Journal of the Senate

FIRST REGULAR SESSION

SIXTIETH DAY—TUESDAY, APRIL 28, 2009

The Senate met pursuant to adjournment.

President Kinder in the Chair.

Reverend Carl Gauck offered the following prayer:

"Learn to humble yourself, you are but earth and clay." (Thomas á Kempis)

Lord, we know that sometimes we get carried away with ourselves and need to remember that we are Your children brought here to serve Your people and be of help to those who need help. We are challenged every day to do our best and pray for Your love and guidance to accomplish that which is required of us. So please continue to be a very present help to each of us. In Your Holy Name we pray. Amen.

The Pledge of Allegiance to the Flag was recited.

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

The Journal of the previous day was read and approved.

Photographers from KRCG-TV 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 Green offered Senate Resolution No. 988, regarding Roger E. Poole, St. Louis, which was adopted.

Senator Cunningham offered Senate Resolution No. 989, regarding T.R. Carr, Hazelwood, which was adopted.

Senators McKenna and Goodman offered Senate Resolution No. 990, regarding Lee Clear, Chesterfield, which was adopted.

Senators McKenna and Goodman offered Senate Resolution No. 991, regarding Jim Divincen, Osage Beach, which was adopted.

Senator McKenna offered Senate Resolution No. 992, regarding Megan Kraus, Barnhart, which was adopted.

Senator McKenna offered Senate Resolution No. 993, regarding the National Junior Honor Society, Ridgewood Middle School, Arnold, which was adopted.

Senator Scott offered Senate Resolution No. 994, regarding the Family, Career and Community Leaders of America program, Bolivar High School, Polk County, which was adopted.

Senator Wright-Jones offered Senate Resolution No. 995, regarding Carol Beasley, Euclid, Ohio, which was adopted.

Senator Rupp offered Senate Resolution No. 996, regarding Adam Michael Mikulus, St. Peters, which was adopted.

MESSAGES FROM THE HOUSE

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

Mr. President: I am instructed by the House of Representatives to inform the Senate that the Speaker has appointed the following conference committee to act with a like committee from the Senate on **SS** for **SCS** for **HCS** for **HB 2**. Representatives: Icet, Stream, Sater, Kelly and Curls.

Also,

Mr. President: I am instructed by the House of Representatives to inform the Senate that the Speaker has appointed the following conference committee to act with a like committee from the Senate on **SS** for **SCS** for **HCS** for **HB 3**. Representatives: Icet, Stream, Sater, Kelly and Curls.

Also,

Mr. President: I am instructed by the House of Representatives to inform the Senate that the Speaker has appointed the following conference committee to act with a like committee from the Senate on **SCS** for **HCS** for **HB 4**. Representatives: Icet, Stream, Sater, Kelly and Curls.

Also,

Mr. President: I am instructed by the House of Representatives to inform the Senate that the Speaker has appointed the following conference committee to act with a like committee from the Senate on **SCS** for **HCS** for **HB 5**. Representatives: Icet, Stream, Sater, Kelly and Curls.

Also,

Mr. President: I am instructed by the House of Representatives to inform the Senate that the Speaker has appointed the following conference committee to act with a like committee from the Senate on **SCS** for **HCS** for **HB 6**. Representatives: