections 407.1200 to 407.1227 or other pertinent laws available to the director upon request.

407.1218. As applicable, an insurer that issued a reimbursement insurance policy shall not terminate the policy until a notice of termination, in a form and time frame prescribed by the director, has been mailed or delivered to the director. The termination of a reimbursement insurance policy shall not reduce the issuer's responsibility for service contracts issued by providers prior to the date of the termination.

407.1221. 1. Providers are considered to be the agent of the insurer which issued the reimbursement insurance policy. In cases where a provider is acting as an administrator and enlists other providers, the provider acting as the administrator shall notify the insurer of the existence and identities of the other providers.

2. The provisions of sections 407.1200 to 407.1227 shall not prevent or limit the right of an insurer which issued a reimbursement insurance policy to seek indemnification or subrogation against a provider if the insurer pays or is obligated to pay the service contract holder sums that the provider was obligated to pay pursuant to the provisions of the service contract or under a contractual agreement.

407.1224. 1. The director may conduct investigations or examinations of providers, administrators, insurers, or other persons to enforce the provisions of sections 407.1200 to 407.1227 and protect service contract holders in this state.

2. The director may take action which is necessary or appropriate to enforce the provisions of sections 407.1200 to 407.1227 and the director's regulations and orders, and to protect service contract holders in this state.

3. The director may order a service contract provider to cease and desist from committing violations of sections 407.1200 to 407.1227 or the director's regulations or orders, may issue an order prohibiting a service contract provider from selling or offering for sale service contracts, or may issue an order imposing a civil penalty, or any combination of these, if the provider has violated the provisions of sections 407.1200 to 407.1227 or the director's regulations or orders.

4. A person aggrieved by an order pursuant to this section may request a hearing before the director. The hearing request shall be filed with the director within twenty days of the date the director's order is effective.

5. Pending the hearing and the decision by the director, the director shall suspend the effective date of the order. At the hearing, the burden shall be on the director to show why the order issued pursuant to this section is justified. Such hearing shall be held in accordance with the provisions of chapter 536, RSMo.

6. The director may bring an action in the circuit court of Cole county for an injunction or other appropriate relief to enjoin threatened or existing violations of sections 407.1200 to 407.1227 or of the director's orders or regulations. An action filed pursuant to this section may also seek restitution on behalf of persons aggrieved by a violation of sections 407.1200 to 407.1227 or orders or regulations of the director.

7. A person in violation of sections 407.1200 to 407.1227 or orders or regulation of the

director may be assessed a civil penalty not to exceed one thousand dollars per violation.

8. The authority of the director pursuant to this section is in addition to other authority of the director.

407.1225. The director may promulgate rules to effectuate sections 407.1200 to 407.1224. Any rule or portion of a rule, as that term is defined in section 536.010, RSMo, that is created under the authority delegated in this section shall become effective only if it complies with and is subject to all of the provisions of chapter 536, RSMo, and, if applicable, section 536.028, RSMo. This section and chapter 536, RSMo, are nonseverable and if any of the powers vested with the general assembly pursuant to chapter 536, RSMo, to review, to delay the effective date, or to disapprove and annul a rule are subsequently held unconstitutional, then the grant of rulemaking authority and any rule proposed or adopted after August 28, 2003, shall be invalid and void.

407.1227. 1. The provisions of sections 407.1200 to 407.1224 shall not apply to:

(1) Warranties;

(2) Maintenance agreements;

(3) Commercial transactions; and

(4) Service contracts sold or offered for sale to persons other than consumers.

2. Manufacturer's contracts on the manufacturer's products need only comply with the provisions of sections 407.1209, 407.1212, and 407.1224."; and

Further amend said bill, Page 90, Section B, Line 16, by inserting after all of said line the following:

"Section C. The enactment of sections 407.1200, 407.1203, 407.1206, 407.1209, 407.1212, 407.1215, 407.1218, 407.1221, 407.1224, 407.1225, and 407.1227 shall become effective January 1, 2007."; and

Further amend the title and enacting clause accordingly.

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

Senator Griesheimer offered **SA 6**:

SENATE AMENDMENT NO. 6

Amend Senate Substitute for Senate Committee Substitute for House Bill No. 598, Page 31, Section 301.144, Line 19 of said page, by inserting after all of said line the following:

"301.147. 1. Notwithstanding the provisions of section 301.020 to the contrary, beginning July 1, 2000, the director of revenue may provide owners of motor vehicles, other than commercial motor vehicles licensed in excess of twelve thousand pounds gross weight, the option of biennially registering motor vehicles. Any vehicle manufactured as an even-numbered model year vehicle shall be renewed each even-numbered calendar year and any such vehicle manufactured as an odd-numbered model year vehicle shall be renewed each odd-numbered calendar year, subject to the following requirements:

(1) The fee collected at the time of biennial registration shall include the annual registration fee plus a pro rata amount for the additional twelve months of the biennial registration;

(2) Presentation of all documentation otherwise required by law for vehicle registration including, but not limited to, a personal property tax receipt or certified statement for the preceding year that no such taxes were due as set forth in section 301.025, proof of a motor vehicle safety inspection and any applicable emission inspection conducted within sixty days prior to the date of application and proof of insurance as required by section 303.026, RSMo**[**;

(3) For those motor vehicles owned by a person who resides in a county of the first classification without a charter form of government

with a population of less than one hundred thousand inhabitants according to the most recent decennial census who chooses biennial registration pursuant to this section and who does not submit proof of an emission inspection pursuant to section 643.315, RSMo, but instead submits proof of an emission inspection pursuant to section 307.366, RSMo, the director of the department of revenue shall issue a motor vehicle registration tab valid only for one year. The year following issuance to a person of a motor vehicle registration tab valid only for one year, the director or the director's authorized designee shall, upon notification of any such person's completed emission inspection pursuant to section 307.366, RSMo, by the department of natural resources or its designee, without further application or proof issue such person an additional motor vehicle registration tab valid for the remaining biennial period**]**.

2. The director of revenue may prescribe rules and regulations for the effective administration of this section. The director is authorized to adopt those rules that are reasonable and necessary to accomplish the limited duties specifically delegated within this section. Any rule or portion of a rule, as that term is defined in section 536.010, RSMo, that is promulgated pursuant to the authority delegated in this section shall become effective only if it has been promulgated pursuant to the provisions of chapter 536, RSMo. This section and chapter 536, RSMo, are nonseverable and if any of the powers vested with the general assembly pursuant to chapter 536, RSMo, to review, to delay the effective date or to disapprove and annul a rule are subsequently held unconstitutional, then the grant of rulemaking authority and any rule proposed or adopted after July 1, 2000, shall be invalid and void.

3. The director of revenue shall have the authority to stagger the registration period of motor vehicles other than commercial motor vehicles licensed in excess of twelve thousand pounds gross weight. Once the owner of a motor vehicle chooses the option of biennial registration, such registration must be maintained for the full twenty-four month period."; and

Further amend said bill, Page 74, Section 307.366, Line 5 of said page, by inserting after all of said line the following:

"643.310. 1. The commission may, by rule, establish a motor vehicle emissions inspection program pursuant to sections 643.300 to 643.355 for any portion of a nonattainment area located within the area described in subsection 1 of section 643.305, except for any portion of the nonattainment area which is located in a county of the first classification without a charter form of government with a population of less than one hundred thousand inhabitants according to the most recent decennial census, except that the commission may establish a motor vehicle emissions inspection program pursuant to sections 643.300 to 643.355 in such county only for motor vehicles owned by residents of such county who have chosen to **[**have a biennial motor vehicle registration pursuant to section 301.147, RSMo, if the commission determines that such motor vehicle emissions inspection program is necessary in that area to comply with the requirements of subsection 1 of section 643.305**] participate in such a program in lieu of the provisions of section 307.366, RSMo**. The commission shall ensure that, for each nonattainment area, the state implementation plan established pursuant to subsection 1 of section 643.305 incorporates and receives all applicable credits allowed by the United States Environmental Protection Agency for emission reduction programs in other nonattainment areas of like designation in other states. The commission shall ensure that emission reduction amounts established pursuant to subsection 2 of section 643.305 shall be consistent with and not exceed the emissions reduction amounts required by the United States Environmental Protection Agency for other nonattainment areas of like designation in other states. No motor vehicle emissions inspection program shall be required to comply with subsection 1 of section 643.305 unless the plan

established thereunder takes full advantage of any changes in requirements or any agreements made or entered into by the United States Environmental Protection Agency and any entity or entities on behalf of a nonattainment area concerning compliance with National Ambient Air Quality Standards of the federal Clean Air Act, as amended, 42 U.S.C. 7401 et seq., and the regulations promulgated thereunder. The air conservation commission shall request and it shall be the duty of the attorney general to bring, in a court of competent jurisdiction, an action challenging the authority of the United States Environmental Protection Agency to impose sanctions for failure to attain National Ambient Air Quality Standards and failure to provide for required emission reductions under the federal Clean Air Act, as amended, 42 U.S.C. 7401, et seq. The action shall seek to define the required emission reductions and the credits allowed for current and planned emission reductions measures. The air conservation commission shall request and it shall be the duty of the attorney general to bring an action to obtain injunctive relief to enjoin and restrain the imposition of sanctions on the state of Missouri under the federal Clean Air Act, as amended, 42 U.S.C. 7401, et seq., until all actions initiated pursuant to this section have been decided. Provisions of section 307.366, RSMo, to the contrary notwithstanding, the requirements of sections 643.300 to 643.355 shall apply to those areas designated by the commission pursuant to this section in lieu of the provisions of section 307.366, RSMo.

