

Journal of the Senate

FIRST REGULAR SESSION

FORTY-EIGHTH DAY—TUESDAY, APRIL 7, 2009

The Senate met pursuant to adjournment.

President Kinder in the Chair.

Reverend Carl Gauck offered the following prayer:

“In prayer it is better to have a heart without words than words without a heart.” (John Bunyan)

We are very good using our words to communicate our intent; but we ask O Lord that our words may also convey what is in our hearts so that we are truly present and the true meaning in our desires are communicated in authentic ways. Guide our hearts and words so that they are never mean-spirited or to hurt another whether in this chamber or our office or home. In Your Holy name we pray. Amen.

The Pledge of Allegiance to the Flag was recited.

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

The Journal of the previous day was read and approved.

Photographers from the Associated Press were given permission to take pictures in the Senate Chamber today.

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

Present—Senators

Barnitz	Bartle	Bray	Callahan	Champion	Clemens	Crowell	Cunningham
Days	Dempsey	Engler	Goodman	Green	Griesheimer	Justus	Lager
Lembke	Mayer	McKenna	Nodler	Pearce	Purgason	Ridgeway	Rupp
Schaefer	Schmitt	Scott	Shields	Shoemyer	Smith	Stouffer	Vogel
Wilson	Wright-Jones—34						

Absent—Senators—None

Absent with leave—Senators—None

Vacancies—None

The Lieutenant Governor was present.

RESOLUTIONS

Senator Engler offered Senate Resolution No. 763, regarding Joan M. Voelker, which was adopted.

Senator Cunningham offered Senate Resolution No. 764, regarding the Florissant Parks Foundation, which was adopted.

Senator Clemens offered Senate Resolution No. 765, regarding the 2008-2009 Class 2 state champion Sparta High School Girls Basketball Trojans, which was adopted.

Senator Ridgeway offered Senate Resolution No. 766, regarding Lydia Agee, Liberty, which was adopted.

Senator Crowell offered Senate Resolution No. 767, regarding Sergeant Blaine Adams of the Missouri State Highway Patrol, which was adopted.

Senator Engler offered Senate Resolution No. 768, regarding Joan Franke, which was adopted.

SENATE BILLS FOR PERFECTION

Senator Lager moved that **SB 555**, with **SCS**, be taken up for perfection, which motion prevailed.

SCS for **SB 555**, entitled:

SENATE COMMITTEE SUBSTITUTE FOR
SENATE BILL NO. 555

An Act to amend chapter 392, RSMo, by adding thereto one new section relating to exchange access rates.

Was taken up.

Senator Lager moved that **SCS** for **SB 555** be adopted.

Senator Lager offered **SS** for **SCS** for **SB 555**, entitled:

SENATE SUBSTITUTE FOR
SENATE COMMITTEE SUBSTITUTE FOR
SENATE BILL NO. 555

An Act to amend chapter 392, RSMo, by adding thereto one new section relating to exchange access rates.

Senator Lager moved that **SS** for **SCS** for **SB 555** be adopted.

Senator Lager offered **SA 1**:

SENATE AMENDMENT NO. 1

Amend Senate Substitute for Senate Committee Substitute for Senate Bill No. 555, Page 2, Section 392.600, Line 19 of said page, by inserting immediately after said line the following:

“4. Beginning August 28, 2009, each incumbent local exchange telecommunications company regulated under section 392.240 shall have the option to reduce its composite intrastate switched exchange access rates. Each year a company makes such an optional rate reduction, it may file tariff revisions, effective concurrent with the rate reduction, to increase its rates for basic local telecommunications service by up to two dollars per month to balance the decrease in its composite

intrastate switched exchange access rate reduction. The public service commission's review of such tariffs shall be limited to verifying the rate increase does not recover more revenue than the amount of the company's voluntary revenue reduction and the commission shall not conduct an earnings review or a review of all relevant factors pursuant to sections 392.230 or 392.240.”.

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

Senator Dempsey assumed the Chair.

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

SENATE AMENDMENT NO. 2

Amend Senate Substitute for Senate Committee Substitute for Senate Bill No. 555, Page 1, Section 392.600, Line 14, by deleting the following words: “traffic sensitive and”

Senator Barnitz moved that the above amendment be adopted.

Senator Pearce assumed the Chair.

Senator Dempsey assumed the Chair.

At the request of Senator Lager, **SB 555**, with **SCS**, **SS** for **SCS** and **SA 2** (pending), was placed on the Informal Calendar.

REPORTS OF STANDING COMMITTEES

Senator Engler, Chairman of the Committee on Rules, Joint Rules, Resolutions and Ethics, submitted the following report:

Mr. President: Your Committee on Rules, Joint Rules, Resolutions and Ethics, to which was referred **SS** for **SB 172**, begs leave to report that it has examined the same and finds that the bill has been truly perfected and that the printed copies furnished the Senators are correct.

REFERRALS

President Pro Tem Shields referred the gubernatorial appointments appearing on pages 909 and 910 of the Senate Journal for Monday, April 6, 2009, to the Committee on Gubernatorial Appointments.

President Pro Tem Shields referred **SS** for **SCS** for **SB 558** and **SS** for **SCS** for **SB 306** to the Committee on Governmental Accountability and Fiscal Oversight.

MESSAGES FROM THE GOVERNOR

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

GOVERNOR OF MISSOURI
Jefferson City
65102
April 06, 2009

To the Senate of the 95th General Assembly of the State of Missouri:

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

John R. Albright, Republican, 40 Brookhaven Court, Sunrise Beach, Camden County, Missouri 65079, as a member of the Missouri

Community Service Commission, for a term ending December 15, 2010, and until his successor is duly appointed and qualified; vice, Elmo “Skip” O’Neal, withdrawn.

