

Journal of the Senate

FIRST REGULAR SESSION

SIXTY-SEVENTH DAY—TUESDAY, MAY 10, 2005

The Senate met pursuant to adjournment.

Shields
Wheeler

Stouffer
Wilson—34

Taylor

Vogel

Senator Bartle in the Chair.

Reverend Carl Gauck offered the following prayer:

Absent—Senators—None

“You will keep him in perfect peace, whose mind is stayed on You.” (Isaiah 26:3)

Absent with leave—Senators—None

Heavenly Father, we know that with all the demands on us and time away from those we love, we are not as centered as we have need. Help us to remain centered in You so that our lives may have the peace it needs to make effective decisions and be about the things You would have us do. In Your Holy Name we pray. Amen.

Vacancies—None

The Lieutenant Governor was present.

The Pledge of Allegiance to the Flag was recited.

REPORTS OF STANDING COMMITTEES

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

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

Mr. President: Your Committee on Governmental Accountability and Fiscal Oversight, to which was referred **HCS** for **HBs 518, 288, 418** and **635**, with **SCS**; and **SS** for **HCS** for **HB 334**, begs leave to report that it has considered the same and recommends that the bills do pass.

The Journal of the previous day was read and approved.

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

HOUSE BILLS ON THIRD READING

Present—Senators

Alter	Barnitz	Bartle	Bray
Callahan	Cauthorn	Champion	Clemens
Coleman	Crowell	Days	Dolan
Dougherty	Engler	Gibbons	Graham
Green	Griesheimer	Gross	Kennedy
Klindt	Koster	Loudon	Mayer
Nodler	Purgason	Ridgeway	Scott

Senator Crowell moved that **SS** for **HCS** for **HB 334**, as amended, be called from the Informal Calendar and again taken up for 3rd reading and final passage, which motion prevailed.

SS for **HCS** for **HB 334**, as amended, was read the 3rd time and passed by the following vote:

YEAS—Senators

Alter	Barnitz	Bartle	Bray
Callahan	Cauthorn	Champion	Clemens
Coleman	Crowell	Days	Dolan
Dougherty	Engler	Gibbons	Graham
Green	Griesheimer	Gross	Kennedy
Klindt	Koster	Loudon	Mayer
Nodler	Purgason	Ridgeway	Scott
Shields	Stouffer	Taylor	Vogel
Wheeler	Wilson—34		

NAYS—Senators—None

Absent—Senators—None

Absent with leave—Senators—None

Vacancies—None

The President declared the bill passed.

The emergency clause was adopted by the following vote:

YEAS—Senators

Alter	Barnitz	Bartle	Bray
Callahan	Cauthorn	Champion	Clemens
Coleman	Crowell	Days	Dolan
Dougherty	Engler	Gibbons	Graham
Green	Griesheimer	Gross	Kennedy
Klindt	Koster	Loudon	Mayer
Nodler	Purgason	Ridgeway	Scott
Shields	Stouffer	Taylor	Vogel
Wheeler	Wilson—34		

NAYS—Senators—None

Absent—Senators—None

Absent with leave—Senators—None

Vacancies—None

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

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

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

HCS for HBs 518, 288, 418 and 635, with SCS, entitled:

An Act to repeal sections 210.104, 210.106, 210.107, 304.015, 304.016, 304.155, 304.580, 307.178, and 476.385, RSMo, and to enact in lieu thereof eleven new sections relating to highway safety, with penalty provisions and an effective date.

Was taken up by Senator Dolan.

SCS for HCS for HBs 518, 288, 418 and 635, entitled:

SENATE COMMITTEE SUBSTITUTE FOR
HOUSE COMMITTEE SUBSTITUTE FOR
HOUSE BILLS NOS. 518, 288, 418 and 635

An Act to repeal sections 210.104, 210.106, 210.107, 301.010, 302.510, 302.530, 304.015, 304.016, 304.155, 304.281, 304.351, 304.580, 307.178, 476.385, 577.023, 577.041, RSMo, section 302.302 as enacted by house substitute for senate substitute for senate committee substitute for senate bills nos. 1233, 840 & 1043, ninety-second general assembly, second regular session, and section 302.302 as enacted by conference committee substitute no. 2 for senate committee substitute for house committee substitute for house bill nos. 302 & 38, ninety-first general assembly, first regular session, and to enact in lieu thereof eighteen new sections relating to the operation of motor vehicles, with penalty provisions.

Was taken up.

Senator Dolan moved that **SCS for HCS for HBs 518, 288, 418 and 635** be adopted.

Senator Dolan offered **SS for SCS for HCS for HBs 518, 288, 418 and 635**, entitled:

SENATE SUBSTITUTE FOR
SENATE COMMITTEE SUBSTITUTE FOR
HOUSE COMMITTEE SUBSTITUTE FOR
HOUSE BILLS NOS. 518, 288, 418, & 635

An Act to repeal sections 210.104, 210.106, 210.107, 301.010, 302.510, 302.530, 304.015, 304.016, 304.155, 304.281, 304.351, 304.580, 307.178, 476.385, 577.023, 577.041, RSMo,

section 302.302 as enacted by house substitute for senate substitute for senate committee substitute for senate bill nos. 1233, 840 & 1043, ninety-second general assembly, second regular session, and section 302.302 as enacted by conference committee substitute no. 2 for senate committee substitute for house committee substitute for house bill nos. 302 & 38, ninety-first general assembly, first regular session, and to enact in lieu thereof eighteen new sections relating to the operation of motor vehicles, with penalty provisions.

Senator Dolan moved that **SS** for **SCS** for **HCS** for **HBs 518, 288, 418 and 635** be adopted.

Senator Cauthorn offered **SA 1**:

SENATE AMENDMENT NO. 1

Amend Senate Substitute for Senate Committee Substitute for House Committee Substitute for House Bills Nos. 518, 288, 418 and 635, Page 16, Section 301.010, Line 10, by inserting after all of said line the following:

“302.020. 1. Unless otherwise provided for by law, it shall be unlawful for any person, except those expressly exempted by section 302.080, to:

(1) Operate any vehicle upon any highway in this state unless the person has a valid license;

(2) Operate a motorcycle or motortricycle upon any highway of this state unless such person has a valid license that shows the person has successfully passed an examination for the operation of a motorcycle or motortricycle as prescribed by the director. The director may indicate such upon a valid license issued to such person, or shall issue a license restricting the applicant to the operation of a motorcycle or motortricycle if the actual demonstration, required by section 302.173, is conducted on such vehicle;

(3) Authorize or knowingly permit a motorcycle or motortricycle owned by such person or under such person's control to be driven upon any highway by any person whose license does not indicate that the person has passed the examination for the operation of a motorcycle or motortricycle or has been issued an instruction permit therefor;

(4) Operate a motor vehicle with an instruction permit or license issued to another person.

2. Every person **who is under twenty-five years of age** operating or riding as a passenger on any motorcycle or motortricycle, as defined in section 301.010, RSMo, upon any highway of this state shall wear protective headgear at all times the vehicle is in motion. The protective headgear shall meet reasonable standards and specifications established by the director.

3. Notwithstanding the provisions of section 302.340 any person convicted of violating subdivision (1) or (2) of subsection 1 of this section is guilty of a class A misdemeanor. Any person convicted a third or subsequent time of violating subdivision (1) or (2) of subsection 1 of this section is guilty of a class D felony. Notwithstanding the provisions of section 302.340, violation of subdivisions (3) and (4) of subsection 1 of this section is a class C misdemeanor and the penalty for failure to wear protective headgear as required by subsection 2 of this section is an infraction for which a fine not to exceed twenty-five dollars may be imposed. Notwithstanding all other provisions of law and court rules to the contrary, no court costs shall be imposed upon any person due to such violation. No points shall be assessed pursuant to section 302.302 for a failure to wear such protective headgear.”; and

Further amend the title and enacting clause accordingly.

Senator Cauthorn moved that the above amendment be adopted.

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

SENATE AMENDMENT NO. 1 TO

SENATE AMENDMENT NO. 1

Amend Senate Amendment No. 1 to Senate Substitute for Senate Committee Substitute for House Committee Substitute for House Bills Nos. 518, 288, 418 and 635, Page 2, Section 302.020,

Line 4, by striking the word “twenty-five” and insert in lieu thereof the following: “**eighty-five**”

Further amend the title and enacting clause accordingly.

Senator Dougherty moved that the above amendment be adopted.

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

SA 1 was again taken up.

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

Senator Shields announced that photographers from KRCG-TV were given permission to take pictures in the Senate Chamber today.

Senator Kennedy offered **SA 2**:

SENATE AMENDMENT NO. 2

Amend Senate Substitute for Senate Committee Substitute for House Committee Substitute for House Bill Nos. 518, 288, 418 and 635, Page 43, Section 304.281, Line 16 of said page, by inserting immediately after said line the following:

“304.282. 1. Wherever used in this section the following terms mean:

(1) “An automated traffic control system”, a device with one or more motor vehicle sensors working in conjunction with a traffic control signal to automatically produce two or more photographs, two or more micrographs, a videotape or other recorded images of a motor vehicle entering an intersection in violation of red signal indication authorized under section 304.281;

(2) “Owner”, the registered owner of a motor vehicle or lessee of a motor vehicle under a lease of six months or more as shown by the records of the department of revenue.

2. Any automated traffic control system or any device which is part of that system, as described in subsection 1 of this section, installed on a street or highway which is a part

of a city not within a county's traffic light system shall meet requirements established by the state of Missouri. Any automated traffic control system installed on a street located in a city not within a county shall meet standards established by the city not within a county and shall be consistent with any standards set by the Missouri department of transportation.

3. A city not within a county may adopt ordinances for the civil enforcement of this section by means of an automated traffic control system as described in subsection 1 of this section. In the event that a city not within a county adopts an ordinance under this section, a violation of a red signal at a location where an automated traffic control system is in operation shall not be an infraction. An ordinance authorized by this subsection shall provide that:

(1) The owner of the vehicle shall be given notice of the violation within thirty days of the date of the violation. The notice shall include copies of any photographs, micrographs, videotape or other recorded images produced by the automated traffic control system;

(2) The owner of the vehicle shall be responsible for a violation unless the owner can furnish evidence that the vehicle was, at the time of the violation, in the care, custody, or control of another person. The owner of the vehicle shall not be responsible for the violation if the owner of the vehicle, within thirty days after notification of the violation, furnishes the officials or agents of the city not within a county that issued the citation either of the following:

(a) An affidavit stating that the vehicle involved was, at the time, in the care, custody, or control of another person. Evidence may include, but is not limited to, the name and address of the person or company who had the care, custody, and control of the vehicle;

(b) An affidavit stating the vehicle involved was, at the time, stolen. The affidavit must be supported with evidence that supports the affidavit, including insurance or police report

information;

(3) In such an instance the owner, subject to the penalties for perjury, shall submit conclusive evidence in an affidavit authorized in subdivision (2) of this subsection setting forth the name, address, and other pertinent information of the person who leased, rented, or otherwise had care, custody, or control of the motor vehicle at the time of the alleged violation, the nonjudicial administrative hearing may terminate the prosecution of the citation issued to the owner, and issue a citation to the person clearly identified in the affidavit as the operator of the motor vehicle at the time of the violation;

(4) The registered owner of the vehicle shall not be responsible for the violation, if notice of the violation is given to the registered owner of the vehicle more than thirty days after the violation.

4. If a violation detected by an automatic traffic control system involves a vehicle that is registered in the name of a rental, leasing, or fleet company and the vehicle is rented, leased, or the use of such vehicle is otherwise granted to another person at the time the violation occurred, the rental, leasing, or fleet company may rebut the presumption by providing the city not within a county with a copy of the rental, lease, or other agreement in effect at the time the violation occurred. The company shall not be liable for the violation, unless prior notice of the violation has been given to that company under subsection 3 of this section and the company fails to provide a copy of the rental, lease, or employment agreement within thirty days of receipt of such notice.

5. Any automated traffic control system on a street or highway must be identified by appropriate advance warning signs conspicuously posted not more than three hundred feet from the location of the automated traffic control system location. All advance warning signs shall be approved by the

department of transportation in conjunction with the city not within a county authorized to install automated traffic control systems.

6. A violation detected by an automated traffic control system shall be deemed a noncriminal violation for which a civil penalty of fifty dollars shall be assessed, and for which no points authorized by section 302.302, RSMo, shall be assigned to the owner or driver of the vehicle. A person who possesses a commercial drivers license or operates a commercial motor vehicle at the time of the violation, however, shall have such conviction posted or affixed on his or her driver's record in order to ensure compliance with Title 49, Code of Federal Regulations, Part 384, as amended.

7. The owner of the vehicle shall be issued a citation which shall clearly state the manner in which the violation may be challenged and the owner shall comply with the directions on the citation. The citation must also include instructions on how to dispose of the violation through appearance before the nonjudicial administrative hearing or payment of the fine and costs. The citation shall be processed by officials or agents of the city not within a county and shall be forwarded by personal service or first-class mail to the address given on the motor vehicle registration. If the owner fails to pay the civil penalty or to respond to the citation within the time period specified on the citation, the owner shall have waived the right to contest responsibility for the violation, and shall be subject to a civil penalty not to exceed one hundred dollars. The city not within a county may establish procedures for the collection of these penalties and may enforce the penalties by civil action in the nature of the debt.

8. The citation instructions shall inform the owner of the vehicle that, when responding to the citation, the owner shall provide any driver's license number, commercial or noncommercial, issued in the owner's name. If, upon receipt, the record reveals that the owner

of the vehicle possesses a commercial driver's license, the city not within a county shall, upon conviction, notify the department of revenue of the conviction. The department of revenue shall record such conviction as prescribed by law.

9. The city not within a county shall institute a nonjudicial administrative hearing process to review objections to citations or penalties issued or assessed under this section.

10. The city not within a county that establishes an automated traffic control system may also enter into an agreement or agreements for the purpose of compensating a private vendor to perform operational and administrative tasks associated with the use of automated traffic control systems. Any compensation paid to a private vendor shall not be based upon a contingency basis nor shall such compensation be based upon revenues generated from the use of such system. The city not within a county may enter into an agreement with the department of revenue for the purpose of obtaining relevant records regarding vehicle owners in order for the city not within a county to prepare and mail summonses.

11. Photographs, micrographs, videotape, or other recorded images produced by an automated traffic control system that are provided to governmental and law enforcement agencies for the purposes of this section shall be confidential.

12. One year following the adoption of an ordinance by a city not within a county described in subsection 3 of this section, the department of public safety shall issue a report as to the effectiveness of the use of automated traffic control systems. The report shall include, but not be limited to, recommendations of whether such a system shall be instituted on a statewide basis. The report shall be delivered to the individual members of the general assembly.”; and

Further amend the title and enacting clause

accordingly.

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

Senator Bray offered SA 3:

SENATE AMENDMENT NO. 3

Amend Senate Substitute for Senate Committee Substitute for House Committee Substitute for House Bill No. 518, 288, 418 and 635, Page 74, Section 577.041, Line 13, by inserting after said line all of the following:

“Section 1. In order for a person twenty-five years of age or older to ride without protective headgear, such person shall obtain an insurance policy providing at least fifty thousand dollars in medical benefits for injuries incurred as a result of a crash while operating or riding a motorcycle or motortricycle and a liability insurance policy providing liability coverage on account of accidents arising out of the ownership, maintenance or use of a motorcycle or motortricycle in the amount of not less than one hundred thousand dollars because of bodily injury to or death of one person in any one accident and, subject to said limit for one person, to a limit of not less than two hundred thousand dollars because of bodily injury to or death of two or more persons in any one accident, and, if the accident has resulted in injury to or destruction of property, to a limit of not less than fifty thousand dollars because of injury to or destruction of property of others in any one accident. The director of the department of revenue shall issue such person submitting proof of insurance meeting the requirements of this subsection a driver’s license, if otherwise qualified under this chapter, with a sticker or other insignia indicating proof of insurance. In addition, the person shall be issued a set of stickers to be placed upon the person’s registration plates. A person failing to display such stickers shall not be exempt from the penalties authorized by subsection 3 of this section. The cost of such

stickers shall be paid by the person to whom the stickers are issued.”; and

Further amend the title and enacting clauses accordingly.

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

Senator Nodler offered SA 4:

SENATE AMENDMENT NO. 4

Amend Senate Substitute for Senate Committee Substitute for House Committee Substitute for House Bills Nos. 518, 288, 418 and 635, Page 2, Section A, Line 6, by inserting after said line the following:

“227.374. The portion of highway 71 in Newton County from Iris Road to highway 86 shall be designated the “James W. Minton, Jr. Memorial Highway”. The department of transportation shall erect and maintain appropriate signs commemorating this portion of highway. Costs for such designation shall be paid for by the family of James W. Minton, Jr.”; and

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

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

Senator Ridgeway offered SA 5:

SENATE AMENDMENT NO. 5

Amend Senate Substitute for Senate Committee Substitute for House Committee Substitute for House Bill No. 518, 288, 418 and 635, Page 16, Section 301.010, Line 10, of said page, by inserting after all of said line the following:

“302.289. 1. Any person or towing company directed by law enforcement to remove or tow abandoned property from public property under section 304.155, RSMo, may, within thirty days, but not more than forty-five days after the removal of such property, file an

affidavit with the department of revenue attesting that such person or towing company has removed abandoned property pursuant to section 304.155, RSMo, and has incurred costs associated with the removal of the abandoned property. In addition to filing an affidavit, the person or towing company shall submit an application, in a format prescribed by the director of the department of revenue, which shall include the following information:

(1) The name and address of the person or tow company that removed the abandoned property pursuant to section 304.155, RSMo;

(2) The date the person or tow company performed a law enforcement authorized tow of abandoned property under section 304.155, RSMo;

(3) An itemized accounting of the reasonable towing and storage charges associated with removing the abandoned property; and

(4) Any other relevant information the director of the department of revenue may prescribe by rule.

2. The application shall also be accompanied by a copy of the crime inquiry and inspection report required to be retained by subsection 7 of section 304.155, RSMo. The applicant shall also attest that the towing company has complied with all procedural requirements outlined in sections 304.155 to 304.158, RSMo.

3. Within five business days of receiving the application submitted under subsection 1 of this section, the director of the department of revenue, or the director's designee, shall send notice to the registered owner of the abandoned motor vehicle, as revealed by the department's records, that a claim for reasonable towing and storage charges has been filed with the department. The notice shall further state that if the registered owner of the abandoned motor vehicle does not provide satisfactory proof to

the department that such charges have been satisfied within thirty days of receiving the notice, the department shall suspend the owner's driver's license or driving privileges and any motor vehicle registrations registered in the owner's name. The notice of suspension shall be mailed to the registered owner at the last known address shown on the department's records. The notice of suspension is deemed received three days after mailing. The notice of suspension shall clearly specify the reason and statutory grounds for the suspension and the effective date of the suspension, the right of the person to request a hearing, the procedure for requesting a hearing, and the date by which that request for a hearing must be made. If the request for a hearing is received by the department prior to the effective date of the suspension, the effective date of the suspension will be stayed until a final order is issued following the hearing.

4. The suspension shall become effective thirty days after the registered owner of the abandoned motor vehicle is deemed to have received the notice as provided in subsection 3 of this section. The period of the suspension shall continue until the registered owner of the abandoned motor vehicle submits proof that he or she has satisfied all reasonable towing and storage charges associated with the abandonment of such property.

5. The director shall promulgate rules and regulations necessary to implement the provisions of this section. 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, 2005, shall be invalid and void.

6. As used in this section, "reasonable storage charges" shall not exceed the charges for motor vehicles which have been towed with the consent of the owner on a negotiated basis. For any application submitted pursuant to this section, reasonable storage charges shall not exceed ninety days."; and

Further amend the title and enacting clause accordingly.

Senator Ridgeway moved that the above amendment be adopted.

Senator Ridgeway requested that SA 5 be printed and withdrawn, which request was granted.

Senator Dolan moved that SS for SCS for HCS for HBs 518, 288, 418 and 635, as amended, be adopted, which motion prevailed.

On motion of Senator Dolan, SS for SCS for HCS for HBs 518, 288, 418 and 635, as amended, was read the 3rd time and passed by the following vote:

YEAS—Senators			
Alter	Barnitz	Bartle	Callahan
Cauthorn	Champion	Clemens	Crowell
Dolan	Engler	Gibbons	Griesheimer
Gross	Kennedy	Klindt	Koster
Loudon	Mayer	Nodler	Purgason
Ridgeway	Scott	Shields	Stouffer
Taylor	Vogel—26		

NAYS—Senators			
Bray	Coleman	Days	Dougherty
Graham	Wheeler	Wilson—7	

Absent—Senator Green—1

Absent with leave—Senators—None

Vacancies—None

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

HCS for HB 209, with **SCS**, entitled:

An Act to amend chapters 71 and 92, RSMo, by adding thereto nine new sections relating to assessment and collection of various taxes on telecommunications companies.

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

SCS for HCS for HB 209, entitled:

SENATE COMMITTEE SUBSTITUTE FOR
HOUSE COMMITTEE SUBSTITUTE FOR
HOUSE BILL NO. 209

An Act to amend chapters 71 and 92, RSMo, by adding thereto nine new sections relating to assessment and collection of various taxes on telecommunications companies.

Was taken up.

Senator Griesheimer moved that **SCS for HCS for HB 209** be adopted.

Senator Griesheimer offered **SS for SCS for HCS for HB 209**, entitled:

SENATE SUBSTITUTE FOR
SENATE COMMITTEE SUBSTITUTE FOR
HOUSE COMMITTEE SUBSTITUTE FOR
HOUSE BILL NO. 209

An Act to amend chapters 71 and 92, RSMo, by adding thereto nine new sections relating to assessment and collection of various taxes on telecommunications companies.

Senator Griesheimer moved that **SS for SCS for HCS for HB 209** be adopted.

President Kinder assumed the Chair.

Senator Griesheimer offered **SA 1**, which was

read:

SENATE AMENDMENT NO. 1

Amend Senate Substitute for Senate Committee Substitute for House Committee Substitute for House Bill No. 209, Page 7, Section 92.086, Line 28 of said page, by inserting immediately after the word “all” the following: “**wireless**”.

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

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

SENATE AMENDMENT NO. 2

Amend Senate Substitute for Senate Committee Substitute for House Committee Substitute for House Bill No. 209, Page 10, Section 92.086, Line 1 of said page, by inserting after “half” the following: “**the sum**”; and further amend said line by striking “difference between the”.

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

Senator Gross assumed the Chair.

Senator Dolan offered **SA 3**:

SENATE AMENDMENT NO. 3

Amend Senate Substitute for Senate Committee Substitute for House Committee Substitute for House Bill No. 209, Page 1, In the Title, Line 4, by inserting after “companies” the following: “, with an effective date for certain sections”; and

Further amend said bill, Page 14, Section 92.098, Line 22, by inserting after all of said line the following:

“227.241. Sections 227.241 to 227.249 shall be known as the “State Highway Utility Relocation Act”. The commission shall not be required to redesign any project plans or mail additional notices, nor shall the owner of a utility facility be required to submit additional relocation plans or otherwise comply with

requirements of sections 227.241 to 227.249 for any construction project on a state highway for which the letting date was prior to December 31, 2005.