2. No later than the effective date of this section, the department of natural resources and the Missouri highway patrol shall enter into an interagency agreement covering all aspects of the administration and enforcement of section 307.366, RSMo, and sections 643.300 to 643.355.

3. (1) The department, with the cooperation and approval of the commissioner of administration, shall select a person or persons to operate an inspection facility or inspection program pursuant to sections 643.300 to 643.355, under a bid procedure or under a negotiated process or a combination thereof based on criteria and expectations established by the department. This process may use either a licensing arrangement or contractual arrangement with the selected party or parties. The selection of persons to operate inspection facilities or inspection programs shall be exempt from the provisions of all site procurement laws. The number of locations shall be no less than the number needed to provide adequate service to customers and establish an emissions inspection program which satisfies the requirements of this section. Each person who is authorized to operate a station pursuant to this section shall be capable of providing adequate and cost-effective service to customers.

(2) Service management, coordination and data processing may be provided by the department or by another person, including a contractor or licensee, based upon the most cost-effective proposal for service.

(3) A license or contract shall be for a period of up to seven years, consistent with the provisions of article IV, section 28 of the Missouri Constitution, and licenses or contracts shall be annually reviewed. A license or contract may be suspended or revoked if the licensee or contractor is not meeting the conditions of sections 643.300 to 643.355, all applicable rules, the license agreement or contract as determined by the department. A licensee or contractor found to have violated sections 643.300 to 643.355, applicable rules or the conditions of the license agreement or contract shall be in violation of section 643.151 and subject to the penalties provided thereunder.

4. The inspection program shall satisfy the following criteria:

(1) There shall be an adequate number of stations to ensure that no more than twenty percent of all persons residing in an affected nonattainment area reside farther than five miles from the nearest inspection station, and consideration shall be given

to employment, locations and commuting patterns when selecting the locations of the stations;

(2) There shall be an adequate number of inspection lanes at each facility so that no more than five percent of all persons having an inspection are required to wait more than fifteen minutes before the inspection begins;

(3) The days and daily hours of operation shall include at least those hours specified by the department, which shall include, at a minimum, twelve continuous hours of operation on all weekdays excepting federal holidays, and six continuous hours of operation on all Saturdays excepting federal holidays;

(4) The emissions inspection program shall include a simulated on-road emissions inspection component, including pressure and purge tests, which satisfies the requirements established by regulation of the United States Environmental Protection Agency and may include a visual inspection component;

(5) The inspection stations shall be test-only stations and shall not offer motor vehicle emissions repairs, parts or services of any kind;

(6) No person operating or employed by an emissions inspection station shall repair or maintain motor vehicle emission systems or pollution control devices for compensation of any kind.

5. The commission, the department of economic development and the office of administration shall, in cooperation with the minority business advocacy commission, select the contractor or contractors to provide an inspection program which satisfies the minimum requirements of this section in accordance with the requirements of section 33.752, RSMo, and chapter 34, RSMo. The commission, the office of administration and the department of economic development, in cooperation with the minority business advocacy commission shall ensure adequate minority business participation in the selection of the contractor or contractors to provide an inspection program pursuant to this section. The commission, the office of administration and the department of economic development shall ensure adequate participation of Missouri businesses in the selection of the contractor or contractors to provide an inspection program pursuant to this section.

6. With approval of the commission and pursuant to rules adopted by the commission, an organization whose members are motor vehicle dealers or leasing companies may establish one or more additional emissions inspection facilities, which may be either mobile or stationary, to be used solely to inspect motor vehicles owned and held for sale or lease by the members of the organization. With approval of the commission and pursuant to rules adopted by the commission, any person operating a fleet of five hundred or more motor vehicles may establish one or more additional emissions inspection facilities, which may be either mobile or stationary, to be used solely to inspect motor vehicles owned or leased and operated by the person establishing the facility. The inspections performed in facilities established pursuant to this subsection shall be performed by a contractor selected by the commission pursuant to this section and the contractor performing such inspections shall be responsible solely to the department and shall satisfy all applicable requirements of sections 643.300 to 643.355.

7. Any person who owns Missouri analyzer system emission inspection equipment as defined by rule, used to provide emissions inspections pursuant to section 307.366, RSMo, at a facility located in an area in which an emissions inspection program has been established pursuant to sections 643.300 to 643.355 may, within twelve months of the implementation of an emissions inspection program pursuant to sections 643.300 to 643.355, sell such equipment, to the department of natural resources at current market value as established by an independent appraisal provided that the equipment is fully functional and has been maintained according to all applicable

manufacturer's specifications and procedures. The department shall purchase such equipment using funds appropriated for that purpose from the Missouri air emission reduction fund. Any person who, prior to January 1, 1992, contracted to lease or lease purchase, or purchased by borrowing a portion of the funds secured by a chattel mortgage, Missouri analyzer system emission inspection equipment used to provide emissions inspections pursuant to section 307.366, RSMo, at a facility located in an area in which an emissions inspection program has been established pursuant to sections 643.300 to 643.355, and has made all payments required under the contract, may, within twelve months of the implementation of an emissions inspection program pursuant to sections 643.300 to 643.355, request the department of natural resources to take possession of such equipment and assume all payment obligations owed on such equipment which obligations are not in excess of one hundred and twenty-five percent of the current market value as established by an independent appraisal, provided that the equipment is fully functional and has been maintained according to all applicable manufacturer's specifications and procedures. The department shall take possession of such equipment and pay such obligations using funds appropriated for that purpose from the Missouri air emission reduction fund.

8. If the governor applies to the administrator of the Environmental Protection Agency to require federal reformulated gasoline in nonattainment areas, nothing in sections 643.300 to 643.355 shall prevent the storage of conventional gasoline in nonattainment areas which is intended for sale to agricultural, commercial or retail customers outside said nonattainment areas subject to reformulated gasoline.

9. The governor, the department of natural resources, and the commission shall work to ensure an orderly transition period in the nonattainment area for the introduction of reformulated gasoline. Priority shall be given to ensure the petroleum refiners ample time to organize, structure, and implement both the production and the delivery of reformulated gasoline to the nonattainment area, so that consumers will see an orderly, seamless market substitution."; and

Further amend the title and enacting clause accordingly.

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

Senator Griesheimer offered **SA 7**:

SENATE AMENDMENT NO. 7

Amend Senate Substitute for Senate Committee Substitute for House Bill No. 598, Page 34, Section 301.463, Line 23 of said page, by inserting after all of said line the following:

"301.567. 1. For purposes of this section, a violation of any of the following advertising standards shall be deemed an attempt by the advertising dealer to obtain a fee or other compensation by fraud, deception or misrepresentation in violation of section 301.562:

(1) A motor vehicle shall not be advertised as new, either by express terms or implication, unless it is a "new motor vehicle" as defined in section 301.550;

(2) When advertising any motor vehicle which is not a new motor vehicle, such advertisement must expressly identify that the motor vehicle is a used motor vehicle by express use of the term "used", or by such other term as is commonly understood to mean that the vehicle is used;

(3) Any terms, conditions, and disclaimers relating to the advertised motor vehicle's price or financing options shall be stated clearly and conspicuously. An asterisk or other reference symbol may be used to point to a disclaimer or other information, but not be used as a means of contradicting or changing the meaning of an advertised statement;

(4) The expiration date, if any, of an advertised sale or vehicle price shall be clearly and

conspicuously disclosed. In the absence of such disclosure, the advertised sale or vehicle price shall be deemed effective so long as such vehicles remain in the advertising dealership's inventory;

(5) The terms "list price", "sticker price", or "suggested retail price" shall be used only in reference to the manufacturer's suggested retail price for new motor vehicles, and, if used, shall be accompanied by a clear and conspicuous disclosure that such terms represent the "manufacturer's suggested retail price" of the advertised vehicle;

(6) Terms such as "at cost", "$..... above cost" shall not be used in advertisements because of the difficulty in determining a dealer's actual net cost at the time of the sale**[**. Terms such as "invoice price", "$..... over invoice" may be used, provided that the invoice referred to is the manufacturer's factory invoice for a new motor vehicle and the invoice is available for customer inspection. For purposes of this section, "manufacturer's factory invoice" means that document supplied by the manufacturer to the dealer listing the manufacturer's charge to the dealer before any deduction for holdback, group advertising, factory incentives or rebates, or any governmental charges**]**;