Respectfully submitted,
Jeremiah W. (Jay) Nixon
Governor

Also,

GOVERNOR OF MISSOURI

Jefferson City
65102

April 06, 2009

To the Senate of the 95th General Assembly of the State of Missouri:

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

Karen L. Benson, 512 South Vine Street, Mount Vernon, Lawrence County, Missouri 65712, as Chair of the Governor's Council on Disability, for a term ending October 01, 2011, and until her successor is duly appointed and qualified; vice, Daniel Card, resigned.

Respectfully submitted,
Jeremiah W. (Jay) Nixon
Governor

Also,

GOVERNOR OF MISSOURI

Jefferson City
65102

April 06, 2009

To the Senate of the 95th General Assembly of the State of Missouri:

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

Anne M. Bethune, 1260 West 59th Street, Kansas City, Jackson County, Missouri 64113, as a member of the Child Abuse and Neglect Review Board, for a term ending April 07, 2011, and until her successor is duly appointed and qualified; vice, Beth C. Biggs, withdrawn.

Respectfully submitted,
Jeremiah W. (Jay) Nixon
Governor

Also,

GOVERNOR OF MISSOURI

Jefferson City
65102

April 06, 2009

To the Senate of the 95th General Assembly of the State of Missouri:

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

Lynne M. Cooper, 2211 South Grand, Saint Louis City, Missouri 63104, as a member of the Children’s Trust Fund Board, for a term ending September 15, 2011, and until her successor is duly appointed and qualified; vice, reappointed to a full term.

Respectfully submitted,
Jeremiah W. (Jay) Nixon
Governor

Also,

GOVERNOR OF MISSOURI

Jefferson City
65102

April 06, 2009

To the Senate of the 95th General Assembly of the State of Missouri:

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

Richard C. Dunn, 2244 South Meadowview, Springfield, Greene County, Missouri 65804, as a member of the Children's Trust Fund Board, for a term ending September 15, 2009, and until his successor is duly appointed and qualified; vice, Sarah Anderson, withdrawn.

Respectfully submitted,
Jeremiah W. (Jay) Nixon
Governor

Also,

GOVERNOR OF MISSOURI

Jefferson City
65102

April 06, 2009

To the Senate of the 95th General Assembly of the State of Missouri:

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

Adrienne A. Fly, 4400 Lindell Boulevard #12 N, Saint Louis City, Missouri 63108, as a member of the Missouri State Board of Nursing, for a term ending June 01, 2011, and until her successor is duly appointed and qualified; vice, Cynthia Suter, term expired.

Respectfully submitted,
Jeremiah W. (Jay) Nixon
Governor

Also,

GOVERNOR OF MISSOURI

Jefferson City
65102

April 06, 2009

To the Senate of the 95th General Assembly of the State of Missouri:

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

Dawn M. Fuller, 1306 Lucas Unit 1103, Saint Louis City, Missouri 63103, as a member of the Child Abuse and Neglect Review Board, for a term ending April 07, 2011, and until her successor is duly appointed and qualified; vice, Timothy McGrail, withdrawn.

Respectfully submitted,
Jeremiah W. (Jay) Nixon
Governor

Also,

GOVERNOR OF MISSOURI

Jefferson City
65102

April 06, 2009

To the Senate of the 95th General Assembly of the State of Missouri:

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

Cynthia L. Heislen, Democrat, 1507 Independence Drive, Jefferson City, Cole County, Missouri 65109, as a member of the Missouri

Community Service Commission, for a term ending December 12, 2009, and until her successor is duly appointed and qualified; vice, D. Kent King, withdrawn.

Respectfully submitted,
Jeremiah W. (Jay) Nixon
Governor

Also,

GOVERNOR OF MISSOURI

Jefferson City
65102

April 06, 2009

To the Senate of the 95th General Assembly of the State of Missouri:

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

Peter W. Hofherr, 19300 County Road 1000, Saint James, Phelps County, Missouri 65559, as a member of the Missouri Wine and Grape Board, for a term ending October 28, 2012, and until his successor is duly appointed and qualified; vice, Kenneth Meyer, withdrawn.

Respectfully submitted,
Jeremiah W. (Jay) Nixon
Governor

Also,

GOVERNOR OF MISSOURI

Jefferson City
65102

April 06, 2009

To the Senate of the 95th General Assembly of the State of Missouri:

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

Shera R. Kafka, 1504 Gold Leaf Drive, Saint Louis, Saint Louis County, Missouri 63146, as a member of the Child Abuse and Neglect Review Board, for a term ending April 05, 2012, and until her successor is duly appointed and qualified; vice, RSMo 210.153.

Respectfully submitted,
Jeremiah W. (Jay) Nixon
Governor

Also,

GOVERNOR OF MISSOURI

Jefferson City
65102

April 06, 2009

To the Senate of the 95th General Assembly of the State of Missouri:

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

Barbara C. Kuebler, 3204 Pembroke Square, Jefferson City, Cole County, Missouri 65109, as a member of the Child Abuse and Neglect Review Board, for a term ending April 27, 2010, and until her successor is duly appointed and qualified; vice, Karen Berding, term expired.

Respectfully submitted,
Jeremiah W. (Jay) Nixon
Governor

Also,

GOVERNOR OF MISSOURI
Jefferson City
65102
April 06, 2009

To the Senate of the 95th General Assembly of the State of Missouri:

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

Nicole L. Loethen, 2930 Hillview Drive, Jefferson City, Cole County, Missouri 65101, as a member of the Missouri Consolidated Health Care Plan Board of Trustees, for a term ending December 31, 2010, and until her successor is duly appointed and qualified; vice, Roberta Angle, withdrawn.

Respectfully submitted,
Jeremiah W. (Jay) Nixon
Governor

Also,

GOVERNOR OF MISSOURI
Jefferson City
65102
April 06, 2009

To the Senate of the 95th General Assembly of the State of Missouri:

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

Randall J. McArthur, Republican, 11971 Autumn Lakes Drive, Maryland Heights, Saint Louis County, Missouri 63043, as a member of the Missouri Community Service Commission, for a term ending April 05, 2012, and until his successor is duly appointed and qualified; vice, RSMo 26.607.