227.242. As used in sections 227.241 to 227.249, the following terms shall mean:

(1) “Act of God”, an unanticipated grave natural disaster or other natural phenomenon of an exceptional, inevitable, and irresistible character, the effects of which could not have been prevented or avoided by the exercise of due care or foresight;

(2) “Commission,” the highways and transportation commission created under section 226.020, RSMo, and article IV, section 29 of the Missouri Constitution, the director, or designees of the director for the purpose of sections 227.240 to 227.248;

(3) “Construction project”, all contracts for construction of state highways let under section 227.100, except for contracts for maintenance or resurfacing determined by the commission not to conflict with public utilities and routine maintenance and repairs completed by employees of the commission. This term shall also include state highway construction projects of transportation development districts and corporations under chapter 238, RSMo, if such projects are awarded pursuant to section 227.100. The term “construction project” shall not include projects for road beautification, road irrigation, and drainage projects, culvert installation or repair, sound wall installation, decorative lighting, landscaping, or other projects not directly related to improving or routing highway traffic. The term “construction project” shall also not include any project authorized by the commission to accommodate any private development, including a shopping mall, stadium, office building, or arena;

(4) “Contractor”, any person entering into a contract with the highway and transportation commission for purposes of completing a construction project on a state highway,

including a subcontractor or supplier to such contractor;

(5) “Customer delays”, delays in the relocation work due to delays caused by the utility's customers, including but not limited to delays in getting written or oral approvals from customers for permissible utility service cut-over dates;

(6) “Cut-over date”, the date utility owner interrupts utility service to a utility customer provided through an existing utility facility and switches the service over to a new utility facility serving the customer;

(7) “Day” or “days”, a business day or a period of consecutive business days consisting of every work day excluding Saturdays, Sundays, and legal holidays;

(8) “Director”, the director of the Missouri department of transportation appointed pursuant to section 226.040;

(9) “Extreme weather event”, a severe weather occurrence, including but not limited to fire, flood, earthquake, tornado, wind, hurricane, storm, ice, abnormal rainfall, blizzard, or extended periods of severe inclement weather;

(10) “Letting date”, the date established by the commission for the acceptance of bids by contractors under section 227.100;

(11) “Mail”, a dated written transmittal sent to the addressee by regular or certified mail;

(12) “Maintenance”, routine work performed on state highways by employees of the commission or contractors to the commission, including minor pavement and shoulder repairs, striping, grading, irrigation ditch clearing, street overlays, and other work determined by the commission not to conflict with public utilities;

(13) “Notice to proceed”, notice by the commission to a contractor to proceed with

work on a contract awarded by the commission;

(14) “Owner”, the individual, firm, joint venture, partnership, corporation, association, cooperative, municipality, county, district, political subdivision, department, agency, or any other institution owning or operating utility facilities;

(15) “Project plans”, any plan for highway construction projects demonstrating the need to design and conduct utility facility alterations or relocations due to the work;

(16) “Relocate” or “relocation”, the adjustment of utility facilities, as the commission or director may determine is necessary in connection with the construction of a state highway. Relocation includes:

(a) Removing and reinstalling the utility facility, including necessary temporary facilities;

(b) Moving, rearranging, or changing the type of existing utility facilities; and

(c) Taking any necessary safety and protective measures;

(17) “Relocation plan,” a plan designed by the owner to carry out utility facility relocation work to accommodate a construction project on a state highway;

(18) “Resurfacing”, work which provides a new roadway surface for existing pavement on a state highway, including minor base patching, intersection paving, shoulder work, and guard rail work which is determined by the commission not to conflict with public utilities;

(19) “State highway”, a highway constructed or maintained at the cost of the state or constructed with the aid of state funds or United States government funds or any highway included by authority of law in the state highway system or any highway constructed under the authority of a transportation development district or corporation under chapter 238, RSMo, where

such contract is awarded under section 227.100;

(20) “Utility contractor”, a person contracting with an owner of a utility facility or a subcontractor to a person contracting with an owner of a utility facility, for the alteration relocation or installation of a utility facility in connection with a construction project on a state highway;

(21) “Utility facility”, any underground facility as defined in section 319.015, RSMo, and aboveground facilities, including poles, lines, wires, and appurtenances for the purposes of electrical power, telephone, telegraph, fiber optic and cable television services, and any other purpose or which aboveground utility facilities may be located along state highways;

(22) “Work”, construction and services required of the contractor by the contractor’s contract with the commission, including excavation as that term is defined in section 319.015, RSMo.

227.243. 1. At the earliest possible date in the design of a construction project on a state highway, the commission shall attempt to determine what utility facilities are located within the right-of-way of the planned construction project by researching permit files and reviewing map files maintained by the commission. The commission shall also, as necessary, conduct field investigations and contact local governments to identify any utility facilities within the right-of-way.

2. Within thirty days of completion of the survey conducted under subsection 1 of this section, the commission shall notify in writing owners of each known utility facility that a construction project is planned that may conflict with their utility facility. The notification shall include the name or route number of the highway, the geographical limits of the planned construction project, a general description of the work to be done including a preliminary plan, the desired date for completion of a relocation plan, and the

anticipated month and year a letting date could be set for the construction project.

3. The owner shall examine the notice and notify the commission in writing of any utility facility not correctly described in the commission's notice. Within sixty days of receiving the notice required in subsection 2 of this section, the owner shall provide a written response to the commission. The response shall describe and provide the general location of each utility facility of the owner by confirming the location shown in the commission's notice or by providing additions or corrections.

227.244. 1. Upon completion of the initial design of the construction project, the commission shall provide at least one set of project plans to each owner of a utility facility identified under section 227.243.

2. The project plans shall show those portions of the construction project upon which the owner's utility facilities are located and where the utility facilities of other owners are located in relation to work required for the project. The commission shall also provide with the project plans a description of any right-of-way still to be purchased and the anticipated letting date of the project. The project plan shall be accompanied by a complete set of plans including profile, cross-section, drainage, signal, lighting, signing plans, temporary road plans that may affect utilities, and other pertinent plan sheets. Upon request of the owner, the commission shall provide any additional plan information needed by the owner to design and lay out the removal, relocation, or adjustment of existing facilities and the placement of relocated or new utility facilities within the limits of the construction project.

3. Within thirty days of receipt of the project plans, the utility owner shall develop a preliminary plan of adjustment and return the marked-up project plans to the commission. The plan of adjustment shall include:

(1) Verification that all utility facilities are shown;

(2) The proposed location of adjusted utility facilities;

(3) Any additional right-of-way requirements; and

(4) Any other concerns.

4. When two or more owners have facilities in the area encompassed by the construction project, the commission shall schedule a utility coordination meeting as soon as possible but no longer than thirty days from the date the project plans were mailed. The commission's project manager and all owners are required to attend this meeting. If there is a conflict between two owners which cannot be satisfactorily resolved by the owners, the commission shall determine the most appropriate method to resolve the conflict between the two owners, and, in making such determination, shall weigh equally the length of time necessitated by each owner's proposal, and the relative cost to each owner if the other's proposal is adopted. The commission shall notify all utility owners involved with the project in writing of the commission's acceptance or revisions to the utility plan of adjustment.

227.245. 1. Within one hundred twenty days of receiving written notice of approval of the utility plan of adjustment from the commission, the owner shall provide the commission with a relocation plan. The one hundred twenty-day clock stops after the relocation plan is submitted by the owner. If, after timely submission of the relocation plan by the owner, revisions or alterations are necessary for any reason, or if the original relocation plan was incomplete due to information needed from other parties, the one hundred twenty-day clock begins to run again when the needed information is received back by the owner.

2. The relocation plan shall include a

narrative description of work that will be done in relocating the owner's utility facilities and whether the work or a portion of the work must be coordinated with or is contingent upon work being performed by another utility facility owner or the contractor to the commission. The relocation plan shall list, if applicable, any anticipated issues or problems related to the acquisition of right-of-way. The relocation plan shall, if applicable, detail the anticipated number of days to acquire additional easements not provided within the new highway right-of-way. The relocation plan shall also give estimates as to the time needed to obtain any necessary customer approvals for cut-over dates, if necessary. The relocation plan shall state when the work will be started and the length of time in days estimated to complete the work. It is permissible for an owner to state in a relocation plan that the owner's work will be completed within a stated number of days from the date that a contractor or another owner completes certain identified work which interferes with the owner's work. The relocation plan shall identify any contingencies, if applicable, that may impact the anticipated start of relocation. The relocation plan shall also describe whether the plan is incomplete due to:

(1) Other owners failing to coordinate their plans with the owner submitting the plan;

(2) Other owners failing to provide information necessary to submit a complete relocation plan;

(3) The commission failing to provide any information required by subsection 2 of section 227.244; or

(4) Any other reason explained in the plan regarding the circumstances and cause of the plan being incomplete.

3. The commission shall review the relocation plan to ensure compatibility with permit requirements, the project plan, and the anticipated letting date and notice to proceed for the project. If utility relocation is dependent

upon or must be coordinated with work to be completed by the contractor, the relocation plan shall assure timely completion of the project. If the relocation plan is acceptable to the commission, the commission shall notify the owner in writing within thirty days of receiving the plan. If the relocation plan submitted by the owner is not compatible, reasonable, or does not allow timely completion of the project, the commission shall advise the owner in writing as soon as practicable, but not later than thirty days after receiving the relocation plan. The commission shall specify in the notice which parts of the relocation plan it finds objectionable, and the reasons for its conclusions. The owner shall submit a revised relocation plan within thirty calendar days after receipt of notice by the commission that the relocation plan is not acceptable. The commission shall review the revised relocation plan, and if the relocation plan is still not acceptable, the commission shall provide a relocation plan to the owner. The owner shall not be bound by the terms of the commission's relocation plan if such relocation plan:

(1) Requires the payment of overtime to employees to expedite the construction project; or

(2) Requires the owner to comply with a deadline which is not feasible due, in whole or in part, to one or more factors outside the control of the owner.

4. If the owner informs the commission, in writing, or the commission determines that the owner's relocation work is dependent upon or must be coordinated with work being performed by the commission's contractor, the commission shall convene a meeting of the contractor and the one or more owners whose relocation work is dependent upon or must be coordinated with the contractor's work. Such meeting shall be held after the letting date at which bids were received for the construction project, but prior to the issuance of a notice to proceed to the commission's contractor. After

such meeting, and before or concurrent with the issuance of a notice to proceed, the commission shall provide a schedule for the relocation of utilities to the owner and the commission's contractor. If the approved relocation plan, or a portion of such plan, is dependent upon or must be coordinated with work to be performed by the contractor, the contractor shall notify the commission of its best estimate of the date that all construction necessary for the relocation of utilities will be completed, at least fourteen days prior to such date. If such completion date is delayed due to weather or other causes, the contractor shall immediately notify the commission of the delay and the revised expected completion date. The contractor shall give a second notice to the commission five days prior to the date work will be completed as necessary for relocation work to begin. It shall be the responsibility of the commission to notify the owner or owners of the contractor's estimated completion dates. The contractor may also notify the owner directly of such dates, if the contractor has received information from the owner under subsection 7 of this section, but such notice shall not relieve the commission of its obligation to notify the owner. If the contractor's delay causes additional delay by the owner, the commission and the owner shall negotiate in good faith to determine the new completion date.

5. (1) The commission shall notify the owner in writing not less than thirty days before the owner is required to begin relocation provided for in the approved relocation plan. Unless the owner has encountered excusable delay as set forth in subsection 4 of section 227.248, the owner shall complete its work within the time frame described in the relocation plan, and shall complete all work that can be done prior to construction before the issuance of the notice to proceed, including work that may need to be coordinated with other utility owners but is not dependent on the work of the contractor.

(2) The notice required by subdivision (1) of this subsection shall include the name, address, telephone number, facsimile number, and electronic mail address of the commission's contractor and any subcontractors performing work on the construction project. Such information shall also include the name and title of an individual employed by the contractor or subcontractor having primary responsibility for the construction project. Within fifteen days of receiving notice, the owner shall provide to the commission and the commission's contractor the name, address, telephone number, facsimile number, and electronic mail address of the employee of the owner who is responsible for implementation of the owner's relocation plan and the same information for any utility contractor to the owner for purposes of carrying out the relocation plan.

6. The owner shall notify the commission when relocation work has started. During the course of the relocation work, the commission may require owners to provide progress reports until its relocation is completed. The owner shall notify the commission when all relocation work is complete. All notices of either starting or completion of relocation work and all monthly progress reports shall be provided within five days after such dates.

227.246. 1. If, prior to the letting date of the construction project, the commission's project plan is changed so that additional or different utility relocation work is found necessary, the commission shall furnish a revised project plan under section 227.244, and the owner shall provide the commission with a revised relocation plan under section 227.245, except that the time allowed for the owner to submit the revised relocation plan after receipt of the revised project plan shall not exceed sixty days.

2. If, after the letting date of the highway construction project, additional utility relocation work is found necessary which was not indicated on the original project plan, the commission shall provide the owner with a

revised project plan within fifteen days and the commission and the owner shall agree on a reasonable schedule for completion of the additional utility location.

227.247. 1. The commission shall have authority to require that any required notice, response, or plan be submitted by mail or certified mail. Otherwise notices, plans, and other statements in writing may be provided by mail, facsimile, or electronic mail. The commission may require that some form of proof of receipt be provided in regard to any notice, plan, or other statement in writing. Upon mutual agreement between the commission and an owner, additional time may be granted for the completion of any act required by sections 227.241 to 227.249.

2. Nothing in sections 227.241 to 227.249 shall be construed to relieve a contractor from making notice of excavation as required by sections 319.010 to 319.050, RSMo, of the underground facility safety and damage prevention act, or complying with the requirements of sections 319.075 to 319.090, RSMo, of the overhead powerline safety act, except to the extent that any provisions of sections 227.241 to 227.249 require additional obligations beyond those set forth in sections 319.011 to 319.050, RSMo, or sections 319.075 to 319.090, RSMo, in which case the requirements of sections 227.241 to 227.249 shall prevail.

227.248. 1. If the owner of a utility facility fails to provide the responses or corrections to project plans required by sections 227.243 to 227.246, the commission may recover from the owner damages in the amount of up to one hundred dollars per day for each day the required act is not completed.

2. If the owner fails to provide a relocation plan or fails to timely relocate utility facilities in accordance with the relocation plan as required by section 227.245, the commission may recover from the owner damages in the amount of up to

one thousand dollars per day for each day the required act is not completed.

3. The damages authorized by subsections 1 and 2 of this section may be recovered through actions brought by the chief counsel to the commission, or may be referred to the attorney general for appropriate action. An action to collect the damages authorized by this section shall be brought in a court of appropriate jurisdiction. All damages collected under this section shall be deposited in the state road fund.

4. No damages or fines of any kind shall be assessed for delays that result, in whole or in part, directly or indirectly, from any of the following:

- (1) Customer delays;
- (2) Labor strikes or shortages;
- (3) Terrorist attacks, riots, civil unrest, or criminal sabotage;
- (4) Acts of God, or extreme weather events;
- (5) Delays caused by staffing shortages in the geographic area near the commission's construction project due to the owner's need to reassign an unusual number of workers to any other area to respond to an act of God or extreme weather event;
- (6) The failure of another owner to sufficiently complete its required relocation of utility facilities that interfere with an owner's relocation plan;
- (7) The failure of another owner or delay by another owner in submitting relocation plans that interfere with an owner's relocation plan;
- (8) Delays by the commission in acquiring necessary right-of-way or necessary easements;
- (9) Delays caused by facility damages or cable cuts caused by the commission's contractor, other owners, or third parties;
- (10) Unusual material shortages; and
- (11) Any other event or action beyond the

reasonable control of the owner.

The occurrence of any of the unusual events listed in this section shall constitute an affirmative defense to the assessment of damages under the provisions of this section.

5. The removal and relocation of utility facilities shall be made at the expense of the owners unless otherwise provided by the commission. If the owner fails to relocate the utility facilities in accordance with the relocation plan as required by section 227.245, the utility facilities may be removed and relocated by the state highways and transportation commission, or under its direction, and the cost of relocating the utility facilities shall be collected from such owner. If the state highways and transportation commission or its designee removes and relocates the utility facilities, the utility owner shall not be liable to any party for any damages caused by the commission's or the commission's designee's removal and relocation of such facilities.

227.249. Any home rule city having a population of sixty thousand inhabitants or greater or any charter county of the first classification may adopt ordinances, policies, resolutions, or regulations consistent with sections 227.241 to 227.249 regarding the relocation of utility facilities located within the right-of-way of streets, highways, or roads under their respective jurisdiction, which are not state highways. Any ordinance, policy, resolution, or regulation adopted under the authority of this section shall not infringe upon, negate or otherwise abrogate an owner's right to construct, own, operate, and maintain utility facilities within the right-of-ways of such political subdivision that the owner otherwise enjoyed prior to the adoption of such ordinance, policy, resolution, or regulation.

Section B. The provisions of sections 227.241 to 227.249 shall become effective January 1, 2006.”; and

Further amend the title and enacting clause accordingly.

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

Senator Klindt offered **SA 4**:

SENATE AMENDMENT NO. 4

Amend Senate Substitute for Senate Committee Substitute for House Committee Substitute for House Bill No. 209, Page 8, Section 92.086, Line 2, by adding after the word “companies” the following:

“as identified in 47 USC Section 332 (D)(1) and 47 CFR Parts 22 or 24”; and

Further amend such Section, Line 13, by deleting the word “chapter” and replace in lieu thereof, the word “section”; and

Further amend such Section, Line 13, by adding after the word “shall” on such line, the following:

“be determined based only on business customers and shall”; and

Further amend such Section, Line 24, by deleting the words “recommend a one time” and replace in lieu thereof the following: “promulgate and publish an”.

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

Senator Griesheimer moved that **SS** for **SCS** for **HCS** for **HB 209**, as amended, be adopted, which motion prevailed.

On motion of Senator Griesheimer, **SS** for **SCS** for **HCS** for **HB 209**, as amended, was read the 3rd time and passed by the following vote:

YEAS—Senators

Alter	Barnitz	Bartle	Callahan
Cauthorn	Champion	Crowell	Dolan
Engler	Gibbons	Graham	Griesheimer
Gross	Kennedy	Klindt	Koster
Loudon	Mayer	Nodler	Purgason
Scott	Stouffer	Taylor—23	

NAYS—Senators

Bray	Coleman	Days	Dougherty
Green	Ridgeway	Shields	Wilson—8

Absent—Senators

Clemens	Vogel	Wheeler—3
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Absent with leave—Senators—None

Vacancies—None

The President declared the bill passed.

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

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

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

President Pro Tem Gibbons assumed the Chair.

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 **HCS** for **HB 972**, begs leave to report that it has considered the same and recommends that the Senate Committee Substitute, hereto attached, do pass.

Senator Crowell, Chairman of the Committee on Pensions, Veterans' Affairs and General Laws, submitted the following report:

Mr. President: Your Committee on Pensions, Veterans' Affairs and General Laws, to which was referred **HB 789**, begs leave to report that it has considered the same and recommends that the bill do pass.

REFERRALS

President Pro Tem Gibbons referred **HCS** for

HB 192, with **SCS**, to the Committee on Governmental Accountability and Fiscal Oversight.

MESSAGES FROM THE HOUSE

The following message was 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 233**, entitled:

An Act to amend chapter 227, RSMo, by adding thereto eight new sections relating to name designations for highways and bridges.

With House Amendment 1 to House Amendment 1, House Amendment 1, as amended, and House Amendments 2 and 3.

**HOUSE AMENDMENT NO. 1 TO
HOUSE AMENDMENT NO. 1**

Amend House Amendment No. 1 for House Committee Substitute for Senate Committee Substitute for Senate Bill No. 233, Section 227.249, Page 11, Lines 7-8 by deleting all of said lines and inserting in lieu thereof the following:

"227.249. Any county with a charter form of government and with more than two hundred fifty thousand but fewer than three hundred fifty thousand inhabitants may adopt ordinances, policies, resolutions, or"; and

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

HOUSE AMENDMENT NO. 1

Amend House Committee Substitute for Senate Committee Substitute for Senate Bill No. 233, Section A, Page 1, Line 3, by inserting immediately after all of said line the following:

"227.241. Sections 227.241 to 227.249 shall be known as the "State Highway Utility Relocation Act". The commission shall not be

required to redesign any project plans or mail additional notices, nor shall the owner of a utility facility be required to submit additional relocation plans or otherwise comply with requirements of sections 227.241 to 227.249 for any construction project on a state highway for which the letting date was prior to December 31, 2005.

227.242. As used in sections 227.241 to 227.249, the following terms shall mean:

(1) "Act of God", an unanticipated grave natural disaster or other natural phenomenon of an exceptional, inevitable, and irresistible character, the effects of which could not have been prevented or avoided by the exercise of due care or foresight;

(2) "Commission," the highways and transportation commission created under section 226.020, RSMo, and article IV, section 29 of the Missouri Constitution, the director, or designees of the director for the purpose of sections 227.240 to 227.248;

(3) "Construction project", all contracts for construction of state highways let under section 227.100, except for contracts for maintenance or resurfacing determined by the commission not to conflict with public utilities and routine maintenance and repairs completed by employees of the commission. This term shall also include state highway construction projects of transportation development districts and corporations under chapter 238, RSMo, if such projects are awarded pursuant to section 227.100. The term "construction project" shall not include projects for road beautification, road irrigation, and drainage projects, culvert installation or repair, sound wall installation, decorative lighting, landscaping, or other projects not directly related to improving or routing highway traffic. The term "construction project" shall also not include any project authorized by the commission to accommodate any private development, including a shopping mall, stadium, office

building, or arena;

(4) "Contractor", any person entering into a contract with the highway and transportation commission for purposes of completing a construction project on a state highway, including a subcontractor or supplier to such contractor;

(5) "Customer delays", delays in the relocation work due to delays caused by the utility's customers, including but not limited to delays in getting written or oral approvals from customers for permissible utility service cut-over dates;

(6) "Cut-over date", the date utility owner interrupts utility service to a utility customer provided through an existing utility facility and switches the service over to a new utility facility serving the customer;

(7) "Day" or "days", a business day or a period of consecutive business days consisting of every work day excluding Saturdays, Sundays, and legal holidays;

(8) "Director", the director of the Missouri department of transportation appointed pursuant to section 226.040;

(9) "Extreme weather event", a severe weather occurrence, including but not limited to fire, flood, earthquake, tornado, wind, hurricane, storm, ice, abnormal rainfall, blizzard, or extended periods of severe inclement weather;

(10) "Letting date", the date established by the commission for the acceptance of bids by contractors under section 227.100;

(11) "Mail", a dated written transmittal sent to the addressee by regular or certified mail;

(12) "Maintenance", routine work performed on state highways by employees of the commission or contractors to the commission, including minor pavement and shoulder repairs, striping, grading, irrigation

ditch clearing, street overlays, and other work determined by the commission not to conflict with public utilities;

(13) "Notice to proceed", notice by the commission to a contractor to proceed with work on a contract awarded by the commission;

(14) "Owner", the individual, firm, joint venture, partnership, corporation, association, cooperative, municipality, county, district, political subdivision, department, agency, or any other institution owning or operating utility facilities;

(15) "Project plans", any plan for highway construction projects demonstrating the need to design and conduct utility facility alterations or relocations due to the work;

(16) "Relocate" or "relocation", the adjustment of utility facilities, as the commission or director may determine is necessary in connection with the construction of a state highway. Relocation includes:

(a) Removing and reinstalling the utility facility, including necessary temporary facilities;

(b) Moving, rearranging, or changing the type of existing utility facilities; and

(c) Taking any necessary safety and protective measures; (17) "Relocation plan," a plan designed by the owner to carry out utility facility relocation work to accommodate a construction project on a state highway;

(18) "Resurfacing", work which provides a new roadway surface for existing pavement on a state highway, including minor base patching, intersection paving, shoulder work, and guard rail work which is determined by the commission not to conflict with public utilities;

(19) "State highway", a highway constructed or maintained at the cost of the state or constructed with the aid of state funds or United States government funds or any

highway included by authority of law in the state highway system or any highway constructed under the authority of a transportation development district or corporation under chapter 238, RSMo, where such contract is awarded under section 227.100;

(20) "Utility contractor", a person contracting with an owner of a utility facility or a subcontractor to a person contracting with an owner of a utility facility, for the alteration relocation or installation of a utility facility in connection with a construction project on a state highway;

(21) "Utility facility", any underground facility as defined in section 319.015, RSMo, and aboveground facilities, including poles, lines, wires, and appurtenances for the purposes of electrical power, telephone, telegraph, fiber optic and cable television services, and any other purpose or which aboveground utility facilities may be located along state highways;

(22) "Work", construction and services required of the contractor by the contractor's contract with the commission, including excavation as that term is defined in section 319.015, RSMo.

227.243. 1. At the earliest possible date in the design of a construction project on a state highway, the commission shall attempt to determine what utility facilities are located within the right-of-way of the planned construction project by researching permit files and reviewing map files maintained by the commission. The commission shall also, as necessary, conduct field investigations and contact local governments to identify any utility facilities within the right-of-way.

2. Within thirty days of completion of the survey conducted under subsection 1 of this section, the commission shall notify in writing owners of each known utility facility that a construction project is planned that may conflict with their utility facility. The notification shall include the name or route

number of the highway, the geographical limits of the planned construction project, a general description of the work to be done including a preliminary plan, the desired date for completion of a relocation plan, and the anticipated month and year a letting date could be set for the construction project.

3. The owner shall examine the notice and notify the commission in writing of any utility facility not correctly described in the commission's notice. Within sixty days of receiving the notice required in subsection 2 of this section, the owner shall provide a written response to the commission. The response shall describe and provide the general location of each utility facility of the owner by confirming the location shown in the commission's notice or by providing additions or corrections.

227.244. 1. Upon completion of the initial design of the construction project, the commission shall provide at least one set of project plans to each owner of a utility facility identified under section 227.243.

2. The project plans shall show those portions of the construction project upon which the owner's utility facilities are located and where the utility facilities of other owners are located in relation to work required for the project. The commission shall also provide with the project plans a description of any right-of-way still to be purchased and the anticipated letting date of the project. The project plan shall be accompanied by a complete set of plans including profile, cross-section, drainage, signal, lighting, signing plans, temporary road plans that may affect utilities, and other pertinent plan sheets. Upon request of the owner, the commission shall provide any additional plan information needed by the owner to design and lay out the removal, relocation, or adjustment of existing facilities and the placement of relocated or new utility facilities within the limits of the construction project.