(7) When the price or financing terms of a motor vehicle are advertised, the vehicle shall be fully identified as to year, make, and model. In addition, in advertisements placed by individual dealers and not line-make marketing groups, the advertised price or credit terms shall include all charges which the buyer must pay to the dealer, except buyer-selected options and state and local taxes. If a processing fee or freight or destination charges are not included in the advertised price, the amount of any such processing fee and freight or destination charge must be clearly and conspicuously disclosed within the advertisement;

(8) **[**Advertisements which offer to match or better any competitors' prices shall not be used;

(9)**]** Advertisements of "dealer rebates" shall not be used, however, this shall not be deemed to prohibit the advertising of manufacturer rebates, so long as all material terms of such rebates are clearly and conspicuously disclosed;

[(10)**] (9)** "Free", "at no cost" shall not be used if any purchase is required to qualify for the "free" item, merchandise, or service;

[(11)**] (10)** "Bait advertising", in which an advertiser may have no intention to sell at the prices or terms advertised, shall not be used. Bait advertising shall include, but not be limited to, the following examples:

(a) Not having available for sale the advertised motor vehicles at the advertised prices. If a specific vehicle is advertised, the dealer shall be in possession of a reasonable supply of such vehicles, and they shall be available at the advertised price. If the advertised vehicle is available only in limited numbers or only by order, such limitations shall be stated in the advertisement;

(b) Advertising a motor vehicle at a specified price, including such terms as "as low as $.....", but having available for sale only vehicles equipped with dealer-added cost options which increase the selling price above the advertised price;

[(12)**] (11)** Any reference to monthly payments, down payments, or other reference to financing or leasing information shall be accompanied by a clear and conspicuous disclosure of the following:

(a) Whether the payment or other information relates to a financing or a lease transaction;

(b) If the payment or other information relates to a financing transaction, the minimum down payment, annual percentage interest rate, and number of payments necessary to obtain the advertised payment amount must be disclosed, in addition to any special qualifications required for obtaining the advertised terms including, but not limited to, "first-time buyer" discounts, "college graduate" discounts, and a statement concerning

whether the advertised terms are subject to credit approval;

(c) If the payment or other information relates to a lease transaction, the total amount due from the purchaser at signing with such costs broken down and identified by category, lease term expressed in number of months, whether the lease is closed-end or open-end, and total cost to the lessee over the lease term in dollars;

[(13)**] (12)** Any advertisement which states or implies that the advertising dealer has a special arrangement or relationship with the distributor or manufacturer, as compared to similarly situated dealers, shall not be used;

[(14)**] (13)** Any advertisement which, in the circumstances under which it is made or applied, is false, deceptive, or misleading shall not be used;

[(15)**] (14)** No abbreviations for industry words or phrases shall be used in any advertisement unless such abbreviations are accompanied by the fully spelled or spoken words or phrases.

2. The requirements of this section shall apply regardless of whether a dealer advertises by means of print, broadcast, or electronic media, or direct mail.

3. Dealers shall clearly and conspicuously identify themselves in each advertisement by use of a dealership name which complies with subsection 6 of section 301.560."; and

Further amend the title and enacting clause accordingly.

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

Senator Dolan moved that **SS** for **SCS** for **HB 598**, as amended, be adopted, which motion prevailed.

Senator Dolan moved that **SS** for **SCS** for **HB 598**, as amended, be read the 3rd time and finally passed.

Senator Dolan was recognized to close.

President Pro Tem Kinder referred **SS** for **SCS** for **HB 598**, as amended, to the Committee on Governmental Accountability and Fiscal Oversight.

REFERRALS

President Pro Tem Kinder referred **HCS** for **HB 322** to the Committee on Governmental Accountability and Fiscal Oversight.

On motion of Senator Gibbons, the Senate recessed until 5:30 p.m.

RECESS

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

HOUSE BILLS ON THIRD READING

HS for **HCS** for **HBs 517**, **94**, **149**, **150** and **342**, with **SCS**, entitled:

An Act to repeal section 208.565, RSMo, and to enact in lieu thereof two new sections relating to stabilization of income for the elderly, with an emergency clause for a certain section.

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

SCS for **HS** for **HCS** for **HBs 517**, **94**, **149**, **150** and **342**, entitled:

SENATE COMMITTEE SUBSTITUTE FOR
HOUSE SUBSTITUTE FOR
HOUSE COMMITTEE SUBSTITUTE FOR
HOUSE BILLS NOS. 517, 94, 149, 150 and 342

An Act to repeal section 208.565, RSMo, and to enact in lieu thereof two new sections relating to stabilization of income for the elderly, with an emergency clause and an effective date for a certain section.

Was taken up.

Senator Gross moved that **SCS** for **HS** for **HCS** for **HBs 517**, **94**, **149**, **150** and **342** be adopted.

Senator Gross offered **SS** for **SCS** for **HS** for **HCS** for **HBs 517**, **94**, **149**, **150** and **342**, entitled:

SENATE SUBSTITUTE FOR
SENATE COMMITTEE SUBSTITUTE FOR
HOUSE SUBSTITUTE FOR
HOUSE COMMITTEE SUBSTITUTE FOR
HOUSE BILLS NOS. 517, 94, 149, 150 and 342

An Act to repeal section 208.565, RSMo, and to enact in lieu thereof two new sections relating to stabilization of income for the elderly, with an emergency clause and an effective date for a certain section.

Senator Gross moved that **SS** for **SCS** for **HS** for **HCS** for **HBs 517**, **94**, **149**, **150** and **342** be adopted.

Senator Gross offered **SA 1**:

SENATE AMENDMENT NO. 1

Amend Senate Substitute for Senate Committee Substitute for House Substitute for House Committee Substitute for House Bills Nos. 517, 94, 149, 150 and 342, Page 3, Section 137.106, Lines 2-3 of said page, by striking the following: "taxing authority" and inserting in lieu thereof the following: "**county assessor**"; and

Further amend section, Page 4, Line 27 of said page, by striking "credit" and inserting in lieu thereof the following: "**send**"; and further amend Line 29 of said page, by striking "treasury" and inserting in lieu thereof the following: "**collector**"; and

Further amend said bill and section, Page 5, Line 6, by striking the following: "in the treasury" and inserting in lieu thereof the following: "**with the collector**".

Senator Gross moved that the above amendment be adopted.

Senator Goode offered **SSA 1** for **SA 1**:

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

Amend Senate Substitute for Senate Committee Substitute for House Committee Substitute for House Bills Nos. 517, 94, 149, 150 and 342, Pages 1-6, Section 137.106, by striking all of said section from the bill and inserting in lieu thereof the following:

"**135.037. As used in sections 135.037 to 135.083, the following terms shall mean:**

(1) "Department", the department of revenue;

(2) "Director", the director of revenue;

(3) "Equity interest", the difference between the true value in money of the property as determined by the county assessor's office and the total of:

(a) All debts from mortgage liens, deeds of trust or security interests which are recorded or noted on a certificate of title prior to January first of the current tax year; and

(b) Accumulated deferred taxes;

(4) "Homestead", the owner occupied principal dwelling, either real or personal property, owned by the taxpayer and the land surrounding it as it is reasonably necessary for use of the dwelling as a home, not to exceed five acres. If the homestead is located in a multi-unit building, the homestead is the portion of the building actually used as the principal dwelling and its percentage of the value of the common elements and of the value of the property upon which it is built. The percentage is the value of the unit consisting of the homestead compared to the total value of the building exclusive of the common elements, if any. If the homestead is located on a farm, the homestead consists of the dwelling house, appurtenances, and the land used in connection therewith, not to exceed five acres;

(5) "Household", all persons residing in a single dwelling whether related or not;

(6) "Household income", the combined federal adjusted gross income of all members of the household, whether filing jointly or individually;

(7) "Maximum upper limit", thirty-two thousand dollars;

(8) "Tax-deferred property", the property upon which taxes are deferred pursuant to sections 135.037 to 135.083;

(9) "Taxes" or "property taxes", ad valorem taxes, assessments, fees and charges entered on the assessment and tax roll;

(10) "Taxpayer", an individual who has filed a claim for deferral pursuant to section 135.039 or individuals who have jointly filed a claim for deferral pursuant to section 135.039.

135.039. 1. An individual, or two or more individuals jointly, may elect to defer the property taxes on their homestead by filing a claim for deferral with the county clerk after January first and on or before October fifteenth of the first year in which deferral is claimed if the individual, or, in the case of two or more individuals filing a claim jointly, the older individual, is sixty-two years of age or older on October fifteenth of the year in which the claim is filed.

2. In order to make the election described in subsection 1 of this section, the individual must have, or in case of two or more individuals filing a claim jointly, all of the individuals together must have household income for the calendar year immediately preceding the calendar year in which the claim is filed of less than the maximum upper limit.

3. The county clerk shall forward each claim filed pursuant to this section to the director of revenue which shall determine if the property is eligible for deferral.

4. When the taxpayer elects to defer property taxes for any year by filing a claim for deferral pursuant to subsection 1 of this section, it shall have the effect of:

(1) Deferring the payment of the property taxes levied on the homestead for the year beginning on January first of such year;

(2) Continuing the deferral of the payment by the taxpayer of any property taxes deferred pursuant to section 135.037 to 135.083 for previous years which have not become delinquent pursuant to section 135.061;

(3) Continuing the deferral of the payment by the taxpayer of any future property taxes for as long as the provisions of section 135.041 are met.