Respectfully submitted,
Jeremiah W. (Jay) Nixon
Governor

Also,

GOVERNOR OF MISSOURI
Jefferson City
65102
April 06, 2009

To the Senate of the 95th General Assembly of the State of Missouri:

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

Aubrey F. Moncrief, 5470 Stone Ledge Circle, Osage Beach, Camden County, Missouri 65065, as a member of the Missouri State Board of Nursing, for a term ending June 01, 2012, and until his successor is duly appointed and qualified; vice, Teri Murray, term expired.

Respectfully submitted,
Jeremiah W. (Jay) Nixon
Governor

Also,

GOVERNOR OF MISSOURI
Jefferson City
65102
April 06, 2009

To the Senate of the 95th General Assembly of the State of Missouri:

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

Nina N. Murphy, Democrat, 3447 Pestalozzi Street, Saint Louis City, Missouri 63118, as a member of the Missouri Community Service Commission, for a term ending December 15, 2009, and until her successor is duly appointed and qualified; vice, Dana Hardy, resigned.

Respectfully submitted,
Jeremiah W. (Jay) Nixon
Governor

Also,

GOVERNOR OF MISSOURI

Jefferson City
65102

April 06, 2009

To the Senate of the 95th General Assembly of the State of Missouri:

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

James E. O'Mara, Democrat, 214 Summit Ridge Place, Weldon Springs, Saint Charles County, Missouri 63304, as a member of the Missouri Community Service Commission, for a term ending December 15, 2011, and until his successor is duly appointed and qualified; vice, Barbara Wolken, withdrawn.

Respectfully submitted,
Jeremiah W. (Jay) Nixon
Governor

Also,

GOVERNOR OF MISSOURI

Jefferson City
65102

April 06, 2009

To the Senate of the 95th General Assembly of the State of Missouri:

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

Phyllis M. Wolfram, 2524 South Penzance Avenue, Springfield, Greene County, Missouri 65809, as a member of the Missouri Commission on Autism Spectrum Disorders, for a term ending September 03, 2010, and until her successor is duly appointed and qualified; vice, Donald McCary, withdrawn.

Respectfully submitted,
Jeremiah W. (Jay) Nixon
Governor

Also,

GOVERNOR OF MISSOURI

Jefferson City
65102

April 06, 2009

To the Senate of the 95th General Assembly of the State of Missouri:

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

Gerald J. Zafft, 10498 Frontenac Woods Lane, Saint Louis, Saint Louis County, Missouri 63131, as a member of the Missouri Family Trust Board of Trustees, for a term ending October 25, 2010, and until his successor is duly appointed and qualified; vice, Gerald J. Zafft, withdrawn.

Respectfully submitted,
Jeremiah W. (Jay) Nixon
Governor

President Pro Tem Shields referred the above appointments to the Committee on gubernatorial appointments.

RESOLUTIONS

Senator Vogel offered Senate Resolution No. 769, regarding the Fiftieth Anniversary of the United Sportsmen's Club, Jefferson City, which was adopted.

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

RECESS

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

RESOLUTIONS

Senator Scott offered Senate Resolution No. 770, regarding the One Hundredth Birthday of Ruby Gayle Wilson, El Dorado Springs, which was adopted.

Senator Scott offered Senate Resolution No. 771, regarding Talbert Richard, which was adopted.

Senator Ridgeway offered Senate Resolution No. 772, regarding Peyton James Woodward, Kansas City, which was adopted.

Senator Engler offered Senate Resolution No. 773, regarding Robin G. Portell, which was adopted.

Senator Engler offered Senate Resolution No. 774, regarding Barbara Dearing, which was adopted.

Senator Engler offered Senate Resolution No. 775, regarding Sharon A. King, which was adopted.

Senator Engler offered Senate Resolution No. 776, regarding Jeanne D. Johnson, Fredericktown, which was adopted.

SENATE BILLS FOR PERFECTION

Senator Scott moved that **SB 228**, with **SCS**, be taken up for perfection, which motion prevailed.
SCS for **SB 228**, entitled:

SENATE COMMITTEE SUBSTITUTE FOR
SENATE BILL NO. 228

An Act to repeal section 393.135, RSMo, and to enact in lieu thereof sixteen new sections relating to clean energy generation.

Was taken up.

Senator Scott moved that **SCS** for **SB 228** be adopted.

Senator Scott offered **SS** for **SCS** for **SB 228**, entitled:

SENATE SUBSTITUTE FOR
SENATE COMMITTEE SUBSTITUTE FOR
SENATE BILL NO. 228

An Act to repeal section 393.135, RSMo, and to enact in lieu thereof sixteen new sections relating to

clean energy generation.

Senator Scott moved that **SS** for **SCS** for **SB 228** be adopted.

President Pro Tem Shields assumed the Chair.

Senator Cunningham offered **SA 1**:

SENATE AMENDMENT NO. 1

Amend Senate Substitute for Senate Committee Substitute for Senate Bill No. 228, Page 2, Section 393.135, Line 4 of said page by inserting after all of said line the following:

“3. No electrical corporation authorized to make or demand charges under subsection 2 of this section shall assess such charges to any residential ratepayer who meets the following criteria:

(1) Is sixty-five years of age or older by January first of the year in which the charge is being assessed; and

(2) Has a combined household income of equal to or less than seventy thousand dollars in tax year 2008, where such maximum shall be adjusted each year by the incremental increase in the general price level as defined under article X, section 17 of the Missouri Constitution.”; and

Further amend said bill, Page 23, Section 393.1292, Line 25 of said page, by inserting after all of said line the following:

“393.1293. Notwithstanding any other provision of sections 393.1250 to 393.1295 to the contrary, no electrical corporation authorized to make or demand charges under sections 393.1250 to 393.1295 shall assess such charges to any residential ratepayer who meets the following criteria:

(1) Is sixty-five years of age or older by January first of the year in which the charge is being assessed; and

(2) Has a combined household income of equal to or less than seventy thousand dollars in tax year 2008, where such maximum shall be adjusted each year by the incremental increase in the general price level as defined under article X, section 17 of the Missouri Constitution.”; and

Further amend the title and enacting clause accordingly.