3. Within thirty days of receipt of the project plans, the utility owner shall develop a preliminary plan of adjustment and return the marked-up project plans to the commission. The plan of adjustment shall include:

(1) Verification that all utility facilities are shown;

(2) The proposed location of adjusted utility facilities;

(3) Any additional right-of-way requirements; and

(4) Any other concerns.

4. When two or more owners have facilities in the area encompassed by the construction project, the commission shall schedule a utility coordination meeting as soon as possible but no longer than thirty days from the date the project plans were mailed. The commission's project manager and all owners are required to attend this meeting. If there is a conflict between two owners which cannot be satisfactorily resolved by the owners, the commission shall determine the most appropriate method to resolve the conflict between the two owners, and, in making such determination, shall weigh equally the length of time necessitated by each owner's proposal, and the relative cost to each owner if the other's proposal is adopted. The commission shall notify all utility owners involved with the project in writing of the commission's acceptance or revisions to the utility plan of adjustment.

227.245. 1. Within one hundred twenty days of receiving written notice of approval of the utility plan of adjustment from the commission, the owner shall provide the commission with a relocation plan. The one hundred twenty-day clock stops after the relocation plan is submitted by the owner. If, after timely submission of the relocation plan by the owner, revisions or alterations are necessary for any reason, or if the original relocation plan

was incomplete due to information needed from other parties, the one hundred twenty-day clock begins to run again when the needed information is received back by the owner.

2. The relocation plan shall include a narrative description of work that will be done in relocating the owner's utility facilities and whether the work or a portion of the work must be coordinated with or is contingent upon work being performed by another utility facility owner or the contractor to the commission. The relocation plan shall list, if applicable, any anticipated issues or problems related to the acquisition of right-of-way. The relocation plan shall, if applicable, detail the anticipated number of days to acquire additional easements not provided within the new highway right-of-way. The relocation plan shall also give estimates as to the time needed to obtain any necessary customer approvals for cut-over dates, if necessary. The relocation plan shall state when the work will be started and the length of time in days estimated to complete the work. It is permissible for an owner to state in a relocation plan that the owner's work will be completed within a stated number of days from the date that a contractor or another owner completes certain identified work which interferes with the owner's work. The relocation plan shall identify any contingencies, if applicable, that may impact the anticipated start of relocation. The relocation plan shall also describe whether the plan is incomplete due to:

(1) Other owners failing to coordinate their plans with the owner submitting the plan;

(2) Other owners failing to provide information necessary to submit a complete relocation plan;

(3) The commission failing to provide any information required by subsection 2 of section 227.244; or

(4) Any other reason explained in the plan regarding the circumstances and cause of the

plan being incomplete.

3. The commission shall review the relocation plan to ensure compatibility with permit requirements, the project plan, and the anticipated letting date and notice to proceed for the project. If utility relocation is dependent upon or must be coordinated with work to be completed by the contractor, the relocation plan shall assure timely completion of the project. If the relocation plan is acceptable to the commission, the commission shall notify the owner in writing within thirty days of receiving the plan. If the relocation plan submitted by the owner is not compatible, reasonable, or does not allow timely completion of the project, the commission shall advise the owner in writing as soon as practicable, but not later than thirty days after receiving the relocation plan. The commission shall specify in the notice which parts of the relocation plan it finds objectionable, and the reasons for its conclusions. The owner shall submit a revised relocation plan within thirty calendar days after receipt of notice by the commission that the relocation plan is not acceptable. The commission shall review the revised relocation plan, and if the relocation plan is still not acceptable, the commission shall provide a relocation plan to the owner. The owner shall not be bound by the terms of the commission's relocation plan if such relocation plan:

(1) Requires the payment of overtime to employees to expedite the construction project; or

(2) Requires the owner to comply with a deadline which is not feasible due, in whole or in part, to one or more factors outside the control of the owner.

4. If the owner informs the commission, in writing, or the commission determines that the owner's relocation work is dependent upon or must be coordinated with work being performed by the commission's contractor, the commission shall convene a meeting of the

contractor and the one or more owners whose relocation work is dependent upon or must be coordinated with the contractor's work. Such meeting shall be held after the letting date at which bids were received for the construction project, but prior to the issuance of a notice to proceed to the commission's contractor. After such meeting, and before or concurrent with the issuance of a notice to proceed, the commission shall provide a schedule for the relocation of utilities to the owner and the commission's contractor. If the approved relocation plan, or a portion of such plan, is dependent upon or must be coordinated with work to be performed by the contractor, the contractor shall notify the commission of its best estimate of the date that all construction necessary for the relocation of utilities will be completed, at least fourteen days prior to such date. If such completion date is delayed due to weather or other causes, the contractor shall immediately notify the commission of the delay and the revised expected completion date. The contractor shall give a second notice to the commission five days prior to the date work will be completed as necessary for relocation work to begin. It shall be the responsibility of the commission to notify the owner or owners of the contractor's estimated completion dates. The contractor may also notify the owner directly of such dates, if the contractor has received information from the owner under subsection 7 of this section, but such notice shall not relieve the commission of its obligation to notify the owner. If the contractor's delay causes additional delay by the owner, the commission and the owner shall negotiate in good faith to determine the new completion date.

5. (1) The commission shall notify the owner in writing not less than thirty days before the owner is required to begin relocation provided for in the approved relocation plan. Unless the owner has encountered excusable delay as set forth in subsection 4 of section 227.248, the owner shall complete its work

within the time frame described in the relocation plan, and shall complete all work that can be done prior to construction before the issuance of the notice to proceed, including work that may need to be coordinated with other utility owners but is not dependent on the work of the contractor.

(2) The notice required by subdivision (1) of this subsection shall include the name, address, telephone number, facsimile number, and electronic mail address of the commission's contractor and any subcontractors performing work on the construction project. Such information shall also include the name and title of an individual employed by the contractor or subcontractor having primary responsibility for the construction project. Within fifteen days of receiving notice, the owner shall provide to the commission and the commission's contractor the name, address, telephone number, facsimile number, and electronic mail address of the employee of the owner who is responsible for implementation of the owner's relocation plan and the same information for any utility contractor to the owner for purposes of carrying out the relocation plan.

6. The owner shall notify the commission when relocation work has started. During the course of the relocation work, the commission may require owners to provide progress reports until its relocation is completed. The owner shall notify the commission when all relocation work is complete. All notices of either starting or completion of relocation work and all monthly progress reports shall be provided within five days after such dates.

227.246. 1. If, prior to the letting date of the construction project, the commission's project plan is changed so that additional or different utility relocation work is found necessary, the commission shall furnish a revised project plan under section 227.244, and the owner shall provide the commission with a revised relocation plan under section 227.245, except that the time allowed for the owner to

submit the revised relocation plan after receipt of the revised project plan shall not exceed sixty days.

2. If, after the letting date of the highway construction project, additional utility relocation work is found necessary which was not indicated on the original project plan, the commission shall provide the owner with a revised project plan within fifteen days and the commission and the owner shall agree on a reasonable schedule for completion of the additional utility location.

227.247. 1. The commission shall have authority to require that any required notice, response, or plan be submitted by mail or certified mail. Otherwise notices, plans, and other statements in writing may be provided by mail, facsimile, or electronic mail. The commission may require that some form of proof of receipt be provided in regard to any notice, plan, or other statement in writing. Upon mutual agreement between the commission and an owner, additional time may be granted for the completion of any act required by sections 227.241 to 227.249.

2. Nothing in sections 227.241 to 227.249 shall be construed to relieve a contractor from making notice of excavation as required by sections 319.010 to 319.050, RSMo, of the underground facility safety and damage prevention act, or complying with the requirements of sections 319.075 to 319.090, RSMo, of the overhead powerline safety act, except to the extent that any provisions of sections 227.241 to 227.249 require additional obligations beyond those set forth in sections 319.011 to 319.050, RSMo, or sections 319.075 to 319.090, RSMo, in which case the requirements of sections 227.241 to 227.249 shall prevail.

227.248. 1. If the owner of a utility facility fails to provide the responses or corrections to project plans required by sections 227.243 to 227.246, the commission may recover from the

owner damages in the amount of up to one hundred dollars per day for each day the required act is not completed.

2. If the owner fails to provide a relocation plan or fails to timely relocate utility facilities in accordance with the relocation plan as required by section 227.245, the commission may recover from the owner damages in the amount of up to one thousand dollars per day for each day the required act is not completed.

3. The damages authorized by subsections 1 and 2 of this section may be recovered through actions brought by the chief counsel to the commission, or may be referred to the attorney general for appropriate action. An action to collect the damages authorized by this section shall be brought in a court of appropriate jurisdiction. All damages collected under this section shall be deposited in the state road fund.

4. No damages or fines of any kind shall be assessed for delays that result, in whole or in part, directly or indirectly, from any of the following:

- (1) Customer delays;
- (2) Labor strikes or shortages;
- (3) Terrorist attacks, riots, civil unrest, or criminal sabotage;
- (4) Acts of God, or extreme weather events;
- (5) Delays caused by staffing shortages in the geographic area near the commission's construction project due to the owner's need to reassign an unusual number of workers to any other area to respond to an act of God or extreme weather event;
- (6) The failure of another owner to sufficiently complete its required relocation of utility facilities that interfere with an owner's relocation plan;
- (7) The failure of another owner or delay by another owner in submitting relocation plans

that interfere with an owner's relocation plan;

(8) Delays by the commission in acquiring necessary right-of-way or necessary easements;

(9) Delays caused by facility damages or cable cuts caused by the commission's contractor, other owners, or third parties;

(10) Unusual material shortages; and

(11) Any other event or action beyond the reasonable control of the owner.

The occurrence of any of the unusual events listed in this section shall constitute an affirmative defense to the assessment of damages under the provisions of this section.

5. The removal and relocation of utility facilities shall be made at the expense of the owners unless otherwise provided by the commission. If the owner fails to relocate the utility facilities in accordance with the relocation plan as required by section 227.245, the utility facilities may be removed and relocated by the state highways and transportation commission, or under its direction, and the cost of relocating the utility facilities shall be collected from such owner. If the state highways and transportation commission or its designee removes and relocates the utility facilities, the utility owner shall not be liable to any party for any damages caused by the commission's or the commission's designee's removal and relocation of such facilities.

227.249. Any home rule city having a population of sixty thousand inhabitants or greater or any charter county of the first classification may adopt ordinances, policies, resolutions, or regulations consistent with sections 227.241 to 227.249 regarding the relocation of utility facilities located within the right-of-way of streets, highways, or roads under their respective jurisdiction, which are not state highways. Any ordinance, policy, resolution, or regulation adopted under the authority of this section shall not infringe upon,

negate or otherwise abrogate an owner's right to construct, own, operate, and maintain utility facilities within the right-of-ways of such political subdivision that the owner otherwise enjoyed prior to the adoption of such ordinance, policy, resolution, or regulation."; and

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

HOUSE AMENDMENT NO. 2

Amend House Committee Substitute for Senate Committee Substitute for Senate Bill No. 233, Section 227.356, Page 1, Line 3, by inserting after all of said line the following:

"227.358. The portion of U.S. 412 in Dunklin County from the eastern city limits of Kennett, Missouri, to the western city limits of Hayti, Missouri, within Pemiscot County shall be designated the "Governor John M. Dalton Memorial Highway"; and

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

HOUSE AMENDMENT NO. 3

Amend House Committee Substitute for Senate Committee Substitute for Senate Bill No. 233, Page 4, Section 227.365, Line 78, by inserting after all of said line the following:

"227.367. The portion of highway 370 in St. Louis County from the intersection of Interstate 270, west to the Discovery Bridge, shall be designated the "Officer Scott Armstrong Memorial Highway". Costs for such designation shall be paid by the Bridgeton Optimist Club."; and

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

On motion of Senator Shields, the Senate recessed until 1:45 p.m.

RECESS

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

CONCURRENT RESOLUTIONS

Senator Shields offered the following concurrent resolution:

SENATE CONCURRENT RESOLUTION NO. 20

WHEREAS, Section 21.760 of the Missouri Revised Statutes provides that during the regular legislative session which convenes in an odd-numbered year, the General Assembly shall, by concurrent resolution, employ an independent certified public accountant or certified public accounting firm to conduct an audit examination of the accounts, functions, programs, and management of the State Auditor’s office:

NOW THEREFORE BE IT RESOLVED that the members of the Missouri Senate, Ninety-Third General Assembly, First Regular Session, the House of Representatives concurring therein, hereby authorize the employment of an independent certified public accountant or certified public accounting firm pursuant to the aforestated provisions of Section 21.760; and

BE IT FURTHER RESOLVED that the audit examination be made in accordance with generally accepted auditing standards, including such reviews and inspections of books, records and other underlying data and documents as are necessary to enable the independent certified public accountant performing the audit to reach an informed opinion on the condition and performance of the accounts, functions, programs, and management of the State Auditor’s Office; and

BE IT FURTHER RESOLVED that upon completion of the audit, the independent certified public accountant make a written report of his or her findings and conclusions, and supply each member of the General Assembly, the Governor, and the State Auditor with a copy of the report; and

BE IT FURTHER RESOLVED that the cost of the audit and report be paid out of the joint contingent fund of the General Assembly; and

BE IT FURTHER RESOLVED that the Commissioner of Administration bid these services, at the direction of the General Assembly, pursuant to state purchasing laws; and

BE IT FURTHER RESOLVED that the Secretary of the Missouri Senate be instructed to prepare a properly inscribed copy of this resolution for the Commissioner of Administration.

Senator Shields requested unanimous consent of the Senate to suspend the rules for the purpose of taking up **SCR 20** for adoption, which request was granted.

On motion of Senator Shields, **SCR 20** was

adopted by the following vote:

YEAS—Senators

Alter	Bartle	Bray	Callahan
Cauthorn	Champion	Clemens	Days
Dougherty	Engler	Gibbons	Graham
Gross	Kennedy	Klindt	Koster
Mayer	Nodler	Purgason	Ridgeway
Scott	Shields	Stouffer	Wheeler—24

NAYS—Senators—None

Absent—Senators

Barnitz	Coleman	Crowell	Dolan
Green	Griesheimer	Loudon	Taylor
Vogel	Wilson—10		

Absent with leave—Senators—None

Vacancies—None

PRIVILEGED MOTIONS

Senator Scott moved that **SCS** for **SB 182**, with **HCS**, be taken up for 3rd reading and final passage, which motion prevailed.

HCS for **SCS** for **SB 182**, entitled:

HOUSE COMMITTEE SUBSTITUTE FOR SENATE COMMITTEE SUBSTITUTE FOR SENATE BILL NO. 182

An Act to repeal sections 323.020 and 323.060, RSMo, and to enact in lieu thereof three new sections relating to liquefied petroleum gases.

Was taken up.

Senator Scott moved that **HCS** for **SCS** for **SB 182** be adopted, which motion prevailed by the following vote:

YEAS—Senators

Alter	Bartle	Bray	Callahan
Cauthorn	Champion	Clemens	Crowell
Days	Dolan	Dougherty	Engler
Gibbons	Graham	Green	Griesheimer
Gross	Kennedy	Klindt	Koster
Loudon	Mayer	Nodler	Purgason
Ridgeway	Scott	Shields	Stouffer

Taylor Wilson—30

NAYS—Senators—None

Absent—Senators

Barnitz Coleman Vogel—3

Absent with leave—Senator Wheeler—1

Vacancies—None

On motion of Senator Scott, **HCS for SCS for SB 182** was read the 3rd time and passed by the following vote:

YEAS—Senators

Alter	Barnitz	Bartle	Bray
Callahan	Cauthorn	Champion	Clemens
Crowell	Days	Dolan	Dougherty
Engler	Gibbons	Graham	Green
Griesheimer	Gross	Kennedy	Klindt
Koster	Loudon	Mayer	Nodler
Purgason	Ridgeway	Scott	Shields
Stouffer	Taylor	Wilson—31	

NAYS—Senators—None

Absent—Senators

Coleman Vogel—2

Absent with leave—Senator Wheeler—1

Vacancies—None

The President declared the bill passed.

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

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

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

Bill ordered enrolled.

Senator Shields moved that the Senate refuse to concur in **HCS for SB 177** and request the House to recede from its position or, failing to do so, grant the Senate a conference thereon, which

motion prevailed.

Senator Nodler moved that **SB 38**, with **HCS**, be taken up for 3rd reading and final passage, which motion prevailed.

HCS for SB 38, entitled:

HOUSE COMMITTEE SUBSTITUTE FOR SENATE BILL NO. 38

An Act to repeal section 227.340, RSMo, and to enact in lieu thereof two new sections relating to the George Washington Carver Memorial Highway.

Was taken up.

Senator Nodler moved that **HCS for SB 38** be adopted, which motion prevailed by the following vote:

YEAS—Senators

Alter	Barnitz	Bartle	Bray
Callahan	Cauthorn	Champion	Clemens
Coleman	Crowell	Days	Engler
Gibbons	Graham	Green	Griesheimer
Gross	Kennedy	Klindt	Koster
Loudon	Mayer	Nodler	Purgason
Ridgeway	Scott	Shields	Stouffer
Taylor	Vogel	Wilson—31	

NAYS—Senators—None

Absent—Senators

Dolan Dougherty—2

Absent with leave—Senator Wheeler—1

Vacancies—None

On motion of Senator Nodler, **HCS for SB 38** was read the 3rd time and passed by the following vote:

YEAS—Senators

Alter	Barnitz	Bartle	Bray
Callahan	Cauthorn	Champion	Clemens
Coleman	Crowell	Days	Engler
Gibbons	Graham	Green	Griesheimer
Gross	Kennedy	Klindt	Koster
Loudon	Mayer	Nodler	Purgason

Ridgeway	Scott	Shields	Stouffer	Vogel	Wilson—30
Taylor	Vogel	Wilson—31			

NAYS—Senators—None

NAYS—Senators—None

Absent—Senators

Absent—Senators

Days	Dolan	Dougherty—3
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Dolan	Dougherty—2
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Absent with leave—Senator Wheeler—1

Absent with leave—Senator Wheeler—1

Vacancies—None

Vacancies—None

The President declared the bill passed.

On motion of Senator Purgason, **HCS for SB 307** was read the 3rd time and passed by the following vote:

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

YEAS—Senators

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

Alter	Barnitz	Bartle	Bray
Callahan	Cauthorn	Champion	Clemens
Coleman	Crowell	Engler	Gibbons
Graham	Green	Griesheimer	Gross
Kennedy	Klindt	Koster	Loudon
Mayer	Nodler	Purgason	Ridgeway
Scott	Shields	Stouffer	Taylor
Vogel	Wilson—30		

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

Bill ordered enrolled.

Senator Purgason moved that **SB 307**, with **HCS**, be taken up for 3rd reading and final passage, which motion prevailed.

NAYS—Senators—None

HCS for SB 307, entitled:

Absent—Senators

HOUSE COMMITTEE SUBSTITUTE FOR SENATE BILL NO. 307

Days	Dolan	Dougherty—3
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An Act to repeal sections 105.454 and 105.458, RSMo, and to enact in lieu thereof two new sections relating to prohibited acts by certain public officials and employees.

Absent with leave—Senator Wheeler—1

Was taken up.

Vacancies—None

Senator Purgason moved that **HCS for SB 307** be adopted, which motion prevailed by the following vote:

The President declared the bill passed.

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

YEAS—Senators

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

Alter	Barnitz	Bartle	Bray
Callahan	Cauthorn	Champion	Clemens
Coleman	Crowell	Engler	Gibbons
Graham	Green	Griesheimer	Gross
Kennedy	Klindt	Koster	Loudon
Mayer	Nodler	Purgason	Ridgeway
Scott	Shields	Stouffer	Taylor

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

Bill ordered enrolled.

REFERRALS

President Pro Tem Gibbons referred **HCS for HB 972**, with **SCS**, to the Committee on Govern-

mental Accountability and Fiscal Oversight.

PRIVILEGED MOTIONS

Senator Vogel moved that **SB 174**, with **HCS**, be taken up for 3rd reading and final passage, which motion prevailed.

HCS for SB 174, entitled:

**HOUSE COMMITTEE SUBSTITUTE FOR
SENATE BILL NO. 174**

An Act to authorize the conveyance of property owned by the state in Cole County to the Regional West Fire District, with an emergency clause.

Was taken up.

Senator Vogel moved that **HCS for SB 174** be adopted, which motion prevailed by the following vote:

YEAS—Senators

Alter	Barnitz	Bartle	Bray
Callahan	Cauthorn	Champion	Clemens
Coleman	Crowell	Engler	Gibbons
Graham	Green	Griesheimer	Gross
Kennedy	Klindt	Koster	Loudon
Mayer	Nodler	Purgason	Ridgeway
Scott	Shields	Stouffer	Taylor
Vogel	Wilson—30		

NAYS—Senators—None

Absent—Senators

Days	Dolan	Dougherty—3
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Absent with leave—Senator Wheeler—1

Vacancies—None

On motion of Senator Vogel, **HCS for SB 174** was read the 3rd time and passed by the following vote:

YEAS—Senators

Alter	Barnitz	Bartle	Bray
Callahan	Cauthorn	Champion	Clemens
Coleman	Crowell	Days	Engler

Gibbons	Graham	Green	Griesheimer
Gross	Kennedy	Klindt	Koster
Loudon	Mayer	Nodler	Purgason
Ridgeway	Scott	Shields	Stouffer
Taylor	Vogel	Wilson—31	

NAYS—Senators—None

Absent—Senators

Dolan	Dougherty—2
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Absent with leave—Senator Wheeler—1

Vacancies—None

The President declared the bill passed.

The emergency clause was adopted by the following vote:

YEAS—Senators

Alter	Bartle	Bray	Callahan
Cauthorn	Champion	Clemens	Coleman
Crowell	Days	Engler	Gibbons
Graham	Green	Griesheimer	Gross
Kennedy	Klindt	Koster	Loudon
Mayer	Nodler	Purgason	Ridgeway
Scott	Shields	Stouffer	Taylor
Vogel	Wilson—30		

NAYS—Senators—None

Absent—Senators

Barnitz	Dolan	Dougherty—3
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Absent with leave—Senator Wheeler—1

Vacancies—None

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

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

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

Bill ordered enrolled.

Senator Taylor moved that the Senate refuse

to concur in **HA 1** and **HA 3** to **SCS** for **SB 390** and request the House to recede from its position or, failing to do so, grant the Senate a conference thereon, which motion prevailed.

Senator Griesheimer requested unanimous consent of the Senate to allow the conferees to meet on **SS** for **SCS** for **HCS** for **HB 58**, as amended, while the Senate is in session, which request was granted.

Senator Griesheimer moved that the Senate conferees be allowed to exceed the differences on **SS** for **SCS** for **HCS** for **HB 58**, as amended, in the watershed and water shut off provisions, which motion prevailed.

Senator Stouffer moved that the Senate refuse to concur in **HCS** for **SCS** for **SB 233**, as amended, and request the House to recede from its position or, failing to do so, grant the Senate a conference thereon, which motion prevailed.

Senator Scott assumed the Chair.

Senator Bartle moved that the Senate refuse to recede from its position on **SCS** for **HB 678**, as amended, and grant the House a conference thereon, which motion prevailed.

MESSAGES FROM THE HOUSE

The following message was 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 **SBs 221, 250** and **256**, entitled:

An Act to repeal sections 43.250, 210.104, 210.107, 301.010, 302.020, 302.510, 302.530, 304.015, 304.016, 304.155, 304.281, 304.351, 304.580, 307.178, 577.023, and 577.041, RSMo, and section 302.302 as enacted by house substitute for senate substitute for senate committee substitute for senate bill nos. 1233, 840 & 1043, ninety-second general assembly, second regular session, and section 302.302 as enacted by

conference committee substitute no. 2 for senate committee substitute for house committee substitute for house bill nos. 302 & 38, ninety-first general assembly, first regular session, and to enact in lieu thereof twenty new sections relating to the operation of motor vehicles, with penalty provisions.

With House Amendments 1, 2, 3, and House Substitute Amendment 1 for House Amendment 6.