5. If a guardian or conservator has been appointed for an individual otherwise qualified to obtain deferral of taxes pursuant to sections 135.037 to 135.083, the guardian or conservator may act for such individual in complying with the provisions of sections 135.037 to 135.083.

6. If a trustee of an inter vivos trust which was created by and is revocable by an individual, who is both the settlor and a beneficiary of the trust and who is otherwise qualified to obtain a deferral of taxes pursuant to sections 135.037 to 135.083, owns the fee simple estate under a recorded instrument of sale, the trustee may act for the individual in complying with the provisions of sections 135.037 to 135.083.

7. Nothing in this section shall be construed to require a spouse of an individual to file a claim jointly with the individual even though the spouse may be eligible to claim the deferral jointly with the individual.

8. Any person aggrieved by the denial of a claim for deferral of homestead property taxes or disqualification from deferral of homestead property taxes may appeal in the manner provided for denial of a claim pursuant to section 143.841, RSMo.

135.041. In order to qualify for tax deferral pursuant to sections 135.037 to 135.083, the property must meet all of the following requirements when the claim is filed and thereafter so long as the payment of taxes by the

taxpayer is deferred:

(1) The property must be the homestead of the individual or individuals who file the claim for deferral, except for an individual required to be absent from the homestead by reason of health;

(2) The person claiming the deferral must, by himself or herself or together with his or her spouse, own the fee simple estate or be purchasing the fee simple estate under a recorded instrument of sale, or two or more persons must together own or be purchasing the fee simple estate with rights of survivorship under a recorded instrument of sale if all owners live in the homestead and if all owners apply for the deferral jointly;

(3) There must be no prohibition to the deferral of property taxes contained in any provision of federal law, rule or regulation applicable to a mortgage, trust deed, land sale contract or conditional sale contract for which the homestead is security;

(4) The equity interest in the homestead is a positive number equal to or exceeding ten percent of the true value in money of the homestead;

(5) The person claiming the deferral must, by himself or herself or together with his or her spouse, show proof of insurance at any time on the homestead in an amount equal to or exceeding the market value as provided in the most recent tax bill of the homestead, to the director of revenue, and the insurance must be kept in place as long as deferral pursuant to sections 135.037 to 135.083 is maintained.

135.043. 1. A taxpayer's claim for deferral pursuant to section 135.039 shall be in writing on a form supplied by the department and shall:

(1) Describe the homestead;

(2) Recite facts establishing the eligibility for the deferral pursuant to the provisions of sections 135.037 to 135.083, including facts that establish that the household income of the individual, or individuals in the household, was, for the calendar year immediately preceding the calendar year in which the claim is filed, less than the amount required pursuant to section 135.039;

(3) Have attached any documentary proof required by the director to show that the requirements of sections 135.037 to 135.083 have been met.

2. The claim shall be in the form of an affidavit verifying that the statements contained in the claim are true.

135.045. 1. If eligibility for deferral of homestead property is established as provided in section 135.037 to 135.083, the director of revenue shall notify the county assessor or collector who shall show on the current ad valorem assessment and tax roll which property is tax-deferred property by an entry clearly designating such property as tax-deferred property.

2. When requested by the director, the tax collector shall send to the director, as soon as the taxes are extended upon the roll, the tax statement for each tax-deferred property.

3. Interest shall accrue on the actual amount of taxes advanced to the county for the tax-deferred property at the rate of six percent per annum.

135.047. 1. In each county in which there is tax-deferred property, the director of revenue shall cause to be recorded in the mortgage records of the county, a list of tax-deferred properties of that county. The list shall contain a description of the property as listed on the assessment roll together with the name of the owner or owners listed thereon.

2. Except as provided in section 135.053, the recording of the tax-deferred properties pursuant to subsection 1 of this section is notice

that the director claims a lien against those properties in the amount of the deferred taxes plus interest together with any fees paid to the county clerk in connection with the recording, release or satisfaction of the lien.

3. Notwithstanding any provisions of law to the contrary, the director shall not be required to pay any filing, indexing or recording fees to the county in connection with the recording, release or satisfaction of liens against tax-deferred properties of that county in advance or at the time entry is made.

135.049. 1. Upon determining the amount of deferred taxes on tax-deferred property for the tax year, the director shall pay to the respective county tax collectors an amount equivalent to the deferred taxes less two percent thereof. Payment shall be made from the account established pursuant to section 135.083.

2. The director shall maintain records for each deferred property and shall accrue interest only on the actual amount of taxes advanced to the county.

3. If only a portion of taxes are deferred pursuant to section 135.065, the director shall pay the portion that will be deferred for that year to the tax collector and shall provide a separate notice to the county assessor stating the amount of property taxes that the director is paying.

135.051. 1. On or before December fifteenth of each year, the director of revenue shall send a notice to each taxpayer who is qualified to claim deferral of property taxes for the current tax year. The notice shall:

(1) Inform the taxpayer that the property taxes have or have not been deferred in the current year;

(2) Show the total amount of taxes remaining deferred since initial application for deferral and the interest accruing therein to November fifteenth of the current year;

(3) Inform the taxpayer that voluntary payment of the deferred taxes may be made at any time to the director of revenue;

(4) Contain any other information that the director considers necessary to facilitate administration of the homestead deferral program.

2. The director shall give the notice required pursuant to subsection 1 of this section by an unsealed postcard or other form of mail sent to the residence address of the taxpayer as shown in the claim for deferral or as otherwise determined by the director to be the correct address of the taxpayer.

135.053. 1. At the time that the taxpayer elects to defer property taxes pursuant to sections 135.037 to 135.083 the director of revenue shall estimate the amount of property taxes that will be deferred for a period of five tax years beginning on or after January 1, 2003, or the year of deferral, whichever is later, and interest thereon. Thereafter, the director shall have a lien in the amount of the estimate. Every five years after filing the initial lien, the director shall file an additional lien for an estimate of the amount of property taxes that will be deferred for the next five years, and interest thereon. The liens provided in this subsection shall be considered part of the public record.

2. The liens created pursuant to subsection 1 of this section shall attach to the property to which the election to defer relates on January first of the first tax year in which the lien is filed.

3. The liens created pursuant to subsection 1 of this section in the amount of the estimate shall have the same priority as other real property tax liens except that the liens of mortgages, trust deeds or security interests which are recorded or noted on a certificate of title prior in time to the attachment of the liens for deferred taxes shall be prior to the liens for

deferred taxes.

4. If during the period of tax deferment, the amount of taxes, interest and fees exceeds the estimate, the director shall have a lien for the amount of the excess. The liens for the excess shall attach to the property on January first of the tax year in which the excess occurs. The lien for the excess shall have the same priority as other real property tax liens, except that the lien of mortgages, trust deeds or security interests recorded or noted on any certificate of title prior in time to the date that the director records an amendment to its estimate to reflect its lien for the excess shall be prior to the lien for the excess.

5. Notwithstanding the provisions of section 135.047, the notice of lien for deferred taxes recorded as provided in section 135.047 arising on or after January 1, 2003, shall list the amount of the estimate of deferred taxes, interest and fees made by the director pursuant to subsection 1 of this section and any amendment to the notice to reflect a lien for excess, as described pursuant to subsection 4 of this section, shall list the amount of the excess that the director claims as lien.

6. A lien created pursuant to this section may be foreclosed by the director pursuant to the law relating to foreclosure in civil suits or any other collection methods given the director of revenue. The court may award reasonable attorney fees to the prevailing party in a foreclosure action pursuant to this section.

7. Receipts from foreclosure proceedings shall be credited in the same manner as other repayments of deferred property taxes pursuant to section 135.083.

8. By means of voluntary payment made as provided pursuant to section 135.067, the taxpayer may limit the amount of the lien for deferred taxes created pursuant to this section. If the taxpayer desires that the limit be reflected in the records of the county, the taxpayer must request, subject to any rules adopted by the director, that the director cause a partial satisfaction of the lien to be recorded in the county. Upon receipt of such a request, the director shall cause a partial satisfaction, in the amount of the voluntary payment, to be so recorded. Nothing in this subsection shall affect the priority of the liens of the director, as originally created pursuant to subsections 1 and 4 of this section.

9. Nothing in this section shall affect any lien arising pursuant to sections 135.037 to 135.083 for taxes assessed before January 1, 2003.

135.059. Subject to section 135.063, all deferred property taxes, including accrued interest, become payable as provided in section 135.061 when:

(1) The taxpayer who claimed deferment of collection of property taxes on the homestead dies or, if there was more than one claimant, the survivor of the taxpayers who originally claimed deferment of collection of property taxes pursuant to section 135.039 dies;

(2) Except as provided in section 135.057, the property with respect to which deferment of collection of taxes is claimed is sold, or some person other than the taxpayer who claimed the deferment becomes the owner of the property;

(3) The tax-deferred property is no longer the homestead of the taxpayer who claimed the deferral, except in the case of a taxpayer required to be absent from such tax-deferred property by reason of health;

(4) The tax-deferred property, a manufactured structure or floating home, is moved out of the state.