Senator Cunningham moved that the above amendment be adopted.

Senator Stouffer assumed the Chair.

Senator Days 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 Senate Bill No. 228, Page 1, Section 393.135, Line 10, by striking the word “seventy” and inserting in lieu thereof the following: **“forty”**; and

Further amend page 2, section 393.1293, line 2, by striking the word “seventy” and inserting in lieu thereof the following: **“forty”**.

Senator Days moved that the above amendment be adopted.

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

Senator Callahan offered **SA 2** to **SA 1**, which was read:

SENATE AMENDMENT NO. 2 TO
SENATE AMENDMENT NO. 1

Amend Senate Amendment No. 1 to Senate Substitute for Senate Committee Substitute for Senate Bill No. 228, Page 1, Section 393.135, Line 7, inserting immediately after the word “older” the following:

“ **or is disabled, as defined in section 135.010, RSMo,**”; and

further amend line 10 by striking the word “seventy” and inserting in lieu thereof the following: “**forty**”; and

Further amend said page, section 393.1293, line 21, by inserting immediately after the word “older” the following:

“ **or is disabled, as defined in section 135.010, RSMo,**”; and

Further amend page 2, section 393.1293, line 2, by striking the word “seventy” and inserting in lieu thereof the following: “**forty**”.

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

SA 1, as amended, was again taken up.

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

Senator Mayer offered **SA 2**:

SENATE AMENDMENT NO. 2

Amend Senate Substitute for Senate Committee Substitute for Senate Bill No. 228, Pages 1-2, Section 393.135, by striking all of said section and inserting in lieu thereof the following:

“393.135. Any charge made or demanded by an electrical corporation for service **to an aluminum smelting facility as defined in section 91.026, RSMo,** or in connection therewith, which is based on the costs of construction in progress upon any existing or new facility of the electrical corporation, or any other cost associated with owning, operating, maintaining, or financing any property before it is fully operational and used for service, is unjust and unreasonable, and is prohibited.”.

Senator Mayer moved that the above amendment be adopted.

Senator Callahan offered **SA 1** to **SA 2**, which was read:

SENATE AMENDMENT NO. 1 TO
SENATE AMENDMENT NO. 2

Amend Senate Amendment No. 2 to Senate Substitute for Senate Committee Substitute for Senate Bill No. 228, Page 1, Section 393.135, Line 6, by inserting immediately after “RSMo” the following “**or any residential customer or residential rate payer**”

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

SA 2 was again taken up.

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

Senator Crowell offered **SA 3**:

SENATE AMENDMENT NO. 3

Amend Senate Substitute for Senate Committee Substitute for Senate Bill No. 228, Page 2, Section 393.1250, Line 6 of said page, by striking the word “shall” and inserting in lieu thereof the following: “**may**”; and further amend line 8 of said page, by striking the word “shall” and inserting in lieu thereof the following: “**may**”; and further amend line 18 of said page, by striking the word “shall” and inserting in lieu thereof the following: “**may**”; and further amend line 27 of said page, by striking the word “shall” and inserting in lieu thereof the following: “**may**”; and

Further amend said bill and section, page 3, line 8 of said page, by striking the word “shall” and inserting in lieu thereof the following: “**may**”; and further amend line 18 of said page, by striking the word “shall” and inserting in lieu thereof the following: “**may**”; and

Further amend said bill, page 4, section 393.1253, line 28 of said page, by striking the word “shall” and inserting in lieu thereof the following: “**may**”; and

Further amend said bill and section, page 5, line 1 of said page, by striking the word “shall” and inserting in lieu thereof the following: “**may**”; and

Further amend said bill and section, page 6, line 23 of said page, by striking the word “shall” and inserting in lieu thereof the following: “**may**”; and

Further amend said bill and section, page 7, line 7 of said page, by striking the word “shall” and inserting in lieu thereof the following: “**may**”; and

Further amend said bill, page 8, section 393.1256, line 26 of said page, by striking the word “shall” and inserting in lieu thereof the following: “**may**”; and

Further amend said bill and section, page 9, line 4 of said page, by striking the word “shall” and inserting in lieu thereof the following: “**may**”; and further amend line 10 of said page, by striking the word “shall” and inserting in lieu thereof the following: “**may**”; and further amend line 19 of said page, by striking the word “shall” and inserting in lieu thereof the following: “**may**”; and further amend line 20 of said page, by striking the word “shall” and inserting in lieu thereof the following: “**may**”; and

Further amend said bill and section, page 10, line 5 of said page, by striking the word “shall” and inserting in lieu thereof the following: “**may**”; and further amend line 10 of said page, by striking the word “shall” and inserting in lieu thereof the following: “**may**”; and further amend line 21 of said page, by striking the word “shall” and inserting in lieu thereof the following: “**may**”; and

Further amend said bill and section, page 11, line 4 of said page, by striking the word “shall” and inserting in lieu thereof the following: “**may**”; and further amend line 6 of said page, by striking the word “shall” and inserting in lieu thereof the following: “**may**”; and further amend line 17 of said page, by striking the word “shall” and inserting in lieu thereof the following: “**may**”; and further amend line 20 of said page, by striking the word “shall” and inserting in lieu thereof the following: “**may**”; and

Further amend said bill and page, section 393.1259, line 23 of said page, by striking the word “shall” and inserting in lieu thereof the following: “**may**”; and

Further amend said bill, page 12, section 393.1265, line 10 of said page, by striking the word “shall” and inserting in lieu thereof the following: “**may**”; and further amend line 14 of said page, by striking the