HOUSE AMENDMENT NO. 1

Amend House Committee Substitute for Senate Committee Substitute for Senate Bills Nos. 221, 250 and 256, Page 12, Section 302.302, Line 45, by inserting after all of said line the following:

“(16) Endangerment of a highway worker in violation of section 304.585 8 points

(17) Aggravated endangerment of a highway worker in violation of section 304.585..12 points”; and

Further amend said bill, Page 19, Section 304.016, Line 37, by inserting after the word “roadway” the following: “, **except that the provisions of this subdivision shall not apply when:**

(a) Executing a lawful turn; or

(b) Overtaking a vehicle, as defined in section 307.020, RSMo, that is traveling at a speed of less than twenty-five miles per hour, or when avoiding debris in the roadway, so long as such action does not create a hazard, as specified in subdivision (1) of subsection 4 of this section”; and

Further amend said bill, Pages 29 to 30, Section 304.582, Lines 1 to 41, by striking said section and inserting in lieu thereof the following:

“304.582. 1. Upon the first conviction or plea of guilty by any person for a moving violation as defined in section 302.010, RSMo,

or any offense listed in section 302.302, RSMo, the court shall assess a fine of thirty-five dollars in addition to any other fine authorized to be imposed by law, if the offense occurred within a construction zone or a work zone. A second or subsequent violation of this subsection shall result in the court assessing a fine of seventy-five dollars in addition to any other fine authorized to be imposed by law.

2. Upon the first conviction or plea of guilty by any person for a speeding violation pursuant to either section 304.009 or 304.010, or a passing violation pursuant to subsection 4 of this section, the court shall assess a fine of two hundred fifty dollars in addition to any other fine authorized by law if the offense occurred within a construction zone or a work zone and at the time the speeding or passing violation occurred there was any highway worker in such zone. A second or subsequent violation of this subsection shall result in the court assessing a fine of three hundred dollars in addition to any other fine authorized by law. However, no person assessed an additional fine pursuant to this subsection shall also be assessed an additional fine pursuant to subsection 1 of this section, and no person shall be assessed an additional fine pursuant to this subsection if no signs have been posted pursuant to subsection 3 of this section.

3. The penalty authorized by subsection 2 of this section shall only be assessed by the court if the department of transportation or contractor or subcontractor performing work for the department of transportation has erected signs upon or around a construction or work zone which are clearly visible from the highway and which state substantially the following message: "Warning: minimum \$250 fine for speeding or passing in this work zone when workers present".

4. The driver of a motor vehicle may not overtake or pass another motor vehicle within a work zone or construction zone as provided in this subsection. Violation of this subsection is a

class C misdemeanor.

(1) This subdivision applies to a construction zone or work zone located upon a highway divided into two or more marked lanes for traffic moving in the same direction and for which motor vehicles are instructed to merge from one lane into another lane and not pass by appropriate signs or traffic control devices erected by the department of transportation or a contractor or subcontractor performing work for the department of transportation.

(2) This subdivision also prohibits the operator of a motor vehicle from passing or attempting to pass another motor vehicle in a work zone or construction zone located upon a two-lane highway when highway workers or equipment are working and when appropriate signs or traffic control devices have been erected by the department of transportation or a contractor or subcontractor performing work for the department of transportation.

5. The additional fines imposed by subsection 4 of this section shall not be construed to enhance the assessment of court costs or the assessment of points pursuant to section 302.302, RSMo."; and

Further amend said bill, Pages 30 and 31, Section 304.585, Lines 1 to 34, by striking said section and inserting in lieu thereof the following:

"304.585. 1. A person shall be deemed to commit the offense of "endangerment of a highway worker" upon conviction for any of the following when the offense occurs within a "construction zone" or "work zone", as defined in section 304.580:

(1) Exceeding the posted speed limit by twenty-five miles per hour or more;

(2) Passing in violation of subsection 4 of section 304.582, resulting in injury or death to a highway worker;

(3) Failure to stop for a work zone flagman or failure to obey traffic control devices erected in the construction zone or work zone for

purposes of controlling the flow of motor vehicles through the zone;

(4) Physically assaulting, or attempting to assault, or threatening to assault a highway worker in a construction zone or work zone, with a motor vehicle or other instrument;

(5) Intentionally striking, moving, or altering barrels, barriers, signs, or other devices erected to control the flow of traffic to protect workers and motorists in the work zone for a reason other than avoidance of an obstacle, an emergency, or to protect the health and safety of an occupant of the motor vehicle or of another person; or

(6) Committing any of the following offenses for which points may be assessed under section 302.302, RSMo:

(a) Leaving the scene of an accident in violation of section 577.060, RSMo;

(b) Careless and imprudent driving in violation of subsection 4 of section 304.016;

(c) Operating without a valid license in violation of subdivision (1) or (2) of subsection 1 of section 302.020, RSMo,

(d) Operating with a suspended or revoked license;

(e) Obtaining a license by misrepresentation;

(f) Driving while in an intoxicated condition or under the influence of controlled substances or drugs or driving with an excessive blood alcohol content;

(g) Any felony involving the use of a motor vehicle; or

(h) Knowingly permitting an unlicensed operator to operate a motor vehicle.

2. Upon conviction or a plea of guilty for committing the offense of “endangerment of a highway worker” pursuant to subsection 1 of this section if no injury or death to a highway worker resulted from the offense, in addition to

any other penalty authorized by law, the person shall, upon conviction or plea of guilty, be guilty of a class A misdemeanor and shall have their driver's license suspended under section 302.304, RSMo.

3. A person shall be deemed to commit the offense of “aggravated endangerment of a highway worker” upon conviction or a plea of guilty for any offense pursuant to subsection 1 of this section which results in the injury or death of a highway worker. Any person who is convicted of the offense of aggravated endangerment of a highway worker in which a highway worker is injured shall, upon conviction or plea of guilty, shall be guilty of a class D felony, and shall have his or her driver's license revoked under section 302.304, RSMo. Any person who is convicted of the offense of aggravated endangerment of a highway worker in which the death of a highway worker occurs shall, upon conviction or plea of guilty, be guilty of a class C felony and have his or her driver's license revoked under section 302.304.

4. Except for the offense established under subdivision (6) of subsection 1 of this section, no person shall be deemed to commit the offense of endangerment of a highway worker except when the act or omission constituting the offense occurred when one or more highway workers were in the construction zone or work zone.

5. No person shall be cited or convicted for endangerment of a highway worker or aggravated endangerment of a highway worker, for any act or omission otherwise constituting an offense under subsection 1 of this section, if such act or omission resulted in whole or in part from mechanical failure of the person's vehicle or from the negligence of another person or a highway worker.”; and

Further amend said bill, Pages 31 to 32, Section 304.590, by striking said section from the bill; and

Further amend said bill, Page 32, Section

307.178, Line 12, by striking the word “four” and inserting in lieu thereof the following: “**sixteen**” ; and further amend Line 13, by striking “210.104, RSMo”; and inserting in lieu thereof the following: “**307.179**”; and

Further amend said bill, Page 33, Section 307.178, Line 48, by striking said line and inserting in lieu thereof the following: “vehicle, then the [driver and] passengers [are not in violation of this section] **who are unable to wear seat belts, shall sit in the area behind the front seat of the motor vehicle unless the motor vehicle is designed only for a front-seated area. This subsection shall not apply to passengers who are accompanying a driver of a motor vehicle who is licensed pursuant to section 302.178, RSMo.**”; and

Further amend said bill, Pages 33 to 35, Section 307.179, Lines 1 to 41, by striking said section and inserting in lieu thereof the following:

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

(1) “**Child booster seat**”, a seating system which meets the Federal Motor Vehicle Safety Standards set forth in 49 C.F.R. 571.213, as amended, that is designed to elevate a child to properly sit in a federally approved safety belt system;

(2) “**Child passenger restraint system**”, a seating system which meets the Federal Motor Vehicle Safety Standards set forth in 49 C.F.R. 571.213, as amended, and which is either permanently affixed to a motor vehicle or is affixed to such vehicle by a safety belt or a universal attachment system.

2. Every person transporting a child under the age of sixteen years shall be responsible, when transporting such child in a motor vehicle operated by that person on the streets or highways of this state, for providing for the protection of such child as follows:

(1) Children less than four years of age shall be properly secured in a child passenger

restraint system appropriate for that child, according to the child passenger restraint system and the vehicle manufacturer's instructions;

(2) Children four through five years of age shall be properly secured in a child passenger restraint system or a child booster seat appropriate for that child, according to the child passenger restraint system and the vehicle manufacturer's instructions;

(3) Children six years of age or older shall be secured by a vehicle safety belt, child passenger restraint system, or booster seat appropriate for that child, according to the child passenger restraint system and the vehicle manufacturer's instructions;

(4) A child, who would otherwise be required to be secured in a booster seat, may be transported in the back seat of a motor vehicle while wearing only a lap belt if the back seat of the motor vehicle is not equipped with a combination lap and shoulder belt for booster seat installation.

3. Any person who violates this section is guilty of an infraction and, upon conviction, may be punished by a fine of not more than twenty-five dollars. No court costs shall be charged for a violation of this section. In no case shall points be assessed against any person, pursuant to section 302.302, RSMo, for violation of this section. If a person receives a citation for violating this section, the charges shall be dismissed or withdrawn if the person prior to or at his or her hearing provides evidence of acquisition of a child passenger restraint system or child booster seat which is satisfactory to the court or the party responsible for prosecuting the person's citation.

4. The provisions of this section shall not apply to any public carrier for hire. The provisions of this section shall not apply to students four years of age or older who are passengers on a school bus as defined in section 301.010, RSMo.

5. In no event shall failure to employ a child passenger restraint system required by this section provide the basis for a claim of civil liability or negligence or contributory negligence of any person in any action for damages by reason of injury sustained by a child. Nor shall such failure to employ such child passenger restraint system be admissible as evidence in the trial of any civil action.

6. The state highways and transportation commission shall initiate and develop a program of public information to develop understanding of, and ensure compliance with the provisions of this section. The commission may promulgate rules and regulations for the enforcement of this section. 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, 2005, shall be invalid and void.

476.385. 1. The judges of the supreme court may appoint a committee consisting of at least seven associate circuit judges, who shall meet en banc and establish and maintain a schedule of fines to be paid for violations of sections [210.104,] 577.070[,] and 577.073, RSMo, and chapters 252, 301, 302, 304, 306, 307 and 390, RSMo, with such fines increasing in proportion to the severity of the violation. The associate circuit judges of each county may meet en banc and adopt the schedule of fines and participation in the centralized bureau pursuant to this section. Notice of such adoption and participation shall be given in the manner provided by supreme court rule. Upon order of the

supreme court, the associate circuit judges of each county may meet en banc and establish and maintain a schedule of fines to be paid for violations of municipal ordinances for cities, towns and villages electing to have violations of its municipal ordinances heard by associate circuit judges, pursuant to section 479.040, RSMo; and for traffic court divisions established pursuant to section 479.500, RSMo. The schedule of fines adopted for violations of municipal ordinances may be modified from time to time as the associate circuit judges of each county en banc deem advisable. No fine established pursuant to this subsection may exceed the maximum amount specified by statute or ordinance for such violation.

2. In no event shall any schedule of fines adopted pursuant to this section include offenses involving the following:

(1) Any violation resulting in personal injury or property damage to another person;

(2) Operating a motor vehicle while intoxicated or under the influence of intoxicants or drugs;

(3) Operating a vehicle with a counterfeited, altered, suspended or revoked license;

(4) Fleeing or attempting to elude an officer.

3. There shall be a centralized bureau to be established by supreme court rule in order to accept pleas of not guilty or guilty and payments of fines and court costs for violations of the laws and ordinances described in subsection 1 of this section, made pursuant to a schedule of fines established pursuant to this section. The centralized bureau shall collect, with any plea of guilty and payment of a fine, all court costs which would have been collected by the court of the jurisdiction from which the violation originated.

4. If a person elects not to contest the alleged violation, the person shall send payment in the amount of the fine and any court costs established for the violation to the centralized bureau. Such payment shall be payable to the "central violations bureau", shall be made by mail or in any other

manner established by the centralized bureau, and shall constitute a plea of guilty, waiver of trial and a conviction for purposes of section 302.302, RSMo, and for purposes of imposing any collateral consequence of a criminal conviction provided by law. Notwithstanding any provision of law to the contrary, the prosecutor shall not be required to sign any information, ticket or indictment if disposition is made pursuant to this subsection. In the event that any payment is made pursuant to this section by credit card or similar method, the centralized bureau may charge an additional fee in order to reflect any transaction cost, surcharge or fee imposed on the recipient of the credit card payment by the credit card company.

5. If a person elects to plead not guilty, such person shall send the plea of not guilty to the centralized bureau. The bureau shall send such plea and request for trial to the prosecutor having original jurisdiction over the offense. Any trial shall be conducted at the location designated by the court. The clerk of the court in which the case is to be heard shall notify in writing such person of the date certain for the disposition of such charges. The prosecutor shall not be required to sign any information, ticket or indictment until the commencement of any proceeding by the prosecutor with respect to the notice of violation.

6. In courts adopting a schedule of fines pursuant to this section, any person receiving a notice of violation pursuant to this section shall also receive written notification of the following:

(1) The fine and court costs established pursuant to this section for the violation or information regarding how the person may obtain the amount of the fine and court costs for the violation;

(2) That the person must respond to the notice of violation by paying the prescribed fine and court costs, or pleading not guilty and appearing at trial, and that other legal penalties prescribed by law may attach for failure to appear and dispose of the violation. The supreme court may modify the suggested forms for uniform complaint and

summons for use in courts adopting the procedures provided by this section, in order to accommodate such required written notifications.

7. Any moneys received in payment of fines and court costs pursuant to this section shall not be considered to be state funds, but shall be held in trust by the centralized bureau for benefit of those persons or entities entitled to receive such funds pursuant to this subsection. All amounts paid to the centralized bureau shall be maintained by the centralized bureau, invested in the manner required of the state treasurer for state funds by sections 30.240, 30.250, 30.260 and 30.270, RSMo, and disbursed as provided by the constitution and laws of this state. Any interest earned on such fund shall be payable to the director of the department of revenue for deposit into a revolving fund to be established pursuant to this subsection. The state treasurer shall be the custodian of the revolving fund, and shall make disbursements, as allowed by lawful appropriations, only to the judicial branch of state government for goods and services related to the administration of the judicial system.

8. Any person who receives a notice of violation subject to this section who fails to dispose of such violation as provided by this section shall be guilty of failure to appear provided by section 544.665, RSMo; and may be subject to suspension of driving privileges in the manner provided by section 302.341, RSMo. The centralized bureau shall notify the appropriate prosecutor of any person who fails to either pay the prescribed fine and court costs, or plead not guilty and request a trial within the time allotted by this section, for purposes of application of section 544.665, RSMo. The centralized bureau shall also notify the department of revenue of any failure to appear subject to section 302.341, RSMo, and the department shall thereupon suspend the license of the driver in the manner provided by section 302.341, RSMo, as if notified by the court.

9. In addition to the remedies provided by subsection 8 of this section, the centralized bureau and the courts may use the remedies provided by sections 488.010 to 488.020, RSMo, for the

collection of court costs payable to courts, in order to collect fines and court costs for violations subject to this section.”; and

Further amend said bill, Page 40, Section 210.104, Line 10, by inserting after all of said line the following:

“[210.106. In no event shall failure to employ a child passenger restraint system required by section 210.104 provide the basis for a claim of civil liability or negligence or contributory negligence of any person in any action for damages by reason of injury sustained by a child; nor shall such failure to employ such child passenger restraint system be admissible as evidence in the trial of any civil action.]”; and

Further amend the title and enacting clause accordingly.

HOUSE AMENDMENT NO. 2

Amend House Committee Substitute for Senate Committee Substitute for Senate Bill No. 221, 250 and 256, Section 43.250, Page 2, Line 3, by deleting the words “two” and inserting in lieu thereof the words “one”; and

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

HOUSE AMENDMENT NO. 3

Amend House Committee Substitute for Senate Committee Substitute for Senate Bill No. 221, Section 304.155, Page 24, Line 162 by inserting immediately after said line the following:

“304.184. Notwithstanding any other provision of law to the contrary, any truck, tractor-trailer or other combination engaged in transporting solid waste, as defined by section 260.200, between any city and a solid waste disposal area or solid waste processing facility approved by the department of natural resources or department of health and senior servies, may operate with a weight not to exceed twenty-two

thousand four hundred pounds on one axle or a weight not to exceed forty-four thousand eight hundred pounds on any tandem axle; but nothing in this section shall be construed to permit the operation of any motor vehicle on the interstate highway system in excess of the weight limits imposed by federal statute; and no such truck, tractor-trailer or other combination shall exceed the width and length limitations provided by section 304.190, RSMo.”; and

Further amend said bill, Section 210.107, Page 40, Line 10, by inserting immediately after said line the following:

[260.218. Notwithstanding any other provision of law to the contrary, any truck, tractor-trailer or other combination engaged in transporting solid waste, as defined by section 260.200, between any city and a solid waste disposal area or solid waste processing facility approved by the department of natural resources or department of health and senior servies, may operate with a weight not to exceed twenty-two thousand four hundred pounds on one axle or a weight not to exceed forty-four thousand eight hundred pounds on any tandem axle; but nothing in this section shall be construed to permit the operation of any motor vehicle on the interstate highway system in excess of the weight limits imposed by federal statute; and no such truck, tractor-trailer or other combination shall exceed the width and length limitations provided by section 304.190, RSMo.]”; and

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

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

Amend House Committee Substitute for Senate Committee Substitute for Senate Bill Nos. 221, 250 and 256, Page 32, Section 307.178, Lines 14 - 16,

by deleting all of said lines and inserting in lieu thereof the following:

“compliance with this subsection. The provisions of this section shall not be applicable to persons”; and

Further amend said bill, section 307.178, Page 33, Line 20-21 by deleting the following phrase on said lines, “**or for a search of the driver, passenger, or vehicle**”; and

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

In which the concurrence of the Senate is respectfully requested.

PRIVILEGED MOTIONS

Senator Dolan moved that the Senate refuse to concur in **HCS for SCS for SBs 221, 250 and 256**, as amended, and request the House to recede from its position or, failing to do so, grant the Senate a conference thereon, which motion prevailed.

CONFERENCE COMMITTEE APPOINTMENTS

President Pro Tem Gibbons appointed the following conference committee to act with a like committee from the House on **SCS for HB 678**, as amended: Senators Bartle, Scott, Purgason, Callahan and Bray.

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

HOUSE BILLS ON THIRD READING

HCS for HB 353, with **SCS**, entitled:

An Act to repeal sections 1.160, 8.177, 43.010, 43.120, 43.509, 43.532, 43.543, 195.017, 195.214, 211.031, 217.105, 217.750, 302.321, 302.541, 304.022, 306.112, 306.114, 306.116, 306.117, 306.119, 306.140, 306.147, 540.031, 542.276, 544.170, 545.550, 556.036, 558.016, 558.019, 559.016, 559.036, 559.115, 566.140, 568.045, 568.050, 569.040, 569.050, 569.080, 569.090, 570.030, 570.040, 570.080, 570.255, 570.300, 575.150, 576.050, 577.023, 577.041, 577.500, 589.417, and 595.209, RSMo, and to

enact in lieu thereof sixty-five new sections relating to crime, with penalty provisions.

Was taken up by Senator Bartle.

SCS for HCS for HB 353, entitled:

SENATE COMMITTEE SUBSTITUTE FOR
HOUSE COMMITTEE SUBSTITUTE FOR
HOUSE BILL NO. 353

An Act to repeal sections 1.160, 8.177, 43.010, 43.120, 43.509, 43.532, 43.543, 195.017, 211.031, 217.105, 217.705, 217.750, 302.321, 302.541, 306.112, 306.114, 306.116, 306.117, 306.119, 306.140, 306.147, 479.230, 540.031, 542.276, 544.170, 545.550, 556.036, 558.016, 558.019, 559.016, 559.036, 559.115, 559.607, 565.081, 565.082, 565.083, 565.092, 566.083, 566.140, 567.080, 568.045, 568.050, 569.080, 569.090, 557.036, 570.040, 570.080, 570.120, 570.255, 570.300, 573.503, 575.270, 576.050, 577.023, 577.041, 577.500, 589.417, 595.209, and 650.055, RSMo, and to enact in lieu thereof seventy-nine new sections relating to crime, with penalty provisions, an emergency clause for a certain section, and a severability clause.

Was taken up.

Senator Bartle moved that **SCS for HCS for HB 353** be adopted.

Senator Bartle offered **SS for SCS for HCS for HB 353**, entitled:

SENATE SUBSTITUTE FOR
SENATE COMMITTEE SUBSTITUTE FOR
HOUSE COMMITTEE SUBSTITUTE FOR
HOUSE BILL NO. 353

An Act to repeal sections 1.160, 8.177, 43.010, 43.120, 43.509, 43.532, 43.543, 195.017, 195.214, 211.031, 217.105, 217.705, 217.750, 302.321, 302.541, 304.022, 306.112, 306.114, 306.116, 306.117, 306.119, 306.140, 306.147, 367.031, 407.1355, 479.230, 542.276, 544.170, 545.550, 556.036, 558.016, 558.019, 559.016, 559.036, 559.115, 559.607, 565.081, 565.082, 565.083, 566.083, 567.080, 568.045, 568.050, 569.040, 569.080, 569.090, 570.030, 570.040,

570.080, 570.120, 570.145, 570.223, 570.255, 570.300, 573.503, 575.150, 575.270, 576.050, 577.023, 577.041, 577.500, 595.209, and 650.055, RSMo, and to enact in lieu thereof eighty-six new sections relating to crime, with penalty provisions, an emergency clause for certain sections, and a severability clause.

Senator Bartle moved that **SS** for **SCS** for **HCS** for **HB 353** be adopted.

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

SENATE AMENDMENT NO. 1

Amend Senate Substitute for Senate Committee Substitute for House Committee Substitute for House Bill No. 353, Pages 7-8, Section 43.532, by striking all of said section from the bill; and

Further amend the title and enacting clause accordingly.

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

Senator Dougherty offered **SA 2**:

SENATE AMENDMENT NO. 2

Amend Senate Substitute for Senate Committee Substitute for House Committee Substitute for House Bill No. 353, Page 72, Section 407.1355, Line 1, by inserting after all of said line the following:

“407.1400. 1. Except as otherwise allowed by state or federal law, or unless consent has been provided as it is established in this section, financial institutions, their officers, employees, agents, and directors shall not disclose to any person any financial information relating to a customer.

2. A governmental agency or law enforcement agency may obtain customer information from a financial institution pursuant to a judicial or administrative subpoena duces tecum served on the financial institution, if there is reason to believe that the

customer information sought is relevant to a proper law enforcement objective or is otherwise authorized by law.

3. A governmental agency or law enforcement agency may obtain customer information from a financial institution pursuant to a search warrant if it obtains the search warrant under the rules of criminal procedure of this state.

4. No consent or waiver shall be required as a condition of doing business with any financial institution, and any consent or waiver obtained from a customer as a condition of doing business with a financial institution shall not be deemed a consent of the customer for the purpose of this section.

5. Valid consent shall be in writing and signed by the customer. In consenting to disclosure of customer information, a customer may specify any of the following:

(1) The time during which such consent will operate;

(2) The customer information to be disclosed; and

(3) The persons, government agencies, or law enforcement agencies to which disclosure can be made.

407.1403. 1. Any person or business that conducts business in this state and that owns or licenses computerized data that includes personal information, shall disclose any breach of the security of the system following discovery or notification of the breach. Notification shall be made to any resident of the state whose encrypted personal information was, or is reasonably believed to have been, acquired by an unauthorized person. The disclosure shall be made in the most expedient time possible, but no more than thirty days after such breach has been discovered.

2. The notification required by this section may be delayed if a law enforcement agency determines that the notification will impede a

criminal investigation.

3. For purposes of this section, “breach of security of the system” shall mean unauthorized acquisition of computerized data that compromises the security, confidentiality, or integrity of personal information maintained by the business or person. Good faith acquisition of personal information by an employee or agent of the business for the purposes of the business shall not be considered a breach of security of the system, provided that the personal information is not used or subject to further unauthorized disclosure.

4. For purposes of this section, “personal information” means an individual's first name or first initial and last name in combination with any one or more of the following data elements, when either the name or the data elements are not encrypted:

- (1) Social security number;
- (2) Driver's license number;
- (3) Account number, credit card number, or debit card number, in combination with any required security code, access code, or password that would permit access to an individual's financial account.

For purposes of this section, “personal information” does not include publicly available information that is lawfully made available to the general public from federal, state, or local government records.

5. For purposes of this section, “notice” may be provided by one of the following methods:

- (1) Written notice;
- (2) Electronic notice, if the notice provided is consistent with the provisions regarding electronic records and signatures set forth in Section 7001 of Title 15 of the United States Code;
- (3) Substitute notice, if the agency demonstrates that the cost of providing notice

would exceed two hundred fifty thousand dollars, that the affected class of subject persons to be notified exceeds five hundred thousand, or the agency does not have sufficient contact information. Substitute notice shall consist of all of the following:

- (a) E-mail notice when the agency has an e-mail address for the subject persons;
- (b) Conspicuous posting of the notice on the agency's website, if the agency maintains one; and
- (c) Notification to major statewide media.