135.061. 1. Whenever any of the circumstances listed in section 135.059 occurs:

(1) The deferral of taxes for the assessment

year in which the circumstance occurs shall continue for such assessment year; and

(2) The amounts of deferred property taxes, including accrued interest, for all years shall be due and payable on the date of closing or the date of probate to the director of revenue, except as provided in subsection 3 of this section, section 135.063 and section 135.075.

2. Notwithstanding the provisions of subsection 1 of this section and section 135.075, when the circumstances occur listed in subsection 4 of section 135.059, the amount of deferred taxes shall be due and payable five days before the date of removal of the property from the state.

3. If the amounts falling due as provided in this section are not paid on the indicated due date, or as extended pursuant to section 135.075, such amounts shall be deemed delinquent as of that date and the property shall be subject to foreclosure as provided in section 135.053.

135.063. 1. Notwithstanding the provisions of section 135.059, when one of the circumstances listed in section 135.059 occurs, the spouse who was not eligible to or did not file a claim jointly with the taxpayer may continue the property in its deferred tax status by filing a claim within the time and in the manner provided pursuant to section 135.039 if:

(1) The spouse of the taxpayer is or will be sixty years of age or older not later than six months from the day the circumstance listed in section 135.059 occurs; and

(2) The property is the homestead of the spouse of the taxpayer and meets the requirements of subsection 2 of section 135.041.

2. A spouse who does not meet the age requirements of subsection 1 of this section but is otherwise qualified to continue the property in its tax-deferred status pursuant to subsection 1 of this section may continue the deferral of property taxes deferred for previous years by filing a claim within the time and in the manner provided pursuant to section 135.039. If a spouse eligible for and continuing the deferral of taxes previously deferred pursuant to this subsection becomes sixty-two years of age prior to October fifteenth of any year, the spouse may elect to continue the deferral of previous years' taxes deferred pursuant to this subsection and may elect to defer the current assessment year's taxes on the homestead by filing a claim within the time and in the manner provided pursuant to section 135.039. Thereafter, payment of the taxes levied on the homestead and deferred pursuant to this subsection and payment of taxes levied on the homestead in the current assessment year and in future years may be deferred in the manner provided in and subject to sections 135.037 to 135.083.

3. Notwithstanding that section 135.039 requires that a claim be filed no later than October fifteenth, if the director of revenue determines that good and sufficient cause exists for the failure of a spouse to file a claim pursuant to this section on or before October fifteenth, the claim may be filed within one hundred eighty days after notice of taxes due and payable pursuant to section 135.037 is mailed or delivered by the director to the taxpayer or taxpayers.

135.065. 1. Notwithstanding the provisions of section 135.039 or any other provision of sections 135.037 to 135.083, if the individual or, in the case of two or more individuals electing to defer property taxes jointly, all of the individuals together, or the spouse who has filed a claim pursuant to section 135.063, has household income that exceeds the maximum upper limit for the tax year that began in the previous calendar year, then for the tax year next beginning, the amount of taxes for which deferral is allowed shall be reduced by fifty cents for each dollar of household income in excess of the maximum upper limit or if that

income exceeds the maximum upper limit by a factor of two, the property taxes shall not be deferred.

2. Prior to December first of each year, the director of revenue shall review returns filed pursuant to chapter 143, RSMo, to determine if subsection 1 of this section is applicable for a homestead for the tax year next beginning. If subsection 1 of this section is applicable, the director shall notify by mail the taxpayer or taxpayers electing deferral, and the taxes otherwise to be deferred for the tax year next beginning shall be reduced as provided in subsection 1 of this section or, if household income in excess of the maximum upper limit exceeds the maximum upper limit by a factor of two, the property taxes shall not be deferred.

3. If the taxpayer or taxpayers does not file a return for purposes of chapter 143, RSMo, and the director has reason to believe that the federal adjusted gross income of the taxpayer or taxpayers exceeds the maximum upper limit for the tax year that began in the previous calendar year, the director shall notify by mail the taxpayer or taxpayers electing deferral. If, within thirty days after the notice is mailed, the taxpayer or taxpayers does not file a return pursuant to chapter 143, RSMo, or otherwise satisfy the director that household income does not exceed the maximum upper limit, the director shall again notify the taxpayer or taxpayers, and the taxes otherwise to be deferred for the tax year next beginning shall not be deferred.

4. Nothing in this section shall affect the continued deferral of taxes that have been deferred for tax years beginning prior to the tax year next beginning or the right to deferral of taxes for a tax year beginning after the tax year next beginning if subsection 1 of this section is not applicable for that tax year for the homestead.

5. If, after an initial determination pursuant to this section has been made by the director, upon audit or examination or otherwise, it is discovered that the taxpayer or taxpayers had household income in excess of the limitation provided pursuant to subsection 1 of this section, the director shall determine the amount of taxes deferred that should not have been deferred and give notice to the taxpayer or taxpayers of the amount of taxes that should not have been deferred. The provisions of chapter 143, RSMo, shall apply to a determination of the director pursuant to this section in the same manner as those provisions are applicable to an income tax deficiency. The amount of deferred taxes that should not have been deferred shall bear interest from the date paid by the director until paid at the rate of six percent. A deficiency shall not be assessed pursuant to this section if notice required pursuant to this section is not given to the taxpayer or taxpayers within three years after the date that the director has paid the deferred taxes to the county. Upon payment of the amount assessed as deficiency, and interest, the department shall execute a release in the amount of the payment and the release shall be conclusive evidence of the removal and extinguishment of the lien pursuant to sections 135.037 to 135.083 to the extent of the payment.

6. If, after an initial determination pursuant to this section has been made by the director, upon claim for refund, audit or examination or otherwise, it is discovered that the taxpayer or taxpayers had household income in the amount of or less than the limitation provided pursuant to subsection 1 of this section, the director shall determine the amount of taxes deferred that should have been deferred and give notice to the taxpayer or taxpayers of the amount of taxes that should have been deferred. The provisions of chapter 143, RSMo, shall apply to a determination of the director pursuant to this section in the same manner as those provisions are applicable to an income tax refund. The amount of the taxes that

should have been deferred shall bear interest from the date paid by the taxpayer to the county at the rate established by the director of the director of revenue for refunds until paid. Claim for refund pursuant to this subsection must be filed within three years after the earliest date that the taxpayer or taxpayers is notified by the director that the taxes are not deferred.

7. This section applies to all tax-deferred property, notwithstanding that election to defer taxes is made pursuant to sections 135.037 to 135.083 before or after January 1, 2003.

135.066. Any taxpayer or taxpayers who have a household income of up to twice the maximum upper limit who have been precluded from deferring any portion of their property tax due to their household income being in excess of the maximum upper limit, may qualify for a deferral of the amount of property tax which has increased on their homestead since January first in the base year. Pursuant to the provisions of this section, the term "base year" shall mean the year beginning January first after the sixty-second birthday of the person otherwise qualified to claim the deferral pursuant to sections 135.037 to 135.083, however, base year shall not mean any year prior to the year beginning January 1, 2003. Such deferral shall be subject to the provisions of sections 135.037 to 135.083 as if it were a deferral pursuant to section 135.039.

135.067. 1. All payments of deferred taxes shall be made to the director of revenue.

2. Subject to subsection 3 of this section, all or part of the deferred taxes and accrued interest may at any time be paid to the director by:

(1) The taxpayer or the spouse of the taxpayer;

(2) The next of kin of the taxpayer, heir at law of the taxpayer, child of the taxpayer or any person having or claiming a legal or equitable interest in the property.

3. A person listed in subdivision (2) of subsection 2 of this section may make such payments only if no objection is made by the taxpayer within thirty days after the director deposits in the mail notice to the taxpayer of the fact that such payment has been tendered.

4. Any payment made pursuant to this section shall be applied first against accrued interest and any remainder against the deferred taxes. Such payment does not affect the deferred tax status of the property. Unless otherwise provided by law, such payment does not give the person paying the taxes any interest in the property or any claim against the estate, in the absence of a valid agreement to the contrary.

5. The provisions of subsection 4 of this section notwithstanding, if any taxpayer in the deferral program pays part or all of the current year property tax liability in a timely manner, such payment shall be applied against the principal of the deferred taxes and then against any interest, if applicable.

6. When the deferred taxes and accrued interest are paid in full and the property is no longer subject to deferral, the director shall prepare and record in the county in which the property is located a satisfaction of deferred property tax lien.

135.073. 1. If the property on which taxes have been deferred is deeded over to the county at the conclusion of the foreclosure proceedings pursuant to chapter 141, RSMo, the county governing body shall order the county treasurer to pay to the director of revenue from the combined tax collections account the amount of deferred taxes and interest which were not collected by the director of revenue, which payment shall not exceed the amount collected by the foreclosure proceedings minus reasonable expenses incurred by the county as

a result of the foreclosure process.

2. Immediately upon payment, the county treasurer shall notify the tax collector of the amount paid to the director for the property which has been deeded to the county.