Further amend said bill and section, page 20, line 4 of said page, by striking the word “shall” and inserting in lieu thereof the following: “**may**”; and further amend line 5 of said page, by striking the word “shall” and inserting in lieu thereof the following: “**may**”; and further amend line 6 of said page, by striking the word “shall” and inserting in lieu thereof the following: “**may**”; and further amend line 15 of said page, by striking the word “shall” and inserting in lieu thereof the following: “**may**”; and further amend line 18 of said page, by striking the word “shall” and inserting in lieu thereof the following: “**may**”; and further amend line 20 of said page, by striking the word “shall” and inserting in lieu thereof the following: “**may**”; and further amend line 23 of said page, by striking the word “shall” and inserting in lieu thereof the following: “**may**”; and further amend line 24 of said page, by striking the word “shall” and inserting in lieu thereof the following: “**may**”; and further amend line 28 of said page, by striking the word “shall” and inserting in lieu thereof the following: “**may**”; and

Further amend said bill, page 21, section 393.1277, line 5 of said page, by striking the word “shall” and inserting in lieu thereof the following: “**may**”; and further amend line 6 of said page, by striking the word “shall” and inserting in lieu thereof the following: “**may**”; and

Further amend said bill, page 21, section 393.1280, line 26 of said page, by striking the word “shall” and inserting in lieu thereof the following: “**may**”; and further amend line 27 of said page, by striking the word “shall” and inserting in lieu thereof the following: “**may**”; and

Further amend said bill and section, page 22, line 1 of said page, by striking the word “shall” and inserting in lieu thereof the following: “**may**”; and

Further amend said bill, page 22, section 393.1286, line 13 of said page, by striking the word “shall” and inserting in lieu thereof the following: “**may**”; and further amend line 17 of said page, by striking the word “shall” and inserting in lieu thereof the following: “**may**”; and further amend line 22 of said page, by striking the word “shall” and inserting in lieu thereof the following: “**may**”; and further amend line 25 of said page, by striking the word “shall” and inserting in lieu thereof the following: “**may**”; and

Further amend said bill and section, page 23, line 2 of said page, by striking the word “shall” and inserting in lieu thereof the following: “**may**”; and further amend line 6 of said page, by striking the word “shall” and inserting in lieu thereof the following: “**may**”; and

Further amend said bill and page, section 393.1289, line 9 of said page, by striking the word “shall” and inserting in lieu thereof the following: “**may**”; and further amend line 12 of said page, by striking the word “shall” and inserting in lieu thereof the following: “**may**”; and

Further amend said bill, page 24, section 393.1295, line 2 of said page, by striking the word “shall” and inserting in lieu thereof the following: “**may**”; and further amend line 11 of said page, by striking the word “shall” and inserting in lieu thereof the following: “**may**”.

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

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

SENATE AMENDMENT NO. 4

Amend Senate Substitute for Senate Committee Substitute for Senate Bill No. 228, Page 24, Section 393.1295, Line 13, by inserting after all of said line the following:

“Section B. Because of the need to ensure that consumers are adequately protected prior to the construction of a new nuclear plant in this state, section A of this act is deemed necessary for the immediate

preservation of the public health, welfare, peace and safety, and is hereby declared to be an emergency act within the meaning of the constitution, and section A of this act shall be in full force and effect upon its passage and approval.”; and

Further amend the title and enacting clause accordingly.

Senator Bray moved that the above amendment be adopted.

Senator Bray offered **SSA 1** for **SA 4**, which was read:

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

Amend Senate Substitute for Senate Committee Substitute for Senate Bill No. 228, Page 1, In the Title, Line 4, by inserting after the word “generation” the following:

“, with a contingent effective date”; and

Further amend said bill, page 24, section 393.1295, line 13 by inserting after all of said line the following:

“Section B. The provisions of this act shall become effective on January 1, 2010.”.

Senator Bray moved that the above substitute amendment be adopted.

Senator Bray offered **SA 1** to **SSA 1** for **SA 4**, which was read:

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

Amend Senate Substitute Amendment No. 1 for Senate Amendment No. 4 to Senate Substitute for Senate Committee Substitute for Senate Bill No. 228, Page 1, Line 3, by inserting after the word “date” the following:

“and a referendum clause”; and

Further amendment said amendment, line 7 by inserting after “2010” the following:

“only if this act is approved by the voters under section C of this act.

Section C. This act is hereby submitted to the qualified voters of this state for approval or rejection at an election which is hereby ordered and which shall be held and conducted on Tuesday next following the first Monday in November, 2010, pursuant to the laws and constitutional provisions of this state for the submission of referendum measures by the general assembly, and this act shall become effective when approved by a majority of the votes cast thereon at such election and not otherwise”.

Senator Bray moved that the above amendment be adopted and requested a roll call vote be taken. She was joined in her request by Senators Callahan, Crowell, Justus and Smith.

SA 1 to **SSA 1** for **SA 4** failed of adoption by the following vote:

YEAS—Senators

Bray Callahan Crowell Justus Mayer Ridgeway Schaefer Smith

Wright-Jones—9

NAYS—Senators

Barnitz	Champion	Cunningham	Days	Dempsey	Engler	Goodman	Green
Griesheimer	Lager	Lembke	McKenna	Nodler	Pearce	Rupp	Schmitt
Scott	Shields	Shoemyer	Stouffer	Vogel	Wilson—22		

Absent—Senator Clemens—1

Absent with leave—Senators

Bartle Purgason—2

Vacancies—None

SSA 1 for **SA 4** was again taken up.

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

SA 4 was again taken up.

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

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

SENATE AMENDMENT NO. 5

Amend Senate Substitute for Senate Committee Substitute for Senate Bill No. 228, Pages 1-2, Section 393.135, by striking all of said section and inserting in lieu thereof the following:

“393.135. Any charge made or demanded by an electrical corporation for service **to a motor vehicle assembly plant located in this state**, or in connection therewith, which is based on the costs of construction in progress upon any existing or new facility of the electrical corporation, or any other cost associated with owning, operating, maintaining, or financing any property before it is fully operational and used for service, is unjust and unreasonable, and is prohibited.”.

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

President Pro Tem Shields assumed the Chair.