6. Notwithstanding subsection 5 of this section, an agency that maintains its own notification procedures as part of an information security policy for the treatment of personal information and is otherwise consistent with the timing requirements of this part shall be deemed to be in compliance with the notification requirements of this section if it notifies subject persons in accordance with its policies in the event of a breach of security of the system.

7. Any person or business who violates the provisions of this section shall be guilty of a class A misdemeanor and, upon conviction, shall be punished by a fine of up to one thousand dollars for each and every act or violation, by imprisonment in the county jail for a term not to exceed one year, or by both at the discretion of the court.

407.1406. 1. A consumer may elect to place a security alert in his or her credit report by making a request in writing or by telephone to a consumer credit reporting agency. “Security alert” means a notice placed in a consumer's credit report, at the request of the consumer, that notifies a recipient of the credit report that the consumer's identity may have been used without the consumer's consent to fraudulently obtain goods or services in the consumer's name.

2. A consumer credit reporting agency shall

notify each person requesting consumer credit information with respect to a consumer of the existence of a security alert in the credit report of that consumer, regardless of whether a full credit report, credit score, or summary report is requested.

3. Each consumer credit reporting agency shall maintain a toll-free telephone number to accept security alert requests from consumers twenty-four hours a day, seven days a week.

4. The toll-free telephone number shall be included in any written disclosure by a consumer credit reporting agency to any consumer pursuant to section 407.1421 and shall be printed in a clear and conspicuous manner.

5. A consumer credit reporting agency shall place a security alert on a consumer's credit report no later than five business days after receiving a request from the consumer.

6. The security alert shall remain in place for at least 90 days, and a consumer shall have the right to request a renewal of the security alert.

407.1409. 1. A consumer may elect to place a security freeze on his or her credit report by making a request in writing by certified mail to a consumer credit reporting agency. "Security freeze" means a notice placed in a consumer's credit report, at the request of the consumer and subject to certain exceptions, that prohibits the consumer credit reporting agency from releasing the consumer's credit report or any information from it without the express authorization of the consumer. If a security freeze is in place, information from a consumer's credit report may not be released to a third party without prior express authorization from the consumer. This subsection does not prevent a consumer credit reporting agency from advising a third party that a security freeze is in effect with respect to the consumer's credit report.

2. A consumer credit reporting agency shall place a security freeze on a consumer's credit report no later than five business days after receiving a written request from the consumer.

3. The consumer credit reporting agency shall send a written confirmation of the security freeze to the consumer within ten business days and shall provide the consumer with a unique personal identification number or password to be used by the consumer when providing authorization for the release of his or her credit for a specific party or period of time.

4. If the consumer wishes to allow his or her credit report to be accessed for a specific party or period of time while a freeze is in place, he or she shall contact the consumer credit reporting agency, request that the freeze be temporarily lifted, and provide the following:

(1) Proper identification, as defined in subsection 3 of section 407.1421.

(2) The unique personal identification number or password provided by the credit reporting agency pursuant to subdivision (c).

(3) The proper information regarding the third party who is to receive the credit report or the time period for which the report shall be available to users of the credit report.

5. A consumer credit reporting agency that receives a request from a consumer to temporarily lift a freeze on a credit report pursuant to subsection 4 of this section, shall comply with the request no later than three business days after receiving the request.

6. A consumer credit reporting agency may develop procedures involving the use of telephone, fax, the Internet, or other electronic media to receive and process a request from a consumer to temporarily lift a freeze on a credit report pursuant to subsection 4 of this section in an expedited manner.

7. A consumer credit reporting agency shall remove or temporarily lift a freeze placed on a consumer's credit report only in the following

cases:

(1) Upon consumer request, pursuant to subsection 4 or 10 of this section;

(2) If the consumer's credit report was frozen due to a material misrepresentation of fact by the consumer. If a consumer credit reporting agency intends to remove a freeze upon a consumer's credit report pursuant to this subdivision, the consumer credit reporting agency shall notify the consumer in writing prior to removing the freeze on the consumer's credit report.

8. If a third party requests access to a consumer credit report on which a security freeze is in effect, and this request is in connection with an application for credit or any other use, and the consumer does not allow his or her credit report to be accessed for that specific party or period of time, the third party may treat the application as incomplete.

9. If a consumer requests a security freeze, the consumer credit reporting agency shall disclose the process of placing and temporarily lifting a freeze, and the process for allowing access to information from the consumer's credit report for a specific party or period of time while the freeze is in place.

10. A security freeze shall remain in place until the consumer requests that the security freeze be removed. A consumer credit reporting agency shall remove a security freeze within three business days of receiving a request for removal from the consumer, who provides both of the following:

(1) Proper identification, as defined in subsection 3 of section 407.1421;

(2) The unique personal identification number or password provided by the credit reporting agency pursuant to subsection 3 of this section.

11. A consumer credit reporting agency shall require proper identification, as defined in subsection 3 of section 407.1421, of the person

making a request to place or remove a security freeze.

12. The provisions of this section do not apply to the use of a consumer credit report by any of the following:

(1) A person or entity, or a subsidiary, affiliate, or agent of that person or entity, or an assignee of a financial obligation owing by the consumer to that person or entity, or a prospective assignee of a financial obligation owing by the consumer to that person or entity in conjunction with the proposed purchase of the financial obligation, with which the consumer has or had prior to assignment an account or contract, including a demand deposit account, or to whom the consumer issued a negotiable instrument, for the purposes of reviewing the account or collecting the financial obligation owing for the account, contract, or negotiable instrument. For purposes of this paragraph, "reviewing the account" includes activities related to account maintenance, monitoring, credit line increases, and account upgrades and enhancements;

(2) A subsidiary, affiliate, agent, assignee, or prospective assignee of a person to whom access has been granted under subdivision (2) of subsection 4 of this section for purposes of facilitating the extension of credit or other permissible use;

(3) Any state or local agency, law enforcement agency, trial court, or private collection agency acting pursuant to a court order, warrant, or subpoena;

(4) A child support agency;

(5) The department of health and senior services or its agents or assigns acting to investigate Medicaid fraud;

(6) The state tax commission or its agents or assigns acting to investigate or collect delinquent taxes or unpaid court orders or to fulfill any of its other statutory responsibilities;

(7) The use of credit information for the

purposes of prescreening as provided for by the federal Fair Credit Reporting Act;

(8) Any person or entity administering a credit file monitoring subscription service to which the consumer has subscribed;

(9) Any person or entity for the purpose of providing a consumer with a copy of his or her credit report upon the consumer's request.

13. This act does not prevent a consumer credit reporting agency from charging a fee of no more than ten dollars to a consumer for each freeze, removal of the freeze, or temporary lift of the freeze for a period of time, or a fee of no more than twelve dollars for a temporary lift of a freeze for a specific party, regarding access to a consumer credit report, except that a consumer credit reporting agency may not charge a fee to a victim of identity theft who has submitted a valid police report.

407.1412. 1. If a security freeze is in place, a consumer credit reporting agency shall not change any of the following official information in a consumer credit report without sending a written confirmation of the change to the consumer within thirty days of the change being posted to the consumer's file: name, date of birth, social security number, and address. Written confirmation is not required for technical modifications of a consumer's official information, including name and street abbreviations, complete spellings, or transposition of numbers or letters. In the case of an address change, the written confirmation shall be sent to both the new address and to the former address.

2. If a consumer has placed a security alert, a consumer credit reporting agency shall provide the consumer, upon request, with a free copy of his or her credit report at the time the ninety-day security alert period expires.

407.1415. The provisions of sections 407.1406 to 407.1412 do not apply to a consumer credit reporting agency that acts only as a reseller of credit information by assembling

and merging information contained in the data base of another consumer credit reporting agency or multiple consumer credit reporting agencies, and does not maintain a permanent data base of credit information from which new consumer credit reports are produced. However, a consumer credit reporting agency shall honor any security freeze placed on a consumer credit report by another consumer credit reporting agency.

407.1418. The following entities are not required to place in a credit report either a security alert, pursuant to section 407.1406, or a security freeze, pursuant to section 407.1409:

(1) A check services or fraud prevention services company, which issues reports on incidents of fraud or authorizations for the purpose of approving or processing negotiable instruments, electronic funds transfers, or similar methods of payments;

(2) A deposit account information service company, which issues reports regarding account closures due to fraud, substantial overdrafts, ATM abuse, or similar negative information regarding a consumer, to inquiring banks or other financial institutions for use only in reviewing a consumer request for a deposit account at the inquiring bank or financial institution.

407.1421. A consumer credit reporting agency shall supply files and information required during normal business hours and on reasonable notice. In addition to the disclosure provided by this chapter and any disclosures received by the consumer, the consumer has the right to request and receive all of the following:

(1) Either a decoded written version of the file or a written copy of the file, including all information in the file at the time of the request, with an explanation of any code used;

(2) A credit score for the consumer, the key factors, and the related information, as defined in and required by this subsection;

(3) A record of all inquiries, by recipient,

which result in the provision of information concerning the consumer in connection with a credit transaction that is not initiated by the consumer and which were received by the consumer credit reporting agency in the twelve-month period immediately preceding the request for disclosure under this section;

(4) The recipients, including end users of any consumer credit report on the consumer which the consumer credit reporting agency has furnished:

(a) For employment purposes within the two-year period preceding the request;

(b) For any other purpose within the twelve-month period preceding the request.

Identification for purposes of this subdivision shall include the name of the recipient or, if applicable, the fictitious business name under which the recipient does business disclosed in full. If requested by the consumer, the identification shall also include the address of the recipient.

(5) Files maintained on a consumer shall be disclosed promptly as follows:

(a) In person, at the location where the consumer credit reporting agency maintains the trained personnel required by this subdivision, if he or she appears in person and furnishes proper identification;

(b) By mail, if the consumer makes a written request with proper identification for a copy of the file or a decoded written version of that file to be sent to the consumer at a specified address. A disclosure pursuant to this subdivision shall be deposited in the United States mail, postage prepaid, within five business days after the consumer's written request for the disclosure is received by the consumer credit reporting agency. Consumer credit reporting agencies complying with requests for mailings under this section shall not be liable for disclosures to third parties caused by mishandling of mail after the mailings leave the consumer credit reporting

agencies;

(c) A summary of all information contained in files on a consumer and required to be provided shall be provided by telephone, if the consumer has made a written request, with proper identification for telephone disclosure;

(d) Information in a consumer's file required to be provided in writing under this section may also be disclosed in another form if authorized by the consumer and if available from the consumer credit reporting agency. For this purpose a consumer may request disclosure in person by telephone upon disclosure of proper identification by the consumer, by electronic means if available from the consumer credit reporting agency, or by any other reasonable means that is available from the consumer credit reporting agency.

(6) "Proper identification," as used in this section means that information generally deemed sufficient to identify a person. Only if the consumer is unable to reasonably identify himself or herself with the information described above, may a consumer credit reporting agency require additional information concerning the consumer's employment and personal or family history in order to verify his or her identity;

(7) The consumer credit reporting agency shall provide trained personnel to explain to the consumer any information furnished him or her;

(8) The consumer shall be permitted to be accompanied by one other person of his or her choosing, who shall furnish reasonable identification. A consumer credit reporting agency may require the consumer to furnish a written statement granting permission to the consumer credit reporting agency to discuss the consumer's file in that person's presence;

(9) Any written disclosure by a consumer credit reporting agency to any consumer pursuant to this section shall include a written summary of all rights the consumer has under

this title and in the case of a consumer credit reporting agency which compiles and maintains consumer credit reports on a nationwide basis, a toll-free telephone number which the consumer can use to communicate with the consumer credit reporting agency. The written summary of rights required under this subdivision is sufficient if in substantially the following form:

“You have a right to obtain a copy of your credit file from a consumer credit reporting agency. You may be charged a reasonable fee not exceeding eight dollars (\$8). There is no fee, however, if you have been turned down for credit, employment, insurance, or a rental dwelling because of information in your credit report within the preceding 60 days. The consumer credit reporting agency must provide someone to help you interpret the information in your credit file.

You have a right to dispute inaccurate information by contacting the consumer credit reporting agency directly. However, neither you nor any credit repair company or credit service organization has the right to have accurate, current, and verifiable information removed from your credit report. Under the Federal Fair Credit Reporting Act, the consumer credit reporting agency must remove accurate, negative information from your report only if it is over seven years old. Bankruptcy information can be reported for 10 years.

If you have notified a consumer credit reporting agency in writing that you dispute the accuracy of information in your file, the consumer credit reporting agency must then, within 30 business days, reinvestigate and modify or remove inaccurate

information. The consumer credit reporting agency may not charge a fee for this service. Any pertinent information and copies of all documents you have concerning an error should be given to the consumer credit reporting agency.

If reinvestigation does not resolve the dispute to your satisfaction, you may send a brief statement to the consumer credit reporting agency to keep in your file, explaining why you think the record is inaccurate. The consumer credit reporting agency must include your statement about disputed information in a report it issues about you.

You have a right to receive a record of all inquiries relating to a credit transaction initiated in 12 months preceding your request. This record shall include the recipients of any consumer credit report.

You may request in writing that the information contained in your file not be provided to a third party for marketing purposes. You have a right to place a “security alert” in your credit report, which will warn anyone who receives information in your credit report that your identity may have been used without your consent. Recipients of your credit report are required to take reasonable steps, including contacting you at the telephone number you may provide with your security alert, to verify your identity prior to lending money, extending credit, or completing the purchase, lease, or rental of goods or services. The security alert may prevent credit, loans, and services from being approved in your name without your consent. However, you should be aware that taking advantage

of this right may delay or interfere with the timely approval of any subsequent request or application you make regarding a new loan, credit, mortgage, insurance, rental housing, employment, investment, license, cellular phone, utilities, digital signature, Internet credit card transaction, or other services, including an extension of credit at point of sale. If you place a security alert on your credit report, you have a right to obtain a free copy of your credit report at the time the 90-day security alert period expires. A security alert may be requested by calling the following toll-free telephone number: (Insert applicable toll-free telephone number).

You have a right to place a “security freeze” on your credit report, which will prohibit a consumer credit reporting agency from releasing any information in your credit report without your express authorization. A security freeze must be requested in writing by certified mail. The security freeze is designed to prevent credit, loans, and services from being approved in your name without your consent. However, you should be aware that using a security freeze to take control over who gets access to the personal and financial information in your credit report may delay, interfere with, or prohibit the timely approval of any subsequent request or application you make regarding a new loan, credit, mortgage, insurance, government services or payments, rental housing, employment, investment, license, cellular phone, utilities, digital signature, Internet credit card transaction, or other services, including an extension of credit at point of sale. When you place

a security freeze on your credit report, you will be provided a personal identification number or password to use if you choose to remove the freeze on your credit report or authorize the release of your credit report for a specific party or period of time after the freeze is in place. To provide that authorization you must contact the consumer credit reporting agency and provide all of the following:

- (1) The personal identification number or password.
- (2) Proper identification to verify your identity.
- (3) The proper information regarding the third party who is to receive the credit report or the period of time for which the report shall be available.

A consumer credit reporting agency must authorize the release of your credit report no later than three business days after receiving the above information.

A security freeze does not apply to a person or entity, or its affiliates, or collection agencies acting on behalf of the person or entity, with which you have an existing account, that requests information in your credit report for the purposes of reviewing or collecting the account. Reviewing the account includes activities related to account maintenance, monitoring, credit line increases, and account upgrades and enhancements.

You have a right to bring civil action against anyone, including a consumer credit reporting agency, who improperly obtains access to a file, knowingly or willfully misuses file data, or fails to correct inaccurate file data.”; and

Further amend the title and enacting clause accordingly.

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

Senator Loudon offered **SA 3**:

SENATE AMENDMENT NO. 3

Amend Senate Substitute for Senate Committee Substitute for House Committee Substitute for House Bill No. 353, Page 147, Section 578.500, Line 11, by inserting after all of said line the following:

"590.040. 1. The POST commission shall set the minimum number of hours of basic training for licensure as a peace officer no lower than four hundred seventy and no higher than six hundred, with the following exceptions:

(1) Up to one thousand hours may be mandated for any class of license required for commission by a state law enforcement agency;

(2) As few as one hundred twenty hours may be mandated for any class of license restricted to commission as a reserve peace officer with police powers limited to the commissioning political subdivision;

(3) Persons validly licensed on August 28, 2001, may retain licensure without additional basic training;

(4) Persons licensed and commissioned within a county of the third classification before July 1, 2002, may retain licensure with one hundred twenty hours of basic training if the commissioning political subdivision has adopted an order or ordinance to that effect; [and]

(5) Persons commissioned and serving as a reserve peace officer within a county of the first classification on August 28, 2001, having previously completed a minimum of one hundred sixty hours of training, shall be granted a license necessary to function as a reserve peace officer; and

(6) The POST commission shall provide for the recognition of basic training received at law

enforcement training centers of other states, the military, the federal government and territories of the United States regardless of the number of hours included in such training and shall have authority to require supplemental training as a condition of eligibility for licensure.

2. The director shall have the authority to limit any exception provided in subsection 1 of this section to persons remaining in the same commission or transferring to a commission in a similar jurisdiction.

3. The basic training of every peace officer, except agents of the conservation commission, shall include at least thirty hours of training in the investigation and management of cases involving domestic and family violence. Such training shall include instruction, specific to domestic and family violence cases, regarding: report writing; physical abuse, sexual abuse, child fatalities and child neglect; interviewing children and alleged perpetrators; the nature, extent and causes of domestic and family violence; the safety of victims, other family and household members and investigating officers; legal rights and remedies available to victims, including rights to compensation and the enforcement of civil and criminal remedies; services available to victims and their children; the effects of cultural, racial and gender bias in law enforcement; and state statutes. Said curriculum shall be developed and presented in consultation with the department of health and senior services, the division of family services, public and private providers of programs for victims of domestic and family violence, persons who have demonstrated expertise in training and education concerning domestic and family violence, and the Missouri coalition against domestic violence."; and

Further amend the title and enacting clause accordingly.

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

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

SENATE AMENDMENT NO. 4

Amend Senate Substitute for Senate Committee Substitute for House Committee Substitute for House Bill No. 353, Pages 81-83, Section 558.016, by striking all of said section from the bill; and

Further amend the title and enacting clause accordingly.

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

Senator Wheeler offered SA 5:

SENATE AMENDMENT NO. 5

Amend Senate Substitute for Senate Committee Substitute for House Committee Substitute for House Bill No. 353, Page 38, Section 195.017, Line 21, of said page, by inserting immediately after said line the following:

“195.060. 1. Except as provided in subsection 3 of this section, a pharmacist, in good faith, may sell and dispense controlled substances to any person only upon a prescription of a practitioner as authorized by statute, provided that the controlled substances listed in Schedule V may be sold without prescription in accordance with regulations of the department of health and senior services. All written prescriptions shall be signed by the person prescribing the same. All prescriptions shall be dated on the day when issued and bearing the full name and address of the patient for whom, or of the owner of the animal for which, the drug is prescribed, and the full name, address, and the registry number under the federal controlled substances laws of the person prescribing, if he is required by those laws to be so registered. If the prescription is for an animal, it shall state the species of the animal for which the drug is prescribed. The person filling the prescription shall **either** write the date of filling and his own signature on the prescription **or retain the date of filling and the identity of the dispenser as electronic prescription information.** The prescription **or electronic prescription information** shall be retained on file by the proprietor of the pharmacy in which it is filled for

a period of two years, so as to be readily accessible for inspection by any public officer or employee engaged in the enforcement of this law. No prescription for a drug in Schedule I or II shall be filled more than six months after the date prescribed; no prescription for a drug in schedule I or II shall be refilled; no prescription for a drug in Schedule III or IV shall be filled or refilled more than six months after the date of the original prescription or be refilled more than five times unless renewed by the practitioner.

2. The legal owner of any stock of controlled substances in a pharmacy, upon discontinuance of dealing in such drugs, may sell the stock to a manufacturer, wholesaler, or pharmacist, but only on an official written order.

3. A pharmacist, in good faith, may sell and dispense, any Schedule II drug or drugs to any person, in emergency situations as defined by rule of the department of health and senior services upon an oral prescription by an authorized practitioner.

4. It shall be unlawful for controlled substances to be promoted or advertised for use or sale, provided that this subsection shall not prohibit such activity by a manufacturer, wholesaler, or their agents directed to a physician, pharmacist or other practitioner.

5. Except where a bona fide physician-patient-pharmacist relationship exists, prescriptions for narcotics or hallucinogenic drugs shall not be delivered to or for an ultimate user or agent by mail or other common carrier.

195.080. 1. Except as otherwise in sections 195.005 to 195.425 specifically provided, sections 195.005 to 195.425 shall not apply to the following cases: Prescribing, administering, dispensing or selling at retail of liniments, ointments, and other preparations that are susceptible of external use only and that contain controlled substances in such combinations of drugs as to prevent the drugs from being readily extracted from such liniments, ointments, or preparations, except that sections 195.005 to 195.425 shall apply to all liniments, ointments, and other preparations that contain coca

leaves in any quantity or combination.

2. The quantity of Schedule II controlled substances prescribed or dispensed at any one time shall be limited to a thirty-day supply. The quantity of Schedule III, IV or V controlled substances prescribed or dispensed at any one time shall be limited to a ninety-day supply and shall be prescribed and dispensed in compliance with the general provisions of sections 195.005 to 195.425. The supply limitations provided in this subsection may be increased up to three months if the physician describes on the prescription form **or indicates via telephone, facsimile, or electronic communication to the pharmacy for entry on or attached to the prescription form** the medical reason for requiring the larger supply.

3. The partial filling of a prescription for a Schedule II substance is permissible as defined by regulation by the department of health and senior services.”; and

Further amend the title and enacting clause accordingly.

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

Senator Crowell offered SA 6:

SENATE AMENDMENT NO. 6

Amend Senate Substitute for Senate Committee Substitute for House Committee Substitute for House Bill No. 353, Page 81, Section 556.036, Line 18, by inserting after all of said line the following:

“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. [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] **The court shall instruct the jury as to the range of punishment as part of the verdict, unless:**

(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.

[5.] **3.** If the jury returns a verdict of guilty [in the first stage] and declares a term of imprisonment [in the second stage] **as provided in subsection 2 of this section**, 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.

[6.] **4.** 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.

[7.] **5.** 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.”; and

Further amend the title and enacting clause accordingly.

Senator Crowell moved that the above amendment be adopted.

Senator Coleman offered **SA 1 to SA 6**, which was read:

SENATE AMENDMENT NO. 1 TO

SENATE AMENDMENT NO. 6

Amend Senate Amendment No. 6 to Senate Substitute for Senate Committee Substitute for

House Committee Substitute for House Bill No. 353, Page 3, Section 557.036, Line 2, by inserting immediately after the second use of the word “punishment” the following:

“, except that the court shall not assess capital punishment”

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

SA 6, as amended, was again taken up.

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

Senator Bray offered **SA 7**:

SENATE AMENDMENT NO. 7

Amend Senate Substitute for Senate Committee Substitute for House Committee Substitute for House Bill No. 353, Page 101, Section 565.083, Line 25, of said page by inserting after all of said line the following:

“565.252. 1. A person commits the crime of invasion of privacy in the first degree if such person:

(1) Knowingly photographs or films another person, without the person's knowledge and consent, while the person being photographed or filmed is in a state of full or partial nudity and is in a place where one would have a reasonable expectation of privacy, and the person subsequently distributes the photograph or film to another or transmits the image contained in the photograph or film in a manner that allows access to that image via a computer; or

(2) Knowingly disseminates or permits the dissemination by any means, to another person, of a videotape, photograph, or film obtained in violation of subdivision (1) of this subsection or in violation of section 565.253; or

(3) Knowingly videotapes, films, photographs, or otherwise records another person, in a secret or surreptitious manner, under or through the clothing being worn by such person for the purpose of viewing the body of, or the undergarments worn by, such person.

2. Invasion of privacy in the first degree is a class D felony.”; and

Further amend the title and enacting clause accordingly.

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

Senator Mayer assumed the Chair.