135.075. 1. If the taxpayer who claimed homestead property tax deferral dies, or if a spouse who continued the deferral pursuant to section 135.063 dies, the director of revenue may extend the time for payment of the deferred taxes and interest accruing with respect to the taxes becoming due and payable pursuant to subsection 2 of section 135.061 where:

(1) The homestead property becomes property of an individual or individuals:

(a) By inheritance or devise; or

(b) If the individual or individuals are heirs or devisees, as defined pursuant to section 472.010, RSMo, in the course of settlement of the estate;

(2) The individual or individuals commence occupancy of the property as a principal residence on or before February fifteenth of the calendar year following the calendar year of death; and

(3) The individual or individuals make application to the director for an extension of time for payment of the deferred taxes and interest prior to February fifteenth of the calendar year following the calendar year of death.

2. (1) Subject to subdivision (2) of this subsection, an extension granted pursuant to this section shall be for a period not to exceed five years after February fifteenth of the calendar year following the calendar year of death. The terms and conditions under which the extension is granted shall be in accordance with a written agreement entered into by the director and the individual or individuals.

(2) An extension granted pursuant to this section shall terminate immediately if:

(a) The homestead property is sold or otherwise transferred by any party to the extension agreement;

(b) All of the heirs or devisees who are parties to the extension agreement cease to occupy the property as a principal residence; or

(c) The homestead property, a manufactured structure or floating home, is moved out of the state.

3. If the director has reason to believe that the homestead property is not sufficient security for the deferred taxes and interest, the director may require the individual or individuals to furnish a bond conditioned upon payment of the amount extended in accordance with the terms of the extension. The bond shall not exceed an amount double the taxes with respect to which tax extension is granted.

4. During the period of extension, and until paid, the deferred taxes shall continue to accrue interest in the same manner and at the same rate as provided pursuant to subsection 3 of section 135.045. No interest shall accrue upon interest.

5. When any taxpayer who claimed homestead property tax deferral dies, the spouse, heirs and devisees, as defined pursuant to section 472.010, RSMo, shall within sixty days notify in writing the director of the taxpayer's death. Notification of the director by one of the aforementioned parties shall satisfy the requirements of this subsection.

135.077. Nothing in section 135.037 to 135.083 is intended to or shall be construed to:

(1) Prevent the collection, by foreclosure, of property taxes which become a lien against tax-deferred property;

(2) Defer payment of special assessments to benefitted property which assessments do not

appear on the assessment and tax roll;

(3) Affect any provision of any mortgage or other instrument relating to land requiring a person to pay property taxes.

135.079. After August 28, 2003, it shall be unlawful for any mortgage trust deed or land sale contract to contain a clause or statement which prohibits the owner from applying for the benefits of the deferral of homestead property taxes provided in sections 135.037 to 135.083. Any such clause or statement in a mortgage trust deed or land sale contract executed after August 28, 2003, shall be void.

135.083. 1. There is hereby established in the state treasury the "Senior Property Tax Deferral Revolving Account" to be used by the director of revenue for the purpose of making the payments to:

(1) County tax collectors of property taxes deferred for tax years beginning on or after January 1, 2003, as required by section 135.049;

(2) The director for expenses to administer the property tax and special assessment senior deferral programs.

2. The funds necessary to make payments pursuant to subsection 1 of this section shall be advanced annually to the director.

3. The senior property tax deferral revolving account may include a reserve for payment of department administrative expenses.

4. All sums of money received by the director of revenue pursuant to sections 135.037 to 135.083 as repayments of deferred property taxes including the interest accrued pursuant to subsection 3 of section 135.045 shall, upon receipt, be credited to the revolving account for the purposes set forth in sections 135.037 to 135.083 subject to appropriations.

5. If there is not sufficient money in the revolving account to make the payments required by subsection 1 of this section, an amount sufficient to make the required payments may be transferred by appropriations from the general revenue fund to the revolving account.

6. When the department determines that moneys in sufficient amounts are available in the revolving account, the director shall repay to the general revenue fund the amounts advanced pursuant to subsection 2 of this section or if no such transfer is made by the director, the general assembly may transfer excess funds from the revolving account to the general revenue fund. The moneys used to repay the general revenue fund pursuant to this section shall not be considered as part of the calculation of total state revenue. The provisions of section 33.080, RSMo, to the contrary notwithstanding, moneys in the revolving account shall not lapse to general revenue.

7. If there are insufficient funds in the general revenue to provide the necessary funding to the revolving account established in this section, the commissioner of administration may issue revenue bonds pursuant to sections 1 to 6 of this act."; and

Further amend said bill, page 8, Section 208.565, line 7, by inserting immediately after said line the following:

"**Section 1. As used in sections 1 to 6 of this act, the following words and phrases mean:**

(1) "Commissioner", the commissioner of administration;

(2) "Revenue bonds", bonds issued hereunder for the purposes herein authorized and payable, both as to principal and interest, solely and only out of the net income and revenues arising from the operation of the revolving account for which the bonds are issued after providing revenue for such revolving account;

(3) "Revolving account", the senior

property tax deferral revolving account established pursuant to section 135.083, RSMo.

Section 2. For the purpose of providing funds for the revolving account, the commissioner may issue and sell revenue bonds, as herein defined, in an amount not to exceed the estimated revenue required to reasonably maintain the revolving account, including costs necessarily incidental thereto. At the time of the issuance of the bonds, the commissioner shall pledge the net income and revenues of the revolving account to the payment of the bonds, both principal and interest, and shall covenant to fix, maintain and collect the reasonable rates and charges for the use of the revolving account that in the judgment of the commissioner will provide revenues sufficient to pay the reasonable cost of operating and maintaining the revolving account; to provide and maintain an interest and sinking fund in an amount adequate promptly to pay the principal of and interest on such bonds; to provide a reasonable reserve fund; and to provide a reasonable fund for depreciation.

Section 3. Any bonds issued under and pursuant to sections 1 to 6 of this act shall not be deemed to be an indebtedness of the state of Missouri or of the commissioner, or of the individual members of the office of administration, and shall not be deemed to be an indebtedness within the meaning of any constitutional or statutory limitation upon the incurring of indebtedness.

Section 4. 1. Bonds issued under and pursuant to the provisions of sections 1 to 6 of this act shall be of such denomination or denominations, shall bear such rate or rates of interest not to exceed fifteen percent per annum, and shall mature at such time or times within forty years from the date thereof, as the commissioner determines. The bonds may be either serial bonds or term bonds.

2. Serial bonds may be issued with or without the reservation of the right to call them for payment and redemption in advance of their maturity, upon the giving of such notice, and with or without a covenant requiring the payment of a premium in the event of such payment and redemption prior to maturity, as the commissioner determines.

3. Term bonds shall contain a reservation of the right to call them for payment and redemption prior to maturity at such time or times and upon the giving of such notice, and upon the payment of such premium, if any, as the commissioner determines.

4. The bonds, when issued, shall be sold at public sale for the best price obtainable after giving such reasonable notice of such sale as may be determined by the commissioner, but in no event shall such bonds be sold for less than ninety-eight percent of the par value thereof, and accrued interest. Any such bonds may be sold to the United States of America or to any agency or instrumentality thereof, at a price not less than par and accrued interest, without public sale and without the giving of notice as herein provided.

5. The bonds, when issued and sold, shall be negotiable instruments within the meaning of the law merchant and the negotiable instruments law, and the interest thereon shall be exempt from income taxes under the laws of the state of Missouri.

Section 5. 1. The revenue bonds issued pursuant to the provisions of sections 1 to 6 of this act may be refunded, in whole or in part, in any of the following circumstances:

(1) When any such bonds have by their terms become due and payable and there are not sufficient funds in the interest and sinking fund provided for their payment to pay such bonds and the interest thereon;

(2) When any such bonds are by their terms callable for payment and redemption in

advance of their date of maturity and are duly called for payment and redemption;

(3) When any such bonds are voluntarily surrendered by the holder or holders thereof for exchange for refunding bonds.

2. For the purpose of refunding any bonds issued hereunder, including refunding bonds, the commissioner may make and issue refunding bonds in the amount necessary to pay off and redeem the bonds to be refunded together with unpaid and past due interest thereon and any premium which may be due under the terms of the bonds, together also with the cost of issuing the refunding bonds, and may sell the same in like manner as is herein provided for the sale of revenue bonds, and with the proceeds thereof pay off, redeem and cancel the old bonds and coupons that have matured, or the bonds that have been called for payment and redemption, together with the past due interest and the premium, if any, due thereon, or the bonds may be issued and delivered in exchange for a like par value amount of bonds to refund which the refunding bonds were issued. No refunding bonds issued pursuant to the provisions of sections 1 to 6 of this act shall be payable in more than forty years from the date thereof or shall bear interest at a rate in excess of six percent per annum.

3. The refunding bonds shall be payable from the same sources as were pledged to the payment of the bonds refunded thereby and, in the discretion of the commissioner, may be payable from any other sources which under sections 1 to 6 of this act may be pledged to the payment of revenue bonds issued hereunder. Bonds of two or more issues may be refunded by a single issue of refunding bonds.