Senator Rupp offered **SA 6**, which was read:

SENATE AMENDMENT NO. 6

Amend Senate Substitute for Senate Committee Substitute for Senate Bill No. 228, Page 24, Section 393.1295, Line 13, by inserting immediately after said line the following:

“**Section 1. For any qualified generating plant or facility under sections 393.1250 to 393.1295, the electrical corporation shall ensure that at least one hundred million dollars worth of financing for the capital costs associated with such plant or facility shall be obtained through a bank or banks chartered in the state of Missouri and that are headquartered in the state of Missouri.**”; and

Further amend the title and enacting clause accordingly.

Senator Rupp moved that the above amendment be adopted.

Senator Scott 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 Senate Bill No. 228, Page 1, Section 1, Line 9, by inserting after the period on said line the following: “Such financing cost from Missouri banks shall be comparable and competitive to other financing options available to the utility”.

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

Senator Smith offered **SA 2** to **SA 6**, which was read:

SENATE AMENDMENT NO. 2 TO
SENATE AMENDMENT NO. 6

Amend Senate Amendment No. 6 to Senate Substitute for Senate Committee Substitute for Senate Bill No. 228, Page 1, Section 1, Line 9, by inserting after the word “Missouri” the following:

“and at least an additional twenty-five million dollars worth of financing for such capital costs shall be obtained through a minority-owned bank or banks”.

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

SA 6, as amended, was again taken up.

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

Senator Callahan offered **SA 7**, which was read:

SENATE AMENDMENT NO. 7

Amend Senate Substitute for Senate Committee Substitute for Senate Bill No. 228, Page 24, Section 393.1295, Line 13 of said page, by inserting after all of said line the following:

“Section 1. The provisions of sections 393.1250 to 393.1295, RSMo, shall only become effective after the federal government has adopted and is collecting a tax on carbon emissions.”; and

Further amend the title and enacting clause accordingly.

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

Senator Scott offered **SA 8**, which was read:

SENATE AMENDMENT NO. 8

Amend Senate Substitute for Senate Committee Substitute for Senate Bill No. 228, Page 2, Section 393.1250, Lines 9-10, by striking “August 28, 2009” and inserting in lieu thereof the following:

“January 1, 2012”.

Senator Scott moved that the above amendment be adopted.

Senator Engler assumed the Chair.

At the request of Senator Scott, **SA 8** was withdrawn.

Senator Mayer offered **SA 9**:

SENATE AMENDMENT NO. 9

Amend Senate Substitute for Senate Committee Substitute for Senate Bill No. 228, Page 7, Section 393.1253, Lines 7-8 of said page, by striking “of a reasonable person” and inserting in lieu thereof the following: **“which would be employed by a person charged with the highest degree of care with regard to the property of another person and”**; and further amend line 9 of said page, by inserting immediately after “made” the following: **“and knowledge of the circumstances that would be disclosed upon making further inquiry”**.

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

Senator Crowell offered **SA 10**:

SENATE AMENDMENT NO. 10

Amend Senate Substitute for Senate Committee Substitute for Senate Bill No. 228, Page 11, Section 393.1256, Lines 4-9, by striking all of said lines and inserting in lieu thereof the following:

“total of any proceeds received from such sale, transfer or assignment shall be refunded to ratepayers, with interest at the electrical corporation's short-term borrowing rate.”; and

Further amend said bill, section 393.1295, page 23, line 26 by striking all of said line and inserting in lieu thereof the following:

“393.1295. 1. If an electrical corporation has revised its rates under section 393.1250 to 393.1295 for a qualified generating plant or facility, and if, prior to such qualified generating plant or”; and

Further amend page 24, lines 2-6 by striking all of said lines and inserting in lieu thereof the following:

“generating plant or facility itself, the total of any proceeds received from such sale or transfer shall be refunded to ratepayers, with interest at the electrical corporation's short-term borrowing rate.”.

Senator Crowell moved that the above amendment be adopted and requested a roll call vote be taken. He was joined in his request by Senators Callahan, Justus, Lembke and Mayer.

SA 10 was adopted by the following vote:

YEAS—Senators

Barnitz	Bray	Callahan	Champion	Crowell	Cunningham	Days	Dempsey
Engler	Goodman	Griesheimer	Justus	Lager	Lembke	Mayer	McKenna
Rupp	Schaefer	Schmitt	Shoemyer	Smith	Stouffer	Wilson	Wright-Jones—24

NAYS—Senators

Nodler	Pearce	Scott	Shields	Vogel—5
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Absent—Senators

Clemens	Green	Ridgeway—3
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Absent with leave—Senators

Bartle	Purgason—2
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Vacancies—None

Senator Bray offered **SA 11**, which was read:

SENATE AMENDMENT NO. 11

Amend Senate Substitute for Senate Committee Substitute for Senate Bill No. 228, Page 2, Section 393.135, Line 4, by adding the following:

“There shall be a three percent total annual cap on any rate increases caused by such additional amortizations.”

Senator Bray moved that the above amendment be adopted.

Senator Callahan offered **SSA 1** for **SA 11**, which was read:

SENATE SUBSTITUTE AMENDMENT NO. 1 FOR
SENATE AMENDMENT NO. 11

Amend Senate Substitute for Senate Committee Substitute for Senate Bill No. 228, Page 24, Section 393.1295, Line 13, by inserting after all of said line the following:

“**Section 1. Any increase in rates to customers of an electrical corporation under sections 393.1250 to 393.1295, RSMo, shall not exceed three percent in any twelve-month period or more than ten percent total for any single qualified generating plant or facility.**”; and

Further amend the title and enacting clause accordingly.

Senator Callahan moved that the above substitute amendment be adopted and requested a roll call vote be taken. He was joined in his request by Senators Bray, Crowell, Mayer and Smith.

Senator Dempsey assumed the Chair.