Senator Bray offered SA 8:

SENATE AMENDMENT NO. 8

Amend Senate Substitute for Senate Committee Substitute for House Committee Substitute for House Bill No. 353, Page 103, Section 566.086, Line 9, of said page by inserting after all of said line the following:

“566.200. As used in sections 566.200 to [566.218] **566.221**, the following terms shall mean:

(1) **“Basic rights information”, information applicable to a noncitizen, including but not limited to, information about human rights, immigration, emergency assistance and resources, and the legal rights and resources for victims of domestic violence;**

(2) **“Client”, a person who is a resident of the United States and the state of Missouri and who contracts with an international marriage broker to meet recruits;**

(3) **“Commercial sex act”, any sex act on account of which anything of value is given to or received by any person;**

(4) **“Criminal history record information”, criminal history record information, including information provided in a criminal background check, obtained from the Missouri state highway patrol and the Federal Bureau of Investigation;**

(5) **“International marriage broker”,**

(a) **A corporation, partnership, business, individual, or other legal entity, whether or not organized under any law of the United States or any other state, that charges fees to residents of Missouri for providing dating, matrimonial, or**

social referrals or matching services between United States citizens or residents and non-resident aliens by providing information or a forum that would permit individuals to contact each other. Such contact shall include, but is not limited to:

a. Providing the name, telephone number, postal address, electronic mail address, or voice message mailbox of an individual, or otherwise facilitating communication between individuals; or

b. Providing an opportunity for an in-person meeting.

(b) Such term shall not include:

a. A traditional matchmaking organization of a religious nature that operates on a nonprofit basis and otherwise operates in compliance with the laws of the countries in which it operates, including the laws of the United States;

b. An entity that provides dating services between United States citizens or residents and other individuals who may be aliens, but does not do so as its principal business, and charges comparable rates to all individuals it serves regardless of the gender or country of citizenship or residence of the individual; or

c. An organization that does not charge a fee to any party for the services provided.

[(2)] (6) **“Involuntary servitude or forced labor”, a condition of servitude induced by means of:**

(a) **Any scheme, plan, or pattern of behavior intended to cause a person to believe that, if the person does not enter into or continue the servitude, such person or another person will suffer substantial bodily harm or physical restraint; or**

(b) **The abuse or threatened abuse of the legal process;**

(7) **“Marital history information”, a declaration of the person's current marital status, the number of times the person has previously been married, and whether any**

previous marriages occurred as a result of service from an international marriage broker;

[(3)] (8) “Peonage”, illegal and involuntary servitude in satisfaction of debt;

(9) “Recruit”, a non-citizen, non-resident, recruited by an international marriage broker for the purpose of providing dating, matrimonial, or social referral services.

566.221. 1. An international marriage broker shall provide notice to each recruit that the criminal history record information and marital history information of clients and basic rights information are available from the organization. The notice of the availability of such information must be in a conspicuous location, in the recruit's native language, in lettering that is at least one-quarter of an inch in height, and presented in a manner that separates the different types of information available.

2. An international marriage broker shall disseminate to a recruit the criminal history record information and marital history information of a client and basic rights information no later than thirty days after the date the international marriage broker receives the criminal history record information and the marital history information on the client. Such information must be provided in the recruit's native language and the organization shall pay the costs incurred to translate the information.

3. A client of an international marriage broker shall:

(1) Obtain a copy of his or her own criminal history record information;

(2) Provide the criminal history record information to the international marriage broker; and

(3) Provide to the international marriage broker his or her own marital history information.

4. An international marriage broker shall require the client to affirm that the marital

history information is complete and accurate and includes information regarding marriages, annulments, and dissolutions that occurred in another state or foreign country.

5. An international marriage broker shall not provide any further services to the client or the recruit until the organization has obtained the required criminal history record information and marital history information and provided the information to the recruit.

6. An international marriage broker shall be deemed to be doing business in Missouri if it contracts for matchmaking services with a Missouri resident or is considered to be doing business pursuant to other laws of the state.

7. A person who pleads guilty to or is found guilty of violating the provisions of this section shall not be required to register as a sexual offender pursuant to the provisions of section 589.400, RSMo, unless such person is otherwise required to register pursuant to the provisions of such section.

8. It shall be a class D felony to wilfully provide incomplete or false information pursuant to this section.

9. Failure to provide the information and notice required pursuant to this section shall be a class D felony.

10. No provision of this section shall preempt any other right or remedy available under law to any party utilizing the services of an international marriage broker or other international marriage organization.

566.223. Any individual who is alleging that a violation of sections 566.200 to [566.218] 566.221 has occurred against his or her person shall be afforded the rights and protections provided in the federal Trafficking Victims Protection Act of 2000, Public Law 106-386, as amended.”; and

Further amend the title and enacting clause accordingly.

Senator Bray moved that the above

amendment be adopted, which motion prevailed.

Senator Scott offered SA 9:

SENATE AMENDMENT NO. 9

Amend Senate Substitute for Senate Committee Substitute for House Committee Substitute for House Bill No. 353, Page 73, Section 479.230, Line 27, by inserting immediately after said line the following:

“488.2350. 1. An “Alternative Dispute Resolution Fund” may be established by local court rule in any circuit that has not established a family court pursuant to section 487.010, RSMo. Upon the establishment of such fund, in addition to all other court costs prescribed by law, a surcharge in the amount of thirty dollars shall be assessed in all proceedings filed that would otherwise be under the jurisdiction of a family court under section 487.080, RSMo. The surcharge shall not be charged when no court costs are otherwise required, or in any proceeding when costs are waived, or when the costs are to be paid by the state, county, or municipality. The surcharge shall not be charged to a government agency or against the petitioner for actions filed pursuant to chapter 455, RSMo, but may be charged to the respondent in such actions. All sums collected pursuant to this section shall be payable to the various alternative dispute resolution funds as established.

2. The fund shall be expended for the purpose of providing alternative dispute resolution services to those parties in proceedings that would otherwise be under the jurisdiction of a family court pursuant to section 487.080, RSMo, and to fund an alternative dispute resolution program specialist or similar position to plan, develop, implement, and evaluate an alternative dispute resolution program. Expenditures shall be made at the discretion of the presiding judge for the implementation of the alternative dispute resolution programs as set forth in this section.

3. Circuits may enter into a multi-circuit

agreement to jointly hire the alternative dispute resolution program specialist or similar position, to fund the position from their various dispute resolution funds, and to establish uniform rules and procedures for the administration of the program or programs providing alternative dispute resolution services. Such agreements shall be authorized, executed, and entered into by and between the presiding judge of each circuit which is a party to the agreement.

4. Any moneys in the alternative dispute resolution fund shall not replace or reduce the current and ongoing responsibilities of the counties to provide funding for the courts as required by law.

5. From the funds collected pursuant to this section and retained in the alternative dispute resolution fund, each circuit or county in which an alternative dispute resolution program specialist or similar position has been appointed, shall pay to and reimburse the state for the actual costs of that portion of the salaries of alternative dispute resolution program specialists or similar positions.”; and

Further amend the title and enacting clause accordingly.

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

Senator Scott offered SA 10:

SENATE AMENDMENT NO. 10

Amend Senate Substitute for Senate Committee Substitute for House Committee Substitute for House Bill No. 353, Page 16, Section 67.2552, Line 13, by inserting immediately after said line the following:

“105.711. 1. There is hereby created a “State Legal Expense Fund” which shall consist of moneys appropriated to the fund by the general assembly and moneys otherwise credited to such fund pursuant to section 105.716.

2. Moneys in the state legal expense fund shall be available for the payment of any claim or any

amount required by any final judgment rendered by a court of competent jurisdiction against:

(1) The state of Missouri, or any agency of the state, pursuant to section 536.050 or 536.087, RSMo, or section 537.600, RSMo;

(2) Any officer or employee of the state of Missouri or any agency of the state, including, without limitation, elected officials, appointees, members of state boards or commissions, and members of the Missouri national guard upon conduct of such officer or employee arising out of and performed in connection with his or her official duties on behalf of the state, or any agency of the state, provided that moneys in this fund shall not be available for payment of claims made under chapter 287, RSMo; or

(3) (a) Any physician, psychiatrist, pharmacist, podiatrist, dentist, nurse, or other health care provider licensed to practice in Missouri under the provisions of chapter 330, 332, 334, 335, 336, 337 or 338, RSMo, who is employed by the state of Missouri or any agency of the state, under formal contract to conduct disability reviews on behalf of the department of elementary and secondary education or provide services to patients or inmates of state correctional facilities [or county jails] on a part-time basis, **and any physician, psychiatrist, pharmacist, podiatrist, dentist, nurse, or other health care provider licensed to practice in Missouri under the provisions of chapter 330, 332, 334, 335, 336, 337, or 338, RSMo, who is under formal contract to provide services to patients or inmates at a county jail on a part-time basis;**

(b) Any physician licensed to practice medicine in Missouri under the provisions of chapter 334, RSMo, and his professional corporation organized pursuant to chapter 356, RSMo, who is employed by or under contract with a city or county health department organized under chapter 192, RSMo, or chapter 205, RSMo, or a city health department operating under a city charter, or a combined city-county health department to provide services to patients for medical care caused by pregnancy, delivery, and

child care, if such medical services are provided by the physician pursuant to the contract without compensation or the physician is paid from no other source than a governmental agency except for patient co-payments required by federal or state law or local ordinance;

(c) Any physician licensed to practice medicine in Missouri under the provisions of chapter 334, RSMo, who is employed by or under contract with a federally funded community health center organized under Section 315, 329, 330 or 340 of the Public Health Services Act (42 U.S.C. 216, 254c) to provide services to patients for medical care caused by pregnancy, delivery, and child care, if such medical services are provided by the physician pursuant to the contract or employment agreement without compensation or the physician is paid from no other source than a governmental agency or such a federally funded community health center except for patient co-payments required by federal or state law or local ordinance. In the case of any claim or judgment that arises under this paragraph, the aggregate of payments from the state legal expense fund shall be limited to a maximum of one million dollars for all claims arising out of and judgments based upon the same act or acts alleged in a single cause against any such physician, and shall not exceed one million dollars for any one claimant;

(d) Any physician licensed pursuant to chapter 334, RSMo, who is affiliated with and receives no compensation from a nonprofit entity qualified as exempt from federal taxation under Section 501(c)(3) of the Internal Revenue Code of 1986, as amended, which offers a free health screening in any setting or any physician, nurse, physician assistant, dental hygienist, or dentist licensed or registered pursuant to chapter 332, RSMo, chapter 334, RSMo, or chapter 335, RSMo, who provides medical, dental, or nursing treatment within the scope of his license or registration at a city or county health department organized under chapter 192, RSMo, or chapter 205, RSMo, a city health department operating under a city charter, or a combined city-county health department, or a nonprofit community health center qualified as

exempt from federal taxation under Section 501(c)(3) of the Internal Revenue Code of 1986, as amended, if such treatment is restricted to primary care and preventive health services, provided that such treatment shall not include the performance of an abortion, and if such medical, dental, or nursing services are provided by the physician, dentist, physician assistant, dental hygienist, or nurse without compensation. Medicaid or medicare payments for primary care and preventive health services provided by a physician, dentist, physician assistant, dental hygienist, or nurse who volunteers at a free health clinic is not compensation for the purpose of this section if the total payment is assigned to the free health clinic. For the purposes of the section, “free health clinic” means a nonprofit community health center qualified as exempt from federal taxation under Section 501(c)(3) of the Internal Revenue Code of 1987, as amended, that provides primary care and preventive health services to people without health insurance coverage for the services provided without charge. In the case of any claim or judgment that arises under this paragraph, the aggregate of payments from the state legal expense fund shall be limited to a maximum of five hundred thousand dollars, for all claims arising out of and judgments based upon the same act or acts alleged in a single cause and shall not exceed five hundred thousand dollars for any one claimant, and insurance policies purchased pursuant to the provisions of section 105.721 shall be limited to five hundred thousand dollars. Liability or malpractice insurance obtained and maintained in force by or on behalf of any physician, dentist, physician assistant, dental hygienist, or nurse shall not be considered available to pay that portion of a judgment or claim for which the state legal expense fund is liable under this paragraph; or

(e) Any physician, nurse, physician assistant, dental hygienist, or dentist licensed or registered to practice medicine, nursing, or dentistry or to act as a physician assistant or dental hygienist in Missouri under the provisions of chapter 332, RSMo, chapter 334, RSMo, or chapter 335, RSMo, who provides medical, nursing, or dental treatment

within the scope of his license or registration to students of a school whether a public, private, or parochial elementary or secondary school, if such physician's treatment is restricted to primary care and preventive health services and if such medical, dental, or nursing services are provided by the physician, dentist, physician assistant, dental hygienist, or nurse without compensation. In the case of any claim or judgment that arises under this paragraph, the aggregate of payments from the state legal expense fund shall be limited to a maximum of five hundred thousand dollars, for all claims arising out of and judgments based upon the same act or acts alleged in a single cause and shall not exceed five hundred thousand dollars for any one claimant, and insurance policies purchased pursuant to the provisions of section 105.721 shall be limited to five hundred thousand dollars; or

(4) Staff employed by the juvenile division of any judicial circuit; or

(5) Any attorney licensed to practice law in the state of Missouri who practices law at or through a nonprofit community social services center qualified as exempt from federal taxation under Section 501(c)(3) of the Internal Revenue Code of 1986, as amended, or through any agency of any federal, state, or local government, if such legal practice is provided by the attorney without compensation. In the case of any claim or judgment that arises under this subdivision, the aggregate of payments from the state legal expense fund shall be limited to a maximum of five hundred thousand dollars for all claims arising out of and judgments based upon the same act or acts alleged in a single cause and shall not exceed five hundred thousand dollars for any one claimant, and insurance policies purchased pursuant to the provisions of section 105.721 shall be limited to five hundred thousand dollars.

3. The department of health and senior services shall promulgate rules regarding contract procedures and the documentation of care provided under paragraphs (b), (c), (d), and (e) of subdivision (3) of subsection 2 of this section. The limitation on payments from the state legal

expense fund or any policy of insurance procured pursuant to the provisions of section 105.721, provided in subsection 6 of this section, shall not apply to any claim or judgment arising under paragraph (a), (b), (c), (d), or (e) of subdivision (3) of subsection 2 of this section. Any claim or judgment arising under paragraph (a), (b), (c), (d), or (e) of subdivision (3) of subsection 2 of this section shall be paid by the state legal expense fund or any policy of insurance procured pursuant to section 105.721, to the extent damages are allowed under sections 538.205 to 538.235, RSMo. Liability or malpractice insurance obtained and maintained in force by any physician, dentist, physician assistant, dental hygienist, or nurse for coverage concerning his or her private practice and assets shall not be considered available under subsection 6 of this section to pay that portion of a judgment or claim for which the state legal expense fund is liable under paragraph (a), (b), (c), (d), or (e) of subdivision (3) of subsection 2 of this section. However, a physician, nurse, dentist, physician assistant, or dental hygienist may purchase liability or malpractice insurance for coverage of liability claims or judgments based upon care rendered under paragraphs (c), (d), and (e) of subdivision (3) of subsection 2 of this section which exceed the amount of liability coverage provided by the state legal expense fund under those paragraphs. Even if paragraph (a), (b), (c), (d), or (e) of subdivision (3) of subsection 2 of this section is repealed or modified, the state legal expense fund shall be available for damages which occur while the pertinent paragraph (a), (b), (c), (d), or (e) of subdivision (3) of subsection 2 of this section is in effect.

4. The attorney general shall promulgate rules regarding contract procedures and the documentation of legal practice provided under subdivision (5) of subsection 2 of this section. The limitation on payments from the state legal expense fund or any policy of insurance procured pursuant to section 105.721 as provided in subsection 6 of this section shall not apply to any claim or judgment arising under subdivision (5) of subsection 2 of this section. Any claim or

judgment arising under subdivision (5) of subsection 2 of this section shall be paid by the state legal expense fund or any policy of insurance procured pursuant to section 105.721 to the extent damages are allowed under sections 538.205 to 538.235, RSMo. Liability or malpractice insurance otherwise obtained and maintained in force shall not be considered available under subsection 6 of this section to pay that portion of a judgment or claim for which the state legal expense fund is liable under subdivision (5) of subsection 2 of this section. However, an attorney may obtain liability or malpractice insurance for coverage of liability claims or judgments based upon legal practice rendered under subdivision (5) of subsection 2 of this section that exceed the amount of liability coverage provided by the state legal expense fund under subdivision (5) of subsection 2 of this section. Even if subdivision (5) of subsection 2 of this section is repealed or amended, the state legal expense fund shall be available for damages that occur while the pertinent subdivision (5) of subsection 2 of this section is in effect.

5. All payments shall be made from the state legal expense fund by the commissioner of administration with the approval of the attorney general. Payment from the state legal expense fund of a claim or final judgment award against a physician, dentist, physician assistant, dental hygienist, or nurse described in paragraph (a), (b), (c), (d), or (e) of subdivision (3) of subsection 2 of this section, or against an attorney in subdivision (5) of subsection 2 of this section, shall only be made for services rendered in accordance with the conditions of such paragraphs.

6. Except as provided in subsection 3 of this section, in the case of any claim or judgment that arises under sections 537.600 and 537.610, RSMo, against the state of Missouri, or an agency of the state, the aggregate of payments from the state legal expense fund and from any policy of insurance procured pursuant to the provisions of section 105.721 shall not exceed the limits of liability as provided in sections 537.600 to 537.610, RSMo. No payment shall be made from the state legal expense fund or any policy of

insurance procured with state funds pursuant to section 105.721 unless and until the benefits provided to pay the claim by any other policy of liability insurance have been exhausted.

7. The provisions of section 33.080, RSMo, notwithstanding, any moneys remaining to the credit of the state legal expense fund at the end of an appropriation period shall not be transferred to general revenue.

8. Any rule or portion of a rule, as that term is defined in section 536.010, RSMo, that is promulgated under the authority delegated in sections 105.711 to 105.726 shall become effective only if it has been promulgated pursuant to the provisions of chapter 536, RSMo. Nothing in this section shall be interpreted to repeal or affect the validity of any rule filed or adopted prior to August 28, 1999, if it fully complied with 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 August 28, 1999, 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 Bray offered SA 11:

SENATE AMENDMENT NO. 11

Amend Senate Substitute for Senate Committee Substitute for House Committee Substitute for House Bill No. 353, Page 101, Section 565.083, Line 25, of said page by inserting after all of said line the following:

“**565.145. 1. When responding to the scene of an alleged act of domestic assault, a law enforcement officer may remove a firearm from the scene if:**

(1) The law enforcement officer has

probable cause to believe that an act of domestic assault has occurred; and

(2) The law enforcement officer has observed the firearm on the scene during the response.

2. If a firearm is removed from the scene under subsection 1 of this section, the law enforcement officer shall:

(1) Provide to the owner of the firearm information on the process for retaking possession of the firearm; and

(2) Provide for the safe storage of the firearm during the pendency of any proceeding related to the alleged act of domestic assault.

3. Within fourteen days of the conclusion of a proceeding on the alleged act of domestic assault, the owner of the firearm may retake possession of the firearm unless ordered to surrender the firearm under section 571.095, RSMo.

565.146. A sheriff shall deny an application for or revoke a permit issued or registration filed pursuant to section 571.090, RSMo, if the sheriff finds that the applicant, or a person who was issued a permit or has registered a firearm:

(1) Is subject to an existing order of protection prohibiting him or her from possessing a firearm;

(2) Has been convicted of or pled guilty or nolo contendere to domestic assault as defined in sections 565.072 to 565.074; or

(3) Has been convicted of or pled guilty or nolo contendere to a violation of an order of protection issued in response to a domestic assault situation.

The provisions of this section shall apply to persons who obtained a permit or registered a firearm pursuant to section 571.090, RSMo, prior to August 28, 2005.

565.147. 1. It shall be unlawful to possess a firearm for a person who:

(1) Is subject to a court order that:

(a) Was issued after a hearing of which such person received actual notice, and at which such person had an opportunity to participate;

(b) Restrains such person from harassing, stalking, or threatening an intimate partner of such person or child of such intimate partner or person, or engaging in other conduct that would place an intimate partner in reasonable fear of bodily injury to the partner or child; and

(c) Includes a finding that such person represents a credible threat to the physical safety of such intimate partner or a child; or by its terms explicitly prohibits the use, attempted use, or threatened use of physical force against such intimate partner or child that would reasonably be expected to cause bodily injury; or

(2) Has been convicted in a court of competent jurisdiction of a misdemeanor crime of domestic assault;

2. It shall be a class D felony to violate the provisions of this section.”; and

Further amend the title and enacting clause accordingly.

Senator Bray moved that the above amendment be adopted, which motioned failed.

Senator Gibbons offered **SA 12**, which was read:

SENATE AMENDMENT NO. 12

Amend Senate Substitute for Senate Committee Substitute for House Committee Substitute for House Bill No. 353, Pages 39-44, Section 211.031, by striking all of said section from the bill; and

Further amend the title and enacting clause accordingly.

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

Senator Taylor offered **SA 13**:

SENATE AMENDMENT NO. 13

Amend Senate Substitute for Senate

Committee Substitute for House Committee Substitute for House Bill No. 353, Page 16, Section 67.2552, Line 13, by inserting after all of said line the following:

“115.135. 1. Any person who is qualified to vote, or who shall become qualified to vote on or before the day of election, shall be entitled to register in the jurisdiction within which he or she resides. In order to vote in any election for which registration is required, a person must be registered to vote in the jurisdiction of his or her residence no later than 5:00 p.m., or the normal closing time of any public building where the registration is being held if such time is later than 5:00 p.m., on the fourth Wednesday prior to the election, unless the voter is an interstate former resident, an intrastate new resident or a new resident, as defined in section 115.275. In no case shall registration for an election extend beyond 10:00 p.m. on the fourth Wednesday prior to the election. Any person registering after such date shall be eligible to vote in subsequent elections.

2. A person applying to register with an election authority or a deputy registration official shall [present] **identify himself or herself by presenting a copy of a birth certificate, a Native American tribal document other proof of United States citizenship,** a valid Missouri drivers license or other form of personal identification at the time of registration.

3. Except as provided in federal law or federal elections and in section 115.277, no person shall be entitled to vote if the person has not registered to vote in the jurisdiction of his or her residence prior to the deadline to register to vote.

115.155. 1. The election authority shall provide for the registration of each voter. Each application shall be in substantially the following form:

APPLICATION FOR REGISTRATION

Are you a citizen of the United States?

YES NO

Will you be 18 years of age on or before election

day?

YES NO

IF YOU CHECKED "NO" IN RESPONSE TO EITHER OF THESE QUESTIONS, DO NOT COMPLETE THIS FORM.

IF YOU ARE SUBMITTING THIS FORM BY MAIL AND ARE REGISTERING FOR THE FIRST TIME, PLEASE SUBMIT A COPY OF A CURRENT, VALID PHOTO IDENTIFICATION [OR A COPY OF A CURRENT UTILITY BILL, BANK STATEMENT, GOVERNMENT CHECK, PAYCHECK, OR GOVERNMENT DOCUMENT THAT SHOWS YOUR NAME AND ADDRESS]. IF YOU DO NOT SUBMIT SUCH INFORMATION, YOU WILL BE REQUIRED TO PRESENT ADDITIONAL IDENTIFICATION UPON VOTING FOR THE FIRST TIME SUCH AS A BIRTH CERTIFICATE, A NATIVE AMERICAN TRIBAL DOCUMENT ACCOMPANIED BY A SOCIAL SECURITY CARD, OR OTHER PROOF OF UNITED STATES CITIZENSHIP.

.....
Township (or Ward)

.....
Name Precinct

.....
Home Address Required Personal Identification Information

.....
City ZIP

.....
Date of Birth Place of Birth (Optional)

.....
Telephone Number Mother's Maiden Name (Optional) (Optional)

.....
.....

Occupation (Optional) Last Place Previously Registered

.....
.....

Last four digits of Social Security Number Under What Name (Required for registration unless no Social Security number exists for Applicant)

Remarks:
.....

When

I am a citizen of the United States and a resident of the state of Missouri. I have not been adjudged incapacitated by any court of law. If I have been convicted of a felony or of a misdemeanor connected with the right of suffrage, I have had the voting disabilities resulting from such conviction removed pursuant to law. I do solemnly swear that all statements made on this card are true to the best of my knowledge and belief. **I UNDERSTAND THAT IF I REGISTER TO VOTE KNOWING THAT I AM NOT LEGALLY ENTITLED TO REGISTER, I AM COMMITTING A CLASS ONE ELECTION OFFENSE AND MAY BE PUNISHED BY IMPRISONMENT OF NOT MORE THAN FIVE YEARS OR BY A FINE OF BETWEEN TWO THOUSAND FIVE HUNDRED DOLLARS AND TEN THOUSAND DOLLARS OR BY BOTH SUCH IMPRISONMENT AND FINE.**

.....
.....
Signature of Voter Date

.....
Signature of Election Official

2. After supplying all information necessary for the registration records, each applicant who appears in person before the election authority shall swear or affirm the statements on the

registration application by signing his or her full name, witnessed by the signature of the election authority or such authority's deputy registration official. Each applicant who applies to register by mail pursuant to section 115.159, or pursuant to section 115.160 or 115.162, shall attest to the statements on the application by his or her signature.