Section 6. The commissioner may prescribe the form, details and incidents of the bonds, and make the covenants that in the commissioner's judgment are advisable or necessary properly to secure the payment thereof; but the form, details, incidents and covenants shall not be inconsistent with any of the provisions of sections 1 to 6 of this act. Such bonds may have the seal of the commissioner impressed thereon or affixed thereto or imprinted or otherwise reproduced thereon. If such bonds shall be authenticated by the bank or trust company acting as registrar for such bonds by the manual signature of a duly authorized officer or employee thereof, the duly authorized officers of the commissioner executing and attesting such bonds, may all do so by facsimile signature provided such signatures have been duly filed as provided in the uniform facsimile signature of public officials law, sections 105.273 to 105.278, RSMo, when duly authorized by resolution of the commissioner and the provisions of section 108.175, RSMo, shall not apply to such bonds. The holder or holders of any bond or bonds issued hereunder or of any coupons representing interest accrued thereon may, by proper civil action either at law or in equity, compel the commissioner to perform all duties imposed upon him or her by the provisions of sections 1 to 6 of this act, including the making and collecting of sufficient rates and charges for the use of the project for which the bonds were issued, and also to enforce the performance of any and all other covenants made by the commissioner in the issuance of the bonds."; and

Further amend the title and enacting clause accordingly.

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

Senator Shields assumed the Chair.

President Maxwell assumed the Chair.

Senator Gross moved that **SS** for **SCS** for **HS** for **HCS** for **HBs 517**, **94**, **149**, **150** and **342**, as amended, be adopted, which motion prevailed.

On motion of Senator Gross, **SS** for **SCS** for **HS** for **HCS** for **HBs 517**, **94**, **149**, **150** and **342**, as

amended, was read the 3rd time and passed by the following vote:

YEAS—Senators

Bartle	Bland	Bray	Caskey
Cauthorn	Champion	Childers	Clemens
Coleman	Days	Dolan	Dougherty
Foster	Gibbons	Goode	Griesheimer
Gross	Jacob	Kennedy	Kinder
Loudon	Nodler	Quick	Russell
Scott	Shields	Steelman	Stoll
Vogel	Wheeler	Yeckel—31	

NAYS—Senators—None

Absent—Senator Mathewson—1

Absent with leave—Senators

DePasco Klindt—2

The President declared the bill passed.

The emergency clause was adopted by the following vote:

YEAS—Senators

Bartle	Bland	Bray	Caskey
Cauthorn	Champion	Childers	Clemens
Coleman	Days	Dolan	Dougherty
Foster	Gibbons	Goode	Griesheimer
Gross	Jacob	Kennedy	Kinder
Loudon	Nodler	Quick	Russell
Scott	Shields	Steelman	Stoll
Vogel	Wheeler	Yeckel—31	

NAYS—Senators—None

Absent—Senator Mathewson—1

Absent with leave—Senators

DePasco Klindt—2

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

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

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

REPORTS OF STANDING COMMITTEES

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 were referred **HCS** for **HB 322**; **SS** for **SCS** for **HB 598**, as amended; and **SS** for **HB 198**, as amended, begs leave to report that it has considered the same and recommends that the bills do pass.

HOUSE BILLS ON THIRD READING

Senator Dolan moved that **SS** for **SCS** for **HB 598**, as amended, be taken up for third reading and final passage, which motion prevailed.

On motion of Senator Dolan, **SS** for **SCS** for **HB 598**, as amended, was read the 3rd time and passed by the following vote:

YEAS—Senators

Bartle	Bland	Bray	Caskey
Cauthorn	Champion	Childers	Clemens
Coleman	Days	Dolan	Dougherty
Foster	Gibbons	Goode	Griesheimer
Gross	Jacob	Kennedy	Kinder
Loudon	Nodler	Quick	Russell
Scott	Shields	Steelman	Stoll
Vogel	Wheeler	Yeckel—31	

NAYS—Senators—None

Absent—Senator Mathewson—1

Absent with leave—Senators

DePasco Klindt—2

The President declared the bill passed.

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

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

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

Senator Nodler moved that **SS** for **HB 198**, as amended, be taken up for third reading and final passage, which motion prevailed.

On motion of Senator Nodler, **SS** for **HB 198**, as amended, was read the 3rd time and passed by the following vote:

YEAS—Senators

Bartle	Bland	Bray	Caskey
Cauthorn	Champion	Childers	Clemens
Coleman	Days	Dolan	Dougherty
Foster	Gibbons	Goode	Griesheimer
Gross	Jacob	Kennedy	Kinder
Loudon	Nodler	Quick	Russell
Scott	Shields	Steelman	Stoll
Vogel	Wheeler	Yeckel—31	

NAYS—Senators—None

Absent—Senator Mathewson—1

Absent with leave—Senators

DePasco Klindt—2

The President declared the bill passed.

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

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

Senator Gibbons 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 taken up and adopted the Conference Committee Report on **HCS** for **SCS** for **SB 69** and has taken up and passed **CCS** for **HCS** for **SCS** for **SB 69**.

Bill ordered enrolled.

Also,

Mr. President: I am instructed by the House of Representatives to inform the Senate that the House refuses to adopt the **SS**, as amended, for **HCS** for **HB 73** and request the Senate to recede from its position and take up and pass **HCS** for **HB 73**.

Also,

Mr. President: I am instructed by the House of Representatives to inform the Senate that the House has taken up and passed **HS** for **HCS** for **SB 184**, entitled:

An Act to repeal sections 43.500, 43.503, 43.506, 43.521, 43.527, 43.530, 43.540, 43.543, 195.505, 210.903, 210.909, 210.922, 210.937, 221.320, 221.340, 221.350, 589.400, 589.407, 589.414, 610.120, 610.123 and 630.170, and to enact in lieu thereof twenty-three new sections relating to criminal records, with penalty provisions.

With House Amendments Nos. 1, 2, 4, 5 and 7.

HOUSE AMENDMENT NO. 1

Amend House Substitute for House Committee Substitute for Senate Bill No. 184, Page 10, Section 43.503, Line 20 of said page, by deleting the numeral "43.530" and by inserting in lieu thereof the following: "[43.530] **43.543**"; and

Further amend said bill, Page 11, Section 43.506, Line 10 of said page, by deleting the numeral "43.530" and by inserting in lieu thereof the following: "[43.530] **43.543**"; and

Further amend said bill, Page 11, Section 43.506, Line 19 of said page, by deleting the numeral "43.530" and by inserting in lieu thereof the following: "[43.530] **43.543**"; and

Further amend said bill, Page 12, Section 43.527, Line 11 of said page, by deleting the numeral "43.530" and by inserting in lieu thereof the following: "[43.530] **43.543**"; and

Further amend said bill, by amending sectional references and intersectional references accordingly.

HOUSE AMENDMENT NO. 2

Amend House Substitute for House Committee Substitute for Senate Bill No. 184, Page 12, Section 43.527, Line 12 of said page, by removing the bracket from before "federal" and after "Missouri"; and

Further amend said section, Page 12, Line 17, by deleting the words "**political subdivisions or**"; and

Further amend said section, Page 12, Line 18, by deleting the following: "**There shall be no charge for the information requested by Missouri state agencies screening their state employees or applicants for state employment.**"; and

Further amend said bill, Page 22, Section 43.543, Line 18 of said page, by inserting after the word "**paid**" the words "**by the applicant or**".

HOUSE AMENDMENT NO. 4

Amend House Substitute for House Committee Substitute for Senate Bill No. 184, Page 31, Section 589.400, Line 25, by deleting "2002" and inserting the following: "**2003**".

HOUSE AMENDMENT NO. 5

Amend House Substitute for House Committee Substitute for Senate Bill No. 184, Page 27, Section 210.922, Line 23, by inserting after said line the following:

"[210.937. The provisions of sections 210.900 to 210.936 shall terminate on January 1, 2004.]";

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

HOUSE AMENDMENT NO. 7

Amend House Substitute for House Committee Substitute for Senate Bill No. 184, Page 10, Section 43.503, Line 7, by inserting after the word "delay" the following: "**and within thirty days**".

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 **SCR 11**.

With House Amendments Nos. 1 and 2.

HOUSE AMENDMENT NO. 1

Amend Senate Concurrent Resolution No. 11, in the third "Whereas clause", by deleting the words "the Department of Health and Senior Services, in conjunction with"

In addition, deleting the clause "The Department of Health and Senior Services" throughout SCR 11 and inserting in lieu thereof the clause "**The Department of Insurance**."

In the third "Whereas clause" by deleting the words "any teaching hospital under the control of public universities in the state shall" in said clause and inserting in lieu thereof the words "**any appropriate health care institution may**".

HOUSE AMENDMENT NO. 2

Amend Senate Concurrent Resolution No. 11, Line 6 of 1st Resolved clause, by amending said resolution in the first resolved clause, by inserting immediately after the word "Program" the following:

"**If, after the evaluation called for in this resolution, the department concludes such pilot program is beneficial to the health care system of Missouri.**"

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 **SCR 8**.