Senator Mayer offered **SA 1** to **SSA 1** for **SA 11**, which was read:

SENATE AMENDMENT NO. 1 TO
SENATE SUBSTITUTE AMENDMENT NO. 1 FOR
SENATE AMENDMENT NO. 11

Amend Senate Substitute Amendment No. 1 for Senate Amendment No. 11 to Senate Substitute for Senate Committee Substitute for Senate Bill No. 228, Page 1, Line 7, by inserting after the word “facility” the following:

“, **except that any increase in rates to any industrial customer that utilizes ten thousand or more kilowatts of energy per year shall not exceed one percent in any twelve-month period**”.

Senator Mayer moved that the above amendment be adopted.

Senator Crowell requested a roll call vote be taken on the adoption of **SA 1** to **SSA 1** for **SA 11**. He was joined in his request by Senators Callahan, Mayer, Justus and Smith.

Senator Crowell requested a roll call vote be taken on the adoption of **SA 11** and was joined in his request by Senators Callahan, Mayer, Justus and Smith.

SA 1 to **SSA 1** for **SA 11** failed of adoption by the following vote:

YEAS—Senators

Bray Callahan Crowell Justus Lembke Mayer Smith Wright-Jones—8

NAYS—Senators

Barnitz	Champion	Cunningham	Days	Dempsey	Engler	Goodman	Griesheimer
Lager	McKenna	Nodler	Pearce	Rupp	Schaefer	Schmitt	Scott
Shields	Shoemyer	Stouffer	Vogel	Wilson—21			

Absent—Senators

Clemens	Green	Ridgeway—3
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Absent with leave—Senators

Bartle	Purgason—2
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Vacancies—None

SSA 1 for SA 11 was again taken up.

SSA 1 for SA 11 failed of adoption by the following vote:

YEAS—Senators

Bray	Callahan	Crowell	Dempsey	Justus	Lembke	Mayer	McKenna
Schmitt	Smith	Wright-Jones—11					

NAYS—Senators

Barnitz	Champion	Cunningham	Days	Engler	Goodman	Griesheimer	Lager
Nodler	Pearce	Rupp	Schaefer	Scott	Shields	Shoemyer	Stouffer
Vogel	Wilson—18						

Absent—Senators

Clemens	Green	Purgason	Ridgeway—4
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Absent with leave—Senator Bartle—1

Vacancies—None

SA 11 was again taken up.

Senator Scott offered **SSA 2 for SA 11**, which was read:

SENATE SUBSTITUTE AMENDMENT NO. 2 FOR
SENATE AMENDMENT NO. 11

Amend Senate Substitute for Senate Committee Substitute for Senate Bill No. 228, Page 2, Section 393.135, Line 4, by adding the following section:

“There shall be a five percent total annual cap on any rate increase caused by such additional amortizations”.

Senator Scott moved that the above substitute amendment be adopted and requested a roll call vote be taken. He was joined in his request by Senators Barnitz, Champion, Shields and Stouffer.

SSA 2 for SA 11 was adopted by the following vote:

YEAS—Senators

Barnitz	Champion	Cunningham	Days	Dempsey	Engler	Goodman	Griesheimer
Lager	Lembke	McKenna	Nodler	Pearce	Schaefer	Schmitt	Scott
Shields	Shoemyer	Stouffer	Vogel	Wright-Jones—21			

NAYS—Senators

Bray	Callahan	Crowell	Justus	Mayer	Purgason	Rupp	Smith
Wilson—9							

Absent—Senators

Clemens	Green	Ridgeway—3
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Absent with leave—Senator Bartle—1

Vacancies—None

Senator Bray offered **SA 12**:

SENATE AMENDMENT NO. 12

Amend Senate Substitute for Senate Committee Substitute for Senate Bill No. 228, Page 24, Section 393.1295, Line 13 by inserting after all of said line the following:

“Section 1. Any increase in rates to customers of an electrical corporation under sections 393.1250 to 393.1295, RSMo, shall not exceed five percent in any twelve-month period.”; and

Further amend the title and enacting clause accordingly.

Senator Bray moved that the above amendment be adopted.

Senator Bray offered **SSA 1** for **SA 12**:

SENATE SUBSTITUTE AMENDMENT NO. 1 FOR
SENATE AMENDMENT NO. 12

Amend Senate Substitute for Senate Committee Substitute for Senate Bill No. 228, Page 24, Section 393.1295, Line 13 by inserting after all of said line the following:

“Section 1. Any increase in rates to customers of an electrical corporation under sections 393.1250 to 393.1295, RSMo, shall not exceed three percent in any twelve-month period.”; and

Further amend the title and enacting clause accordingly.

Senator Bray moved that the above substitute amendment be adopted.

Senator Bray offered **SA 1** to **SSA 1** for **SA 12**:

SENATE AMENDMENT NO. 1 TO
SENATE SUBSTITUTE AMENDMENT NO. 1 FOR
SENATE AMENDMENT NO. 12

Amend Senate Substitute Amendment No. 1 for Senate Amendment No. 12 to Senate Substitute for Senate Committee Substitute for Senate Bill No. 228, Page 1, Section 1, Line 5, by inserting after the word “period” the following:

“and there shall be a ten percent total cap for any cumulative rate increases charged to customers of an electrical corporation under sections 393.1250 to 393.1295, for any single qualified generating plant or facility”.

Senator Bray moved that the above amendment be adopted.

Senator Crowell requested a roll call vote be taken on the adoption of **SA 1 to SSA 1 for SA 12**. He was joined in his request by Senators Justus, Scott, Shields and Smith.

Senator Stouffer assumed the Chair.

At the request of Senator Scott, **SB 228**, with **SCS, SS for SCS, SA 12, SSA 1 for SA 12 and SA 1 to SSA 1 for SA 12** (pending), was placed on the Informal Calendar.

RESOLUTIONS

Senator Lembke offered Senate Resolution No. 777, regarding Lisa Marie Foster, St. Louis, which was adopted.

INTRODUCTIONS OF GUESTS

Senator Goodman introduced to the Senate, Ms. Jelinek and nine fourth grade students from Trinity Lutheran School, Freistatt.