3. Upon receipt by mail of a completed and signed voter registration application, a voter registration application forwarded by the division of motor vehicle and drivers licensing of the department of revenue pursuant to section 115.160, or a voter registration agency pursuant to section 115.162, the election authority shall, if satisfied that the applicant is entitled to register, transfer all data necessary for the registration records from the application to its registration system. Within seven business days after receiving the application, the election authority shall send the applicant a verification notice. If such notice is returned as undeliverable by the postal service within the time established by the election authority, the election authority shall not place the applicant's name on the voter registration file.

4. If, upon receipt by mail of a voter registration application or a voter registration application forwarded pursuant to section 115.160 or 115.162, the election authority determines that the applicant is not entitled to register, such authority shall, within seven business days after receiving the application, so notify the applicant by mail and state the reason such authority has determined the applicant is not qualified. The applicant may have such determination reviewed pursuant to the provisions of section 115.223. If an applicant for voter registration fails to answer the question on the application concerning United States citizenship, the election authority shall notify the applicant of the failure and provide the applicant with an opportunity to complete the form in a timely manner to allow for the completion of the registration form before the next election.

5. It shall be the responsibility of the secretary of state to prescribe specifications for voter

registration documents so that they are uniform throughout the state of Missouri and comply with the National Voter Registration Act of 1993, including the reporting requirements, and so that registrations, name changes and transfers of registrations within the state may take place as allowed by law.

6. All voter registration applications shall be preserved in the office of the election authority.

115.160. 1. All Missouri driver's license applicants shall receive a voter registration application form as a simultaneous part of the application for a driver's license, renewal of driver's license, change of address, duplicate request and a nondriver's license.

2. If a single application form is used, the voter registration application portion of any application described in subsection 1 of this section may not require any information that duplicates information required in the driver's license portion of the form, except a second signature or other information required by law.

3. After conferring with the secretary of state as the chief state election official responsible for overseeing of the voter registration process, the director of revenue shall adopt rules and regulations pertaining to the format of the voter registration application used by the department.

4. No information relating to the failure of an applicant for a driver's license or nondriver's license to sign a voter registration application may be used for any purpose other than voter registration.

5. Any voter registration application received pursuant to the provisions of this section shall be forwarded to the election authority located within that county or any city not within a county, or if there is more than one election authority within the county, then to the election authority located nearest to the location where the driver's license application was received. The election authority receiving the application forms shall review the applications and forward any applications pertaining to a different election authority to that

election authority.

6. A completed voter registration application accepted in the driver's licensing process shall be transmitted to the election authority described in subsection 5 of this section not later than five business days after the form is completed by the applicant.

7. Any person registering to vote when applying for or renewing a Missouri driver's license shall submit with the application form a copy of a birth certificate, a Native American tribal document, or other proof of United States citizenship.”; and

Further amend said bill, section 115.348, page 16, line 17 by inserting after all of said line the following:

“115.631. The following offenses, and any others specifically so described by law, shall be class one election offenses and are deemed felonies connected with the exercise of the right of suffrage. Conviction for any of these offenses shall be punished by imprisonment of not more than five years or by fine of not less than two thousand five hundred dollars but not more than ten thousand dollars or by both such imprisonment and fine:

(1) Willfully and falsely making any certificate, affidavit, or statement required to be made pursuant to any provision of sections 115.001 to 115.641 and sections 51.450 and 51.460, RSMo, including but not limited to statements specifically required to be made “under penalty of perjury”; or in any other manner knowingly furnishing false information to an election authority or election official engaged in any lawful duty or action in such a way as to hinder or mislead the authority or official in the performance of official duties. **If an individual willfully and falsely makes any certificate, affidavit, or statement required to be made under section 115.155, including but not limited to statements specifically required to be made 'under penalty of perjury', such individual shall be guilty of a class B felony;**

(2) Voting more than once or voting at any

election knowing that the person is not entitled to vote or that the person has already voted on the same day at another location inside or outside the state of Missouri;

(3) Procuring any person to vote knowing the person is not lawfully entitled to vote or knowingly procuring an illegal vote to be cast at any election;

(4) Applying for a ballot in the name of any other person, whether the name be that of a person living or dead or of a fictitious person, or applying for a ballot in his own or any other name after having once voted at the election inside or outside the state of Missouri;

(5) Aiding, abetting or advising another person to vote knowing the person is not legally entitled to vote or knowingly aiding, abetting or advising another person to cast an illegal vote;

(6) An election judge knowingly causing or permitting any ballot to be in the ballot box at the opening of the polls and before the voting commences;

(7) Knowingly furnishing any voter with a false or fraudulent or bogus ballot, or knowingly practicing any fraud upon a voter to induce him to cast a vote which will be rejected, or otherwise defrauding him of his vote;

(8) An election judge knowingly placing or attempting to place or permitting any ballot, or paper having the semblance of a ballot, to be placed in a ballot box at any election unless the ballot is offered by a qualified voter as provided by law;

(9) Knowingly placing or attempting to place or causing to be placed any false or fraudulent or bogus ballot in a ballot box at any election;

(10) Knowingly removing any legal ballot from a ballot box for the purpose of changing the true and lawful count of any election or in any other manner knowingly changing the true and lawful count of any election;

(11) Knowingly altering, defacing, damaging, destroying or concealing any ballot after it has been voted for the purpose of changing the lawful

count of any election;

(12) Knowingly altering, defacing, damaging, destroying or concealing any poll list, report, affidavit, return or certificate for the purpose of changing the lawful count of any election;

(13) On the part of any person authorized to receive, tally or count a poll list, tally sheet or election return, receiving, tallying or counting a poll list, tally sheet or election return the person knows is fraudulent, forged or counterfeit, or knowingly making an incorrect account of any election;

(14) On the part of any person whose duty it is to grant certificates of election, or in any manner declare the result of an election, granting a certificate to a person the person knows is not entitled to receive the certificate, or declaring any election result the person knows is based upon fraudulent, fictitious or illegal votes or returns;

(15) Willfully destroying or damaging any official ballots, whether marked or unmarked, after the ballots have been prepared for use at an election and during the time they are required by law to be preserved in the custody of the election judges or the election authority;

(16) Willfully tampering with, disarranging, altering the information on, defacing, impairing or destroying any voting machine or marking device after the machine or marking device has been prepared for use at an election and during the time it is required by law to remain locked and sealed with intent to impair the functioning of the machine or marking device at an election, mislead any voter at the election, or to destroy or change the count or record of votes on such machine;

(17) Registering to vote knowing the person is not legally entitled to register or registering in the name of another person, whether the name be that of a person living or dead or of a fictitious person;

(18) Procuring any other person to register knowing the person is not legally entitled to register, or aiding, abetting or advising another person to register knowing the person is not legally entitled to register;

(19) Knowingly preparing, altering or substituting any computer program or other counting equipment to give an untrue or unlawful result of an election;

(20) On the part of any person assisting a blind or disabled person to vote, knowingly failing to cast such person's vote as such person directs;

(21) On the part of any registration or election official, permitting any person to register to vote or to vote when such official knows the person is not legally entitled to register or not legally entitled to vote;

(22) On the part of a notary public acting in his official capacity, knowingly violating any of the provisions of sections 115.001 to 115.627 or any provision of law pertaining to elections;

(23) Violation of any of the provisions of sections 115.275 to 115.303, or of any provision of law pertaining to absentee voting;

(24) Assisting a person to vote knowing such person is not legally entitled to such assistance, or while assisting a person to vote who is legally entitled to such assistance, in any manner coercing, requesting or suggesting that the voter vote for or against, or refrain from voting on any question, ticket or candidate.”; and

Further amend the title and enacting clause accordingly.

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

Senator Koster assumed the Chair.

Senator Coleman offered **SA 14**:

SENATE AMENDMENT NO. 14

Amend Senate Substitute for Senate Committee Substitute for House Committee Substitute for House Bill No. 353, Page 108, Section 569.080, Line 1, of said page, by inserting immediately after said line the following:

“4. (1) Any person convicted of a second offense of tampering in the first degree shall be punished by imprisonment by the department of corrections for a term of not less than two

years but not more than seven years. No person convicted under this subsection shall be eligible for parole, probation, conditional release or suspended imposition or execution of sentence for a period of two calendar years.

(2) Any person convicted of a third or subsequent offense of tampering in the first degree shall be punished by imprisonment by the department of corrections for a term of not less than five years but not more than twenty years. No person convicted under this subsection shall be eligible for parole, probation, conditional release or suspended imposition or execution of sentence for a period of five calendar years.”; and

Further amend said bill, page 109, section 569.090, line 10 of said page, by inserting immediately after said line the following:

“569.100. 1. A person commits the crime of property damage in the first degree if **such person:**

(1) [He] Knowingly damages property of another to an extent exceeding seven hundred and fifty dollars; or

(2) [He] Damages property to an extent exceeding one thousand dollars for the purpose of defrauding an insurer; or

(3) Knowingly damages a motor vehicle of another and the damage occurs while such person is breaking into the motor vehicle for the purpose of committing the crime of stealing therein or the damage occurs while such person is committing the crime of stealing within the motor vehicle.

2. Property damage in the first degree committed pursuant to subdivision (1) or (2) of subsection 1 of this section is a class D felony. Property damage in the first degree committed pursuant to subdivision (3) of subsection 1 of this section is a class C felony unless committed as a second or subsequent violation of subdivision (3) of subsection 1 of this section in which case it is a class B felony.”; and

Further amend the title and enacting clause

accordingly.

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

Senator Coleman offered SA 15:

SENATE AMENDMENT NO. 15

Amend Senate Substitute for Senate Committee Substitute for House Committee Substitute for House Bill No. 353, Page 83, Section 558.019, Line 24, by inserting immediately after “2.” the following: “(1)”; and

Further amend said bill and section, page 84, line 9 of said page, by striking “the following minimum prison terms:” and inserting in lieu thereof the following: “**a sentence as imposed by the judge of the sentencing court. However, the board of probation and parole shall have discretion to review the sentence of such an offender, and it may release the individual on probation or parole prior to the completion of the sentence imposed.**”; and further amend lines 10-28 of said page, by striking all of said lines and inserting in lieu thereof the following:

“(2) Those offenders sentenced under this section prior to August 28, 2005, shall have his or her sentence reviewed by the board of probation and parole. The board of probation and parole shall have discretion to release such an offender prior to completion of the sentence imposed in accordance with the former mandatory minimum sentencing requirements in effect prior to August 28, 2005.”; and

Further amend said bill and section, page 85, line 8 of said page, by inserting at the end of said line the following: “**However, any person under the age of eighteen years who has pleaded guilty to or been found guilty of a dangerous felony after being transferred to a court of general jurisdiction as provided for in section 211.071, RSMo, may have his or her sentence reviewed by the board of probation and parole after serving fifty percent of his or her sentence. The board of probation and parole shall have the discretion to release such an offender after serving fifty percent of the sentence, and prior**

to completion of the sentence imposed in accordance with the former mandatory minimum sentencing requirements in effect prior to August 28, 2005.”; and

Further amend said bill and section, page 86, line 26 of said page, by striking “therefor sentences are comparable to” and inserting in lieu thereof the following: **“for such disparities. The commission also shall examine whether these disparities are comparable in”**.

Further amend the title and enacting clause accordingly.

Senator Coleman moved that the above amendment be adopted.

Senator Coleman offered **SA 1 to SA 15**, which was read:

SENATE AMENDMENT NO. 1 TO
SENATE AMENDMENT NO. 15

Amend Senate Amendment No. 15 to Senate Substitute for Senate Committee Substitute for House Committee Substitute for House Bill No. 353, Page 2, Line 2, by striking the word “dangerous” and inserting in lieu thereof the following: **“nonviolent”**.

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

SA 15 was again taken up.

Senator Shields requested a roll call vote be taken on the adoption of **SA 15** and was joined in his request by Senators Bartle, Engler, Stouffer and Vogel.

Senator Coleman offered **SA 2 to SA 15**, which was read:

SENATE AMENDMENT NO. 2 TO
SENATE AMENDMENT NO. 15

Amend Senate Amendment No. 15 to Senate Substitute for Senate Committee Substitute for House Committee Substitute for House Bill No. 353, Page 2, Section 558.019, Line 2 by deleting the word “dangerous” and inserting in lieu thereof the following **“non-physically threatening”**.

Senator Coleman moved that the above

amendment be adopted.

At the request of Senator Coleman, **SA 2 to SA 15** was withdrawn.

SA 15 was again taken up.

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

Senator Graham offered **SA 16**:

SENATE AMENDMENT NO. 16

Amend Senate Substitute for Senate Committee Substitute for House Committee Substitute for House Bill No. 353, Page 161, Section 650.055, Line 9, by inserting after all of said line the following:

“Section 1. Upon a finding or plea of guilty, the court shall, upon motion of any party or any victim, and after a waiver of the right to trial by jury, conduct a hearing, before final sentencing, to determine the amount due to the victim as restitution by a preponderance of the evidence. The victim may be represented by counsel other than the prosecutor in the hearing. The court shall issue a civil judgment in that amount payable to the victim. The court may include the amount ordered to be payable to the victim for restitution as a condition of probation.

Section 2. No person committed to the department of corrections shall be granted parole unless full payment of restitution established under section 1, if any, is made a condition of parole.”; and

Further amend the title and enacting clause accordingly.

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

Senator Coleman offered **SA 17**:

SENATE AMENDMENT NO. 17

Amend Senate Substitute for Senate Committee Substitute for House Committee Substitute for House Bill No. 353, Page 83, Section 558.019, Line 24, by inserting immediately after “2.” the following: **“(1)”**; and

Further amend said bill and section, page 84, line 9 of said page, by striking “the following minimum prison terms:” and inserting in lieu thereof the following: **“a sentence as imposed by the judge of the sentencing court. However, the board of probation and parole shall have discretion to review the sentence of such an offender, and it may release the individual on probation or parole prior to the completion of the sentence imposed.”**; and further amend lines 10-28 of said page, by striking all of said lines and inserting in lieu thereof the following:

“(2) Those offenders sentenced under this section prior to August 28, 2005, shall have his or her sentence reviewed by the board of probation and parole. The board of probation and parole shall have discretion to release such an offender prior to completion of the sentence imposed in accordance with the former mandatory minimum sentencing requirements in effect prior to August 28, 2005.”; and

Further amend said bill and section, page 85, line 8 of said page, by inserting at the end of said line the following: **“However, any person under the age of eighteen years who has pleaded guilty to or been found guilty of a nonviolent felony after being transferred to a court of general jurisdiction as provided for in section 211.071, RSMo, may have his or her sentence reviewed by the board of probation and parole after serving fifty percent of his or her sentence. The board of probation and parole shall have the discretion to release such an offender after serving fifty percent of the sentence, and prior to completion of the sentence imposed in accordance with the former mandatory minimum sentencing requirements in effect prior to August 28, 2005.”**; and

Further amend said bill and section, page 86, line 26 of said page, by striking “therefor sentences are comparable to” and inserting in lieu thereof the following: **“for such disparities. The commission also shall examine whether these disparities are comparable in”**.

Further amend the title and enacting clause

accordingly.

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

Senator Bartle offered **SA 18**:

SENATE AMENDMENT NO. 18

Amend Senate Substitute for Senate Committee Substitute for House Committee Substitute for House Bill No. 353, Page 48, Section 217.735, Line 11, of said page, by inserting after the word “has” the following: **“pleaded guilty to or”**; and further amend line 13 of said page, by striking the following: “or 566.212” and inserting in lieu thereof the following: **“566.212, 568.020, 568.080, or 568.090”**; and

Further amend said bill and section, Page 49, Line 1, by inserting at the end of said line the following: **“Electronic monitoring shall be based on a global positioning system or other technology that identifies and records the offender's location at all times.”**; and

Further amend said bill, Page 93, Section 559.106, Line 28 of said page, by inserting after the word “offender” the following: **“who has pleaded guilty to or has been”**; and

Further amend said bill, Page 94, Section 559.106, Line 2 of said page, by striking “466.151, or 566.212” and inserting in lieu thereof the following: **“566.151, 566.212, 568.020, 568.080, or 568.090”**; and further amend Line 10 of said page, by inserting after the word “previously” the following: **“pleaded guilty to or has”**; and further amend line 14 of said page, by inserting at the end of said line the following: **“Electronic monitoring shall be based on a global positioning system or other technology that identifies and records the offender's location at all times.”**.

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

Senator Bartle moved that **SS** for **SCS** for **HCS** for **HB 353**, as amended, be adopted, which motion prevailed.

On motion of Senator Bartle, **SS** for **SCS** for

HCS for HB 353, as amended, was read the 3rd time and passed by the following vote:

YEAS—Senators

Alter	Barnitz	Bartle	Bray
Callahan	Cauthorn	Champion	Clemens
Coleman	Crowell	Days	Dolan
Dougherty	Engler	Gibbons	Green
Griesheimer	Gross	Koster	Loudon
Mayer	Nodler	Purgason	Ridgeway
Scott	Shields	Stouffer	Taylor
Vogel	Wheeler	Wilson—31	

NAYS—Senator Graham—1

Absent—Senators

Kennedy Klindt—2

Absent with leave—Senators—None

Vacancies—None

The President declared the bill passed.

The emergency clause was adopted by the following vote:

YEAS—Senators

Alter	Barnitz	Bartle	Bray
Callahan	Cauthorn	Champion	Clemens
Coleman	Crowell	Days	Dolan
Dougherty	Engler	Gibbons	Green
Griesheimer	Gross	Koster	Loudon
Mayer	Nodler	Purgason	Ridgeway
Scott	Shields	Stouffer	Taylor
Vogel	Wheeler	Wilson—31	

NAYS—Senator Graham—1

Absent—Senators

Kennedy Klindt—2

Absent with leave—Senators—None

Vacancies—None

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

Senator Bartle moved that the vote by which

the bill passed be reconsidered.

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

HCS for HB 863, with **SCS**, entitled:

An Act to amend chapter 99, RSMo, by adding thereto six new sections relating to tax incentives for economic development.

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

SCS for HCS for HB 863, entitled:SENATE COMMITTEE SUBSTITUTE FOR
HOUSE COMMITTEE SUBSTITUTE FOR
HOUSE BILL NO. 863

An Act to amend chapter 99, RSMo, by adding thereto six new sections relating to tax incentives for economic development.

Was taken up.

Senator Taylor moved that **SCS for HCS for HB 863** be adopted.

Senator Taylor offered **SS for SCS for HCS for HB 863**, entitled:

SENATE SUBSTITUTE FOR
SENATE COMMITTEE SUBSTITUTE FOR
HOUSE COMMITTEE SUBSTITUTE FOR
HOUSE BILL NO. 863

An Act to amend chapter 99, RSMo, by adding thereto six new sections relating to tax incentives for economic development.

Senator Taylor moved that **SS for SCS for HCS for HB 863** be adopted.

At the request of Senator Taylor, **HCS for HB 863**, with **SCS** and **SS for SCS** (pending), was placed on the Informal Calendar.

HB 530 was placed on the Informal Calendar.

HCS No. 2 for HBs 94 and 185 was placed on the Informal Calendar.

HB 417, with **SCS**, was placed on the Informal Calendar.

HB 832 was placed on the Informal Calendar.

HCS for **HB 498** was placed on the Informal Calendar.

HB 196, with **SCS**, was placed on the Informal Calendar.

HCS for **HB 440** was placed on the Informal Calendar.

HB 320, with **SCS**, introduced by Representative Muschany, et al, entitled:

An Act to repeal section 162.081, RSMo, and to enact in lieu thereof one new section relating to lapse of district corporate organization.

Was taken up by Senator Nodler.

SCS for **HB 320**, entitled:

SENATE COMMITTEE SUBSTITUTE FOR
HOUSE BILL NO. 320

An Act to repeal section 162.081, RSMo, and to enact in lieu thereof two new sections relating to education, with a sunset provision.

Was taken up.

Senator Nodler moved that **SCS** for **HB 320** be adopted.

Senator Nodler offered **SS** for **SCS** for **HB 320**, entitled:

SENATE SUBSTITUTE FOR
SENATE COMMITTEE SUBSTITUTE FOR
HOUSE BILL NO. 320

An Act to repeal section 162.081, RSMo, and to enact in lieu thereof two new sections relating to education, with a sunset provision.

Senator Nodler moved that **SS** for **SCS** for **HB 320** be adopted.

At the request of Senator Nodler, **HB 320**, with **SCS** and **SS** for **SCS** (pending), was placed on the Informal Calendar.

HB 596, introduced by Representative Schaaf, entitled:

An Act to repeal section 290.145, RSMo, and to enact in lieu thereof two new sections relating to health insurance benefits for employees.

Was called from the Informal Calendar and

taken up by Senator Shields.

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

SENATE AMENDMENT NO. 1

Amend House Bill No. 596, Page 1, In the Title, Line 3, by striking the words “benefits for employees”; and

Further amend said bill, page 2, section 290.145, line 12, by inserting immediately after said line the following:

“**Section 1. Determination of usual and customary fees pursuant to subsection 3 of section 287.140, RSMo, shall be based on comparable contractual volume-based discounting arrangements.**”; and

Further amend the title and enacting clause accordingly.

Senator Shields moved that the above amendment be adopted.

Senator Scott assumed the Chair.

At the request of Senator Shields, **HB 596**, with **SA 1** (pending), was placed on the Informal Calendar.

Senator Mayer assumed the Chair.

CONCURRENT RESOLUTIONS

Senator Scott moved that **SCR 17** be taken up for adoption, which motion prevailed.

Senator Scott moved that **SCR 17** be adopted.

At the request of Senator Scott, the above motion was withdrawn.

MESSAGES FROM THE HOUSE

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

Mr. President: I am instructed by the House of Representatives to inform the Senate that the Speaker has appointed the following conferees to act with a like committee from the Senate on **SCS** for **HB 678**, as amended. Representatives: Byrd, Goodman, Flook, Burnett and Johnson (90).

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 **SBs 74** and **49**, entitled:

An Act to repeal sections 191.332, 192.900, 193.015, 193.085, 193.087, 193.115, 193.125, 193.145, and 701.049, RSMo, and to enact in lieu thereof thirteen new sections relating to the department of health and senior services, with an emergency clause for certain sections.

With House Amendments 1, 2, 3, House Amendment 1 to House Amendment 4 and House Amendment 4, as amended.

HOUSE AMENDMENT NO. 1

Amend House Committee Substitute for Senate Substitute for Senate Committee Substitute for Senate Bill Nos. 74 and 49, Section B, Page 11, Lines 7 and 8 by striking the phrase "July 1, 2005" on said line and inserting in lieu thereof the phrase "June 29, 2005"; and

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

HOUSE AMENDMENT NO. 2

Amend House Committee Substitute for Senate Substitute for Senate Committee Substitute for Senate Bill Nos. 74 and 49, Section 193.145, Page 11, Line 56 by inserting after all of said line the following:

"195.060. 1. Except as provided in subsection 3 of this section, a pharmacist, in good faith, may sell and dispense controlled substances to any person only upon a prescription of a practitioner as authorized by statute, provided that the controlled substances listed in Schedule V may be sold without prescription in accordance with regulations of the department of health and senior services. All written prescriptions shall be signed by the person prescribing the same. All prescriptions shall be dated on the day when issued and bearing the full name and address of the patient for whom, or of the owner of the animal for which, the drug is prescribed, and the full name, address, and the

registry number under the federal controlled substances laws of the person prescribing, if he is required by those laws to be so registered. If the prescription is for an animal, it shall state the species of the animal for which the drug is prescribed. The person filling the prescription shall **either** write the date of filling and his own signature on the prescription **or retain the date of filling and the identity of the dispenser as electronic prescription information**. The prescription **or electronic prescription information** shall be retained on file by the proprietor of the pharmacy in which it is filled for a period of two years, so as to be readily accessible for inspection by any public officer or employee engaged in the enforcement of this law. No prescription for a drug in Schedule I or II shall be filled more than six months after the date prescribed; no prescription for a drug in schedule I or II shall be refilled; no prescription for a drug in Schedule III or IV shall be filled or refilled more than six months after the date of the original prescription or be refilled more than five times unless renewed by the practitioner.

2. The legal owner of any stock of controlled substances in a pharmacy, upon discontinuance of dealing in such drugs, may sell the stock to a manufacturer, wholesaler, or pharmacist, but only on an official written order.

3. A pharmacist, in good faith, may sell and dispense, any Schedule II drug or drugs to any person, in emergency situations as defined by rule of the department of health and senior services upon an oral prescription by an authorized practitioner.

4. It shall be unlawful for controlled substances to be promoted or advertised for use or sale, provided that this subsection shall not prohibit such activity by a manufacturer, wholesaler, or their agents directed to a physician, pharmacist or other practitioner.

5. Except where a bona fide physician-patient-pharmacist relationship exists, prescriptions for narcotics or hallucinogenic drugs shall not be delivered to or for an ultimate user or

agent by mail or other common carrier.