Concurrent resolution ordered enrolled.

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 **HB 286** 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 **SCS** for **SB 307**.

Emergency clause adopted.

Bill ordered enrolled.

PRIVILEGED MOTIONS

Senator Kinder moved that the Senate refuse to concur in **HCS** for **SB 12** and request the House to recede from its position or, failing to do so, grant the Senate a conference thereon, which motion prevailed.

Senator Shields moved that the Senate refuse to recede from its position on **SS** for **SCS** for **HB 286**, as amended, and request the House to take up and pass the bill, which motion prevailed.

Senator Goode moved that the Senate refuse to recede from its position on **SCS** for **HS** for **HCS** for **HB 228**, as amended, and grant the House a conference thereon, which motion prevailed.

Senator Yeckel moved that the Senate refuse to recede from its position on **SS** for **HCS** for **HB 73**, as amended, and request the House grant the Senate a conference thereon, which motion prevailed.

Senator Gross moved that the conferees on **HS** for **HCS** for **SS No. 2** for **SCS** for **SBs 248**, **100**, **118**, **233**, **247**, **341** and **420**, as amended, be allowed to exceed the differences, 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 **HCS** for **HB 228**, as amended: Senators Goode, Mathewson, Bartle, Shields and Steelman.

RESOLUTIONS

Senator Cauthorn offered Senate Resolution No. 1001, regarding Shea Murphy, Hannibal, which was adopted.

Senator Stoll offered Senate Resolution No. 1002, regarding Jacob Rodney Fajen, Columbia, which was adopted.

Senator Vogel offered Senate Resolution No. 1003, regarding Sandra Comer, Eldon, which was adopted.

Senator Vogel offered Senate Resolution No. 1004, regarding Barbara Ann Walter, California, which was adopted.

Senator Dolan offered Senate Resolution No. 1005, regarding James Weber, Wentzville, which was adopted.

INTRODUCTIONS OF GUESTS

Senator Loudon introduced to the Senate, the Physician of the Day, Dr. Steve Slocum, M.D., St. Louis.

Senator Loudon introduced to the Senate, Karrie Peters, and fourth grade students from Remington Traditional School, Maryland Heights; and Josh Gross, Alexis Sanders, Daniel Martin, Bradley Ridings, and Erin Turpin were made honorary pages.

On motion of Senator Gibbons, the Senate adjourned until 9:00 a.m., Thursday, May 15, 2003.

SENATE CALENDAR

SEVENTY-FOURTH DAY–THURSDAY, MAY 15, 2003

FORMAL CALENDAR

THIRD READING OF SENATE BILLS

SB 564-Gross

SENATE BILLS FOR PERFECTION

SB 414-Steelman, with SCS
SB 454-Coleman and Dougherty, with SCS
SJR 4-Cauthorn

HOUSE BILLS ON THIRD READING

HB 189-Parker, et al (Klindt/Vogel)
HS for HCS for HB 121-Portwood, with SCS (Shields)
HCS for HB 640 (Days)
HCS for HB 688, with SCS (Kinder)
HB 593-Deeken, et al (Loudon)
HS for HCS for HB 455-Thompson, with SCS (Kinder)
HB 697-Mayer, et al, with SCS (Bartle)
HS for HB 267-Smith (118), with SCS (Griesheimer)
HCS for HB 322

INFORMAL CALENDAR

SENATE BILLS FOR PERFECTION

SB 18-Yeckel and Cauthorn, with SCS & SS for SCS (pending)
SB 24-Steelman, with SCS & SS for SCS (pending)
SB 27-Gibbons, with SCS
SB 33-Loudon and Scott, with SS (pending)
SB 51-Shields, with SS, SS for SS & SA 1 (pending)
SB 112-Loudon, with SCS
SBs 125 & 290-Goode, with SCS & SA 6 (pending)
SB 209-Steelman, et al, with SCS
SB 217-Champion and Clemens, with SS (pending)
SB 241-Yeckel, with SCS
SB 253-Steelman, et al, with SCS, SS for SCS & SA 1 (pending)
SB 300-Cauthorn, et al, with SCS
SBs 312, 49, 111, 113, 191, 206, 263, 404, 409, 418, 538, 550 & 584-Dolan, et al, with SCS
SBs 343, 89, 134, 171, 240, 261, 331, 368, 369, 419, 484 & 581-Dolan, with SCS
SB 347-Loudon, et al, with SCS
SB 362-Steelman and Gross
SBs 381, 384, 432 & 9-Dolan, with SCS & SS for SCS (pending)
SBs 415, 88, 200, 223, 413, 523, 589 & 626-Yeckel, with SCS
SB 416-Yeckel, with SCS
SB 434-Yeckel, with SCS
SB 436-Klindt, with SCS, SS for SCS & SA 2 (pending)
SB 446-Bartle, with SCS
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 685-Gibbons, et al, with SCS
SB 693-Klindt, et al, with SCS
SJR 13-Stoll

HOUSE BILLS ON THIRD READING

HB 91-Mayer, with SCS (Steelman)
HCS for HB 144, with SCS (Vogel)
HCS for HB 185, with SCS (Gross)
HS for HB 197-Johnson (47), with SCS, SS for SCS & point of order (pending) (Shields)
HS for HCS for HB 257-Munzlinger, with SCS (Cauthorn)
HCS for HB 288, with SCS (Shields)
HS for HCS for HB 321-Wilson (130), with SS & SS for SS (pending) (Loudon)
HB 327-Lipke, with SCS (Dolan)
HB 444-Jackson, with SCS, SS for SCS, SS for SS for SCS, SA 1 & SSA 2 for SA 1 (pending) (Yeckel)
HB 445-Portwood, et al, with SCS (Loudon)
HS for HB 481-Crowell (Bartle)
HS for HCS for HB 564-Behnen, with SCS (Yeckel)

CONSENT CALENDAR

Senate Bills

Reported 2/10

SB 62-Caskey

Reported 3/13

SB 694-Klindt
SB 490-Dolan

House Bills

Reported 4/14

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

SENATE BILLS WITH HOUSE AMENDMENTS

SS#2 for SS for SCS for SB 2-Russell, with HS, as amended
SS for SCS for SB 30-Gross, et al, with HCS, as amended
SB 39-Cauthorn, et al, with HCS, as amended
SB 184-Bartle and Scott, with HS for HCS, as amended
SB 243-Yeckel, with HCS
SS for SCS for SB 346-Yeckel, with HCS
SCS for SB 358-Shields, with HCS
SB 370-Foster, with HCS
SCS for SB 385-Scott, with HCS
SB 470-Bartle, with HCS
SB 521-Gross, with HCS
SCS for SB 592-Foster, with HCS
SB 668-Cauthorn and Klindt, with HS for HCS, as amended
SCS for SB 675-Gross, et al, with HCS, as amended
SS#2 for SB 695-Goode and Russell, with HS, as amended

BILLS IN CONFERENCE AND BILLS CARRYING REQUEST MESSAGES

In Conference

SS for SCS for SB 36-Klindt/Steelman, with HCS, as amended
(Further conference granted)
SB 173-Quick, with HS for HCS, as amended
SB 186-Cauthorn, with HCS
(Senate adopted CCR and passed CCS)
SCS for SB 199-Childers, with HS for HCS, as amended
SCS for SB 246-Steelman, et al, with HS for HCS, as amended
SS#2 for SCS for SBs 248, 100, 118, 233, 247, 341 & 420-Gross, with HS for HCS, as amended
SS for SCS for SB 298-Griesheimer, with HCS, as amended
(Senate adopted CCR and passed CCS)
SCS for SBs 299 & 40- Champion, et al, with HS, as amended
(Senate adopted CCR and passed CCS)
SCS for SB 379-Champion, with HCS
(Senate adopted CCR and passed CCS)
SB 394-Bartle, with HCS, as amended
(Senate adopted CCR and passed CCS)

SB 552-Yeckel, with HCS
(Senate adopted CCR#2 and passed bill)
SCS for SB 686-Russell, with HS for HCS, as amended
HS for HCS for HB 228-Pearce, with SCS, as amended (Goode)
HB 412-Goodman, et al, with SS, as amended (Childers)
HCS for HB 427, with SCS (Bartle)
(House adopted CCR and passed CCS)
HS for HB 470-Mayer, with SS for SCS, as amended (Bartle)
HCS for HB 613, with SCS, as amended (Bartle)
(House adopted CCR and passed CCS)
HS for HB 668-Crawford, with SS for SCS, as amended (Dolan)
HS for HCS for HBs 679 & 396-Hanaway, with SS, as amended (Shields)

Requests to Recede or Grant Conference

SB 12-Kinder and Scott, with HCS
(Senate requests House recede or grant conference)
HCS for HB 73, with SS, as amended (Yeckel)
(Senate requests House grant conference)
HB 286-Bearden, with SS for SCS, as amended (Shields)
(Senate requests House take up and pass the bill)

RESOLUTIONS

SCR 15-Dolan, et al
SCR 11-Steelman, with HA 1 & HA 2

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
SCR 18-Mathewson and Steelman
SR 900-Mathewson

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