Senator Shoemyer introduced to the Senate, Dan Dollins, parents, and sixth grade students from Paris Elementary School.

Senator Cunningham introduced to the Senate, Bruce Ward, St. Louis County.

Senator Schmitt introduced to the Senate, the Physicians of the Day, Dr. Robert Curtin, M.D. and Dr. Laura Gardner, M.D., Webster Groves.

Senator Days introduced to the Senate, Michael Holmes, Susan Lang, Dr. Steven Miller, M.D., Vernon Rowen and employees from Express Scripts, St. Louis.

Senator McKenna introduced to the Senate, Kathy Wieter and seventh grade students from St. Joseph Elementary School, Imperial.

Senator Schmitt introduced to the Senate, teachers, parents, and fifth grade students from Barretts Elementary School, Manchester; and Taylor Martin, Anastasia Young, Tara Ryan, James Rancileo, Ellie Gorham and Matthew Kraus were made honorary pages.

Senator Scott introduced to the Senate, his cousin, Sue Ash, El Dorado Springs.

Senator Crowell introduced to the Senate, Amber Knippen and eighth grade students from Immaculate Conception School, Jackson; and Shay Williams was made an honorary page.

Senator Crowell introduced to the Senate, Laverne Wachter and seventh grade students from St. Paul Lutheran School, Jackson.

Senator Lembke introduced to the Senate, members of South County Chamber of Commerce and Jaylah and Jaylen Riley, St. Louis County; and Jaylah and Jaylen were made honorary pages.

Senator Pearce introduced to the Senate, members of Farmers Insurance Group from around the state.

Senator Scott introduced to the Senate, Cedar County Prosecuting Attorney Mike Ash, El Dorado

Springs.

Senator Ridgeway introduced to the Senate, first and second grade Girl Scouts from Ridgeview Elementary and St. James Elementary Schools, Liberty.

Senator Ridgeway introduced to the Senate, her husband Dr. Richard Ridgeway, Smithville.

Senator Rupp introduced to the Senate, Deb Settle, Jeff Sauls, Paul Crosetti and Joe Downs, representatives of Farmers Insurance Group.

Senator Cunningham introduced to the Senate, Janet Heitzig and Michael Kerley, St. Louis County.

On motion of Senator Engler, the Senate adjourned under the rules.

SENATE CALENDAR

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FORTY-NINTH DAY—WEDNESDAY, APRIL 8, 2009
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FORMAL CALENDAR

HOUSE BILLS ON SECOND READING

HCS for HB 205
HB 116-Hoskins
HCS for HB 381
HCS for HB 622

HB 922-Smith (14), et al
HB 652-Pratt
HCS for HB 481
HCS for HB 681

THIRD READING OF SENATE BILLS

SS for SCS for SB 167-Rupp
(In Fiscal Oversight)
SCS for SBs 207 & 245-Rupp
(In Fiscal Oversight)
SS for SCS for SB 306-Dempsey
(In Fiscal Oversight)

SS for SCS for SB 558-Mayer
(In Fiscal Oversight)
SS for SB 172-Green

SENATE BILLS FOR PERFECTION

1. SB 572-Dempsey and Justus
2. SB 123-Griesheimer, with SCS
3. SB 549-Schmitt, with SCS
4. SB 538-Champion, with SCS
5. SB 71-Stouffer, with SCS
6. SB 542-Pearce, with SCS

7. SB 254-Barnitz and Shoemyer
8. SB 383-Dempsey, with SCS
9. SBs 453 & 24-Mayer, with SCS
10. SB 495-Griesheimer, with SCS
11. SB 376-Lager and Callahan, with SCS
12. SB 299-Griesheimer, with SCS

HOUSE BILLS ON THIRD READING

HCS for HB 191, with SCS
(Griesheimer) (In Fiscal Oversight)

INFORMAL CALENDAR

THIRD READING OF SENATE BILLS

SS#2 for SCS for SB 5-Griesheimer

SENATE BILLS FOR PERFECTION

SB 7-Griesheimer, with SS (pending)	SB 236-Lembke
SB 18-Bray, et al, with SCS & SS for SCS (pending)	SBs 261, 159, 180 & 181-Bartle and Goodman, with SCS & SS#3 for SCS (pending)
SB 29-Stouffer	SB 264-Mayer
SBs 45, 212, 136, 278, 279, 285 & 288-Pearce and Smith, with SCS & SS#3 for SCS (pending)	SB 267-Mayer and Green, with SA 1 (pending)
SB 57-Stouffer, with SCS & SA 1 (pending)	SB 284-Lembke, et al
SB 72-Stouffer, with SCS	SB 321-Days, et al, with SCS (pending)
SB 94-Justus, et al, with SCS & SS for SCS (pending)	SBs 335 & 16-Rupp, with SCS
SB 174-Griesheimer and Goodman, with SCS, SS#2 for SCS & SA 2 (pending)	SB 363-Griesheimer, with SCS, SS for SCS and SA 2 (pending)
SCS for SB 189-Shields	SB 364-Clemens and Schaefer
SBs 223 & 226-Goodman and Nodler, with SCS & SA 1 (pending)	SB 409-Stouffer, with SCS (pending)
SB 228-Scott, with SCS, SS for SCS, SA 12, SSA 1 for SA 12 & SA 1 to SSA 1 for SA 12 (pending)	SB 477-Wright-Jones, with SS (pending)
	SB 527-Nodler and Bray
	SB 555-Lager, with SCS, SS for SCS & SA 2 (pending)
	SJR 12-Scott, with SCS (pending)

RESOLUTIONS

Reported from Committee

SR 141-Engler, with point of order (pending)	SCR 14-Schmitt
SCR 7-Pearce	SCR 21-Clemens
SR 207-Lembke and Smith, with SCS & SS for SCS (pending)	SCR 10-Rupp
SCR 11-Bartle, et al	SCR 18-Bartle and Rupp
	SCR 23-Schmitt

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