195.080. 1. Except as otherwise in sections 195.005 to 195.425 specifically provided, sections 195.005 to 195.425 shall not apply to the following cases: Prescribing, administering, dispensing or selling at retail of liniments, ointments, and other preparations that are susceptible of external use only and that contain controlled substances in such combinations of drugs as to prevent the drugs from being readily extracted from such liniments, ointments, or preparations, except that sections 195.005 to 195.425 shall apply to all liniments, ointments, and other preparations that contain coca leaves in any quantity or combination.

2. The quantity of Schedule II controlled substances prescribed or dispensed at any one time shall be limited to a thirty-day supply. The quantity of Schedule III, IV or V controlled substances prescribed or dispensed at any one time shall be limited to a ninety-day supply and shall be prescribed and dispensed in compliance with the general provisions of sections 195.005 to 195.425. The supply limitations provided in this subsection may be increased up to three months if the physician describes on the prescription form **or indicates via telephone, fax, or electronic communication to the pharmacy to be entered on or attached to the prescription form** the medical reason for requiring the larger supply.

3. The partial filling of a prescription for a Schedule II substance is permissible as defined by regulation by the department of health and senior services.”; and

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

HOUSE AMENDMENT NO. 3

Amend House Committee Substitute for Senate Substitute for Senate Committee Substitute for Senate Bill No. 74, Section 192.326, Page 3, Line 11 by inserting immediately after said line the following:

“192.375. 1. There is hereby established within the department of health and senior

services the “Missouri Senior Advocacy and Efficiency Commission”. The commission shall consist of the following fifteen members, or their designees, who are residents of this state:

(1) The director of the department of health and senior services;

(2) Two members of the Missouri senate, appointed by the president pro tem of the senate;

(3) Two members of the Missouri house of representatives, appointed by the speaker of the house;

(4) A pharmacist licensed in the state of Missouri, recommended by the Missouri board of pharmacy and appointed by the governor;

(5) A representative of the Pharmaceutical Research and Manufacturers of America, appointed by the governor;

(6) One members of the Missouri silver-haired legislature, appointed by the governor;

(7) One members of the Missouri senior Rx commission, appointed by the governor;

(8) One representative from the assisted living community who currently serve on the personal independence commission, appointed by the governor;

(9) One representative of the Missouri Area Agency on Aging, appointed by the governor;

(10) One member of the special health, psychological, and social needs of minority older individuals commission;

(11) One member of the governor's advisory council on aging, appointed by the governor;

(12) The lieutenant governor, who shall serve as chair of the commission; and

(13) One member from the Missouri council for in-home services, appointed by the governor.

In making the initial appointment to the

committee, the governor, president pro tem, and speaker shall stagger the terms of the appointees so that five members serve an initial term of one year, five members serve initial terms of two years and five members serve initial terms of three years. All members appointed thereafter shall serve three year terms. All members shall be eligible for reappointment.

Members of the commission shall be appointed by October 1, 2005. Members shall continue to serve until their successor is appointed and qualified. Any vacancy on the commission shall be filled in the same manner as the original appointment. The commission shall be dissolved on December 31, 2008.

2. Service on the commission shall be voluntary. Subject to appropriations, members of the commission shall receive with reasonable reimbursement for expenses actually incurred in the performance of the member's official duties for members who are not employees of the state of Missouri.

3. Subject to appropriations, the department of health and senior services shall provide administrative support and resources as is necessary for the effective operation of the commission.

4. Meetings shall be held at least every ninety days or at the call of the commission chair.

5. The senior advocacy and efficiency commission shall:

(1) Hold public hearings in accordance with chapter 536, RSMo, to gather information from any state agency, commission, or public entity on issues pertaining to the quality and efficiency of all senior services offered by the state of Missouri;

(2) Analyze state statutes, commissions, and administrative rules regarding services offered by the state of Missouri for senior citizens and designate which programs provide effective and efficient support to seniors and the

programs that lack quality;

(3) Establish a mechanism to educate the staff of the member's of the Missouri general assembly to assist seniors, including but not limited to assisting seniors in applying for any and all prescription drug assistance offered under the federal Medicare Prescription Drug Modernization Act of 2003;

(4) Develop a plan that delays the need for the provisions of long-term care outside the residence of senior citizens and allows seniors to remain at home for as long as possible;

(5) Maintain a web site with detailed information regarding all programs and services offered by the state of Missouri which are available to seniors;

(6) Maintain a toll-free senior advocacy support telephone number which directs seniors to all services offered by the state of Missouri which are available to seniors;

(7) Submit an annual report on the activities of the commission to the director of the department of health and senior services, the members of the Missouri general assembly, and the governor by February 1, 2007, and every February first thereafter. Such report shall include, but not be limited to, the following:

(a) Efficiencies that can be realized by consolidation of senior services offered by Missouri;

(b) Effectiveness of all senior services, programs, and commissions offered by the state of Missouri;

(c) Information regarding the impact and effectiveness of prior recommendations, if any, that have been implemented; and

(d) Measurable data to identify the cost effectiveness of the services, programs, and commissions evaluated.

6. Unless reauthorized, the provisions of this section shall sunset on December 31, 2008.”; and

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

HOUSE AMENDMENT NO. 1 TO
HOUSE AMENDMENT NO. 4

Amend House Amendment No. 4 to House Committee Substitute for Senate Substitute for Senate Committee Substitute for Senate Bill Nos. 74 and 49, Section 1, Page 3, Line 7 by inserting before the word “**income**” on said line the following:

“**adjusted gross**”; and

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

HOUSE AMENDMENT NO. 4

Amend House Committee Substitute for Senate Substitute for Senate Committee Substitute for Senate Bill Nos. 74 and 49, Section 701.049, Page 11, Line 11 by inserting after all of said line the following:

“**Section 1. 1. As used in this section, the term “department” shall mean the Department of Health and Senior Services.**

2. Subject to appropriations, the department may provide financial assistance for consumer-directed personal care assistance services through eligible vendors, as provided in sections 660.661 through 660.687, RSMo, to each person who was participating as a non-Medicaid eligible client pursuant to Sections 178.661 through 178.673, RSMo on June 30, 2005 and who:

- (1) Makes application to the department;**
- (2) Demonstrates financial need and eligibility under subsection 3 of this section;**
- (3) Meets all the criteria set forth in sections 660.661 through 660.687, RSMo, except for section 660.664.1(5);**
- (4) Has been found by the Department of Social Services not to be eligible to participate under guidelines established by the Medicaid state plan; and**

(5) Does not have access to affordable employer-sponsored health care insurance or other affordable health care coverage for personal care assistance services as defined in section 660.661, RSMo. For purposes of this section, “access to affordable employer-sponsored health care insurance or other affordable health care coverage” refers to health insurance requiring a monthly premium less than or equal to one hundred thirty-three percent of the monthly average premium required in the state’s current Missouri consolidated health care plan.

Payments made by the department under the provisions of this section shall be made only after all other available sources of payment have been exhausted.

3. (1) In order to be eligible for financial assistance for consumer-directed personal care assistance services under this section, a person shall demonstrate financial need, which shall be based on the adjusted gross income and the assets of the person seeking financial assistance and such person’s spouse.

(2) In order to demonstrate financial need, a person seeking financial assistance under this section and such person’s spouse must have an adjusted gross income, less disability-related medical expenses, as approved by the department, that is equal to or less than three hundred percent of the federal poverty level. The adjusted gross income shall be based on the most recent income tax return.

(3) No person seeking financial assistance for personal care services under this section and such person’s spouse shall have assets in excess of two-hundred fifty thousand dollars.

4. The department shall require applicants and the applicant’s spouse, and consumers and the consumer’s spouse to provide documentation for income, assets, and disability-related medical expenses for the purpose of determining financial need and eligibility for the program. In addition to the most recent income tax return, such documentation may

include, but shall not be limited to:

- (a) Current wage stubs for the applicant or consumer and the applicant's or consumer's spouse;
- (b) A current W-2 form for the applicant or consumer and the applicant's or consumer's spouse;
- (c) Statements from the applicant's or consumer's and the applicant's or consumer's spouse's employers;
- (d) Wage matches with the division of employment security;
- (e) Bank statements; and
- (f) Evidence of disability-related medical expenses and proof of payment.

5. A personal care assistance services plan shall be developed by the department pursuant to section 660.667, RSMo for each person who is determined to be eligible and in financial need under the provisions of this section. The plan developed by the department shall include the maximum amount of financial assistance allowed by the department, subject to appropriation, for such services.

6. Each consumer who participates in the program is responsible for a monthly premium equal to the average premium required for the Missouri consolidated health care plan; provided that the total premium described in this section shall not exceed five percent of the consumer's and the consumer's spouse's income for the year involved.

7. (1) Nonpayment of the premium required in subsection 6 shall result in the denial or termination of assistance, unless the person demonstrates good cause for such nonpayment.

(2) No person denied services for nonpayment of a premium shall receive services unless such person shows good cause for non payment and makes payments for past due premiums as well as current premiums.

(3) Any person who is denied services for nonpayment of a premium and who does not

make any payments for past due premiums for sixty consecutive days shall have their enrollment in the program terminated.

(4) No person whose enrollment in the program is terminated for nonpayment of a premium when such nonpayment exceeds sixty consecutive days shall be re-enrolled unless such person pays any past due premiums as well as current premiums prior to being re-enrolled. Nonpayment shall include payment with a returned, refused, or dishonored instrument.

8. (1) Consumers determined eligible for personal care assistance services under the provisions of this section shall be reevaluated annually to verify their continued eligibility and financial need. The amount of financial assistance for consumer-directed personal care assistance services received by the consumer shall be adjusted or eliminated based on the outcome of the reevaluation. Any adjustments made shall be recorded in the consumer's personal care assistance services plan.

(2) In performing the annual reevaluation of financial need, the department shall annually send a re-verification eligibility form letter to the consumer requiring the consumer to respond within ten days of receiving the letter and to provide income and disability-related medical expense verification documentation. If the department does not receive the consumer's response and documentation within the ten-day period, the department shall send a letter notifying the consumer that he or she has ten days to file an appeal or the case will be closed.

(3) The department shall require the consumer and the consumer's spouse to provide documentation for income and disability-related medical expense verification for purposes of the eligibility review. Such documentation may include, but shall not be limited to the documentation listed in subsection 4 of this section.

9. (1) Applicants for personal care assistance services and consumers receiving such services pursuant to this section are entitled to a hearing

with the department of social services if eligibility for personal care assistance services is denied, if the type or amount of services is set at a level less than the consumer believes is necessary, if disputes arise after preparation of the personal care assistance plan concerning the provision of such services, or if services are discontinued as provided in section 660.684, RSMo. Services provided under the provisions of this section shall continue during the appeal process.

(2) A request for such hearing shall be made to the department of social services in writing in the form prescribed by the department of social services within ninety days after the mailing or delivery of the written decision of the department of health and senior services. The procedures for such requests and for the hearings shall be as set forth in section 208.080, RSMo.

10. Unless otherwise provided in this section, all other provisions of sections 660.661 through 660.687, RSMo shall apply to individuals who are eligible for financial assistance for personal care assistance services under this section.

11. The department may promulgate rules and regulations, including emergency rules, to implement the provisions of this section. 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. Any provisions of the existing rules regarding the personal care assistance program promulgated by the department of elementary and secondary education in title 5, code of state regulation, division 90, chapter 7, which are inconsistent with the provisions of this section are void and of no force and effect.

12. The provisions of this section shall expire on June 30, 2006.”; and

Further amend said bill by amending the title, enacting clause, and intersectional references

accordingly.

Emergency clause adopted.

In which the concurrence of the Senate is respectfully requested.

Also,

Mr. President: I am instructed by the House of Representatives to inform the Senate that the conferees on **SS** for **SCS** for **HCS** for **HB 58** as amended be allowed to exceed the differences in Section 250.140 paragraph two (2) to exceed the ninety (90) days of service liability and the watershed provision.

Also,

Mr. President: I am instructed by the House of Representatives to inform the Senate that the House refuses to recede from its position on **HCS** for **SCS** for **SB 233**, as amended, and grants the Senate a conference thereon.

Also,

Mr. President: I am instructed by the House of Representatives to inform the Senate that the Speaker has appointed the following conferees to act with a like committee from the Senate on **HCS** for **SCS** for **SB 233**, as amended. Representatives: St. Onge, Nance, Rector, Swinger and Aull.

Also,

Mr. President: I am instructed by the House of Representatives to inform the Senate that the House refuses to recede from its position on **HCS** for **SB 177** and grants the Senate a conference thereon.

Also,

Mr. President: I am instructed by the House of Representatives to inform the Senate that the Speaker has appointed the following conferees to act with a like committee from the Senate on **HCS** for **SB 177**. Representatives: Behnen, Wasson, Tilley, Page and Dougherty.

**CONFERENCE COMMITTEE
APPOINTMENTS**

President Pro Tem Gibbons appointed the following conference committee to act with a like committee from the House on **HCS** for **SCS** for **SB 233**, as amended: Senators Stouffer, Koster, Dolan, Callahan and Barnitz.

President Pro Tem Gibbons appointed the following conference committee to act with a like committee from the House on **HCS** for **SB 177**, as amended: Senators Shields, Scott, Dolan, Callahan and Wheeler.

CONCURRENT RESOLUTIONS

Senator Scott moved that **SCR 17** be taken up for adoption, which motion prevailed.

Senator Coleman offered **SA 1**:

SENATE AMENDMENT NO. 1

Amend Senate Concurrent Resolution No. 17 as it appears in the Senate Journal for April 27, 2005, Page 805, Column 1, Lines 34-39, by striking all of said lines and inserting in lieu thereof the following:

“committee herein established shall consist of ten members, three of which shall be members of the Senate appointed by the President Pro Tem of the Senate, two of which shall be members of the Senate appointed by the Minority Leader of the Senate, three of which shall be members of the House of Representatives appointed by the Speaker of the House of Representatives, and two of which shall be members of the House of Representatives appointed by the Minority Leader of the House of Representatives; and”.

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

On motion of Senator Scott, **SCR 17**, as amended, was adopted by the following vote:

YEAS—Senators

Alter	Barnitz	Bartle	Bray
Callahan	Champion	Clemens	Coleman
Crowell	Days	Dolan	Engler
Gibbons	Graham	Green	Griesheimer

Gross	Kennedy	Klindt	Koster
Loudon	Mayer	Nodler	Purgason
Ridgeway	Scott	Shields	Stouffer
Taylor	Vogel	Wheeler	Wilson—32

NAYS—Senators—None

Absent—Senators

Cauthorn Dougherty—2

Absent with leave—Senators—None

Vacancies—None

RESOLUTIONS

Senator Alter offered Senate Resolution No. 1417, regarding Elizabeth Stout, House Springs, which was adopted.

Senator Alter offered Senate Resolution No. 1418, regarding James Mikko, House Springs, which was adopted.

Senator Alter offered Senate Resolution No. 1419, regarding Aimee L. Wegescheide, Dittmer, which was adopted.

Senator Alter offered Senate Resolution No. 1420, regarding Benjamin J. Wilson, Hillsboro, which was adopted.

Senator Alter offered Senate Resolution No. 1421, regarding Haley N. Peacock, Dittmer, which was adopted.

Senator Coleman offered Senate Resolution No. 1422, regarding Daniel S. Britts, which was adopted.

Senator Shields offered Senate Resolution No. 1423, regarding Skyler McIntosh, Martinsville, which was adopted.

Senator Kennedy offered Senate Resolution No. 1424, regarding Dr. Mitch Murphy, which was adopted.

Senator Kennedy offered Senate Resolution No. 1425, regarding Barb Gregston, which was adopted.

Senator Kennedy offered Senate Resolution No. 1426, regarding Marietta Schwalbe, which was

adopted.

Senator Kennedy offered Senate Resolution No. 1427, regarding Marcelline Dairaghi, which was adopted.

Senator Engler offered Senate Resolution No. 1428, regarding David L. Grannemann, which was adopted.

Senator Engler offered Senate Resolution No. 1429, regarding Judith L. Hale, which was adopted.

Senator Engler offered Senate Resolution No. 1430, regarding Patricia Bauman, which was adopted.

Senator Engler offered Senate Resolution No. 1431, regarding David Caputo, which was adopted.

Senator Engler offered Senate Resolution No. 1432, regarding Paul S. Cameron, which was adopted.

Senator Gibbons offered Senate Resolution No. 1433, regarding Dr. Gay Malouf Tompkins, which was adopted.

Senator Vogel offered Senate Resolution No. 1434, regarding Helen Juanita Thompson, which was adopted.

Senator Dougherty offered Senate Resolution No. 1435, regarding Barbara Steward, St. Louis, which was adopted.

Senator Dougherty offered Senate Resolution No. 1436, regarding Jason Christopher Sutterfield, St. Louis, which was adopted.

Senator Engler offered Senate Resolution No. 1437, regarding Penny Kennon, which was adopted.

Senator Engler offered Senate Resolution No. 1438, regarding Ellen Berry, which was adopted.

Senator Engler offered Senate Resolution No. 1439, regarding Shirley Mullikin, which was adopted.

Senator Engler offered Senate Resolution No. 1440, regarding Mary Jo Ellis, which was adopted.

Senator Engler offered Senate Resolution No.

1441, regarding John Poston, which was adopted.

Senator Engler offered Senate Resolution No. 1442, regarding John Gammon, which was adopted.

Senator Engler offered Senate Resolution No. 1443, regarding Jack Goeller, which was adopted.

Senator Engler offered Senate Resolution No. 1444, regarding Cynthia Murdock, which was adopted.

Senator Engler offered Senate Resolution No. 1445, regarding Diana Pattengill, which was adopted.

Senator Engler offered Senate Resolution No. 1446, regarding Susan James, which was adopted.

Senator Stouffer offered Senate Resolution No. 1447, regarding Mary Z. Proffitt, Camden, which was adopted.

Senator Stouffer offered Senate Resolution No. 1448, regarding Ruth Ellen Campbell, Richmond, which was adopted.

Senator Stouffer offered Senate Resolution No. 1449, regarding Linda Douglas, Richmond, which was adopted.

Senator Stouffer offered Senate Resolution No. 1450, regarding Karen McBee, which was adopted.

Senator Stouffer offered Senate Resolution No. 1451, regarding Carolyn Pugh, which was adopted.

Senator Coleman offered Senate Resolution No. 1452, regarding Cara DeHekker, Webster Groves, which was adopted.

INTRODUCTIONS OF GUESTS

Senator Koster introduced to the Senate, Seth Davenport and Reyo Gerleman, Miami; and Seth and Reyo were made honorary pages.

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

On motion of Senator Shields, the Senate adjourned until 9:00 a.m., Wednesday, May 11, 2005.

SENATE CALENDAR

 SIXTY-EIGHTH DAY—WEDNESDAY, MAY 11, 2005

FORMAL CALENDAR

SENATE BILLS FOR PERFECTION

SB 542-Callahan
 SB 326-Nodler, with SCS
 SB 417-Engler, et al

SB 466-Vogel, with SCS
 SB 508-Wheeler, with SCS

HOUSE BILLS ON THIRD READING

HCS for HB 192, with SCS (Cauthorn)
 (In Fiscal Oversight)
 HB 100-Cunningham, et al, with SCS
 (Loudon)

HCS for HB 972, with SCS (Nodler) (In
 Fiscal Oversight)
 HB 789-Salva, et al (Engler)

INFORMAL CALENDAR

THIRD READING OF SENATE BILLS

SCS for SB 3-Loudon

SS for SCS for SB 316-Dolan (In Fiscal
 Oversight)

SENATE BILLS FOR PERFECTION

SB 5-Klindt, with SCS & SS for SCS
 (pending)
 SB 12-Cauthorn and Klindt
 SB 29-Dolan, with SCS & SA 1 (pending)
 SB 44-Wheeler and Bray, with SCS
 SB 50-Taylor and Nodler, with SCS & SS
 for SCS (pending)
 SB 55-Klindt, with SCS & SS for SCS
 (pending)
 SB 64-Kennedy, with SCS
 SB 90-Dougherty, with SCS

SB 93-Cauthorn, with SCS
 SB 152-Wilson, with SCS (pending)
 SB 159-Cauthorn
 SB 160-Bartle, et al, with SS (pending)
 SB 185-Loudon, et al, with SA 1 & SA 1
 to SA 1 (pending)
 SB 199-Gross
 SB 214-Scott, et al, with SCS
 SB 236-Klindt and Clemens
 SB 240-Scott
 SB 241-Scott

SB 253-Koster, with SCS
SB 284-Cauthorn and Clemens, with SCS
(pending)
SB 291-Mayer, et al, with SCS & SS for
SCS (pending)
SB 321-Shields
SB 324-Scott, with SCS
SB 339-Gross, with SCS

SBs 365 & 204-Mayer, et al, with SCS
(pending)
SB 373-Bartle
SB 376-Loudon
SB 393-Stouffer, with SCS
SB 434-Cauthorn
SB 470-Engler
SB 548-Loudon

HOUSE BILLS ON THIRD READING

HB 48-Dougherty, with SCS (Callahan)
HCS#2 for HBs 94 & 185 (Koster)
HCS for HB 108 (Shields)
HCS for HB 135, with SCS (Shields)
HCS for HB 186, with SCS (Scott)
HB 196-Wildberger, et al, with SCS (Koster)
HCS for HB 208, with SCS (Crowell)
HCS for HB 276 (Nodler)
HB 320-Muschany, et al, with SCS & SS
for SCS (pending) (Nodler)
HCS for HB 347, with SCS & SS for SCS
(pending) (Dolan)
HCS for HB 394, with SCS (Engler)
HB 417-Yates, et al, with SCS (Loudon)
HCS for HB 440 (Engler)

HCS for HB 461 (Griesheimer)
HCS for HB 468, with SCS (Scott)
HCS for HB 498 (Koster)
HB 530-Moore, et al (Loudon)
HB 539-Icet, et al, with SCS (Nodler)
HB 564-Boykins, et al (Coleman)
HCS#2 for HB 568 (Nodler)
HB 592-Cooper (120) (Dolan)
HB 596-Schaaf, with SA 1 (pending) (Shields)
HCS for HB 606 (Kennedy)
HB 617-Kelly (144), et al, with SCS (Clemens)
HB 832-Brooks, et al (Wilson)
HCS for HB 863, with SCS & SS for SCS
(pending) (Taylor)

CONSENT CALENDAR

House Bills
Reported 4/12

HCS for HB 119 (Stouffer)
HCS for HBs 163, 213 & 216 (Gross)
HB 219-Salva and Johnson (47) (Wheeler)
HB 236-Goodman (Taylor)

HB 261-Deeken (Griesheimer)
HB 323-Johnson (47) (Shields)
HB 473-Yates (Bartle)
HB 258-Cunningham (86) (Nodler)

Reported 4/13

HB 33-Phillips (Shields)

HCS for HB 563 (Shields)

HB 455-Quinn, et al (Klindt)

HCS for HB 513 (Loudon)

Reported 4/14

HB 69-Rupp (Loudon)

HCS for HBs 462 & 463 (Shields)

HCS for HB 56 (Dolan)

HB 681-Chappelle-Nadal (Days)

HB 413-Hubbard, et al (Coleman)

HB 321-Yates (Bartle)

SENATE BILLS WITH HOUSE AMENDMENTS

SS for SCS for SBs 74 & 49-Champion,
with HCS, as amended

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BILLS IN CONFERENCE AND BILLS
CARRYING REQUEST MESSAGES

In Conference

SCS#2 for SB 155-Mayer, with HCS,
as amended

SS for SB 343-Bartle, with HCS,
as amended

SB 177-Shields, with HCS

HCS for HB 58, with SS for SCS,

SS for SCS for SB 210-Griesheimer, with
HCS, as amended

as amended (Griesheimer)

SCS for SB 233-Stouffer, with HCS,
as amended

HB 678-Byrd, with SCS,
as amended (Bartle)

Requests to Recede or Grant Conference

SCS for SBs 221, 250 & 256-Dolan, with
HCS, as amended (Senate requests
House recede or grant conference)

SCS for SB 390-Taylor, with HA 1 & HA 3
(Senate requests House recede or
grant conference)

SCS for SB 355-Griesheimer, et al, with
HCS, as amended (Senate requests
House recede or grant conference)

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RESOLUTIONS

Reported from Committee

SCR 10-Scott

SCR 12-Koster

SCR 14-Purgason

HCR 11-Sander, et al (Stouffer)

HCR 9-Bivins, et al (Nodler)

HCR 15-Baker (123) (Koster)

HCR 20-Rupp, et al (Dolan)

HCS for HCR 24 (Coleman)

SR 901-Mayer, et al

SR 1193-Vogel, with SCA 1

HCR 23-Sutherland, et al (Mayer)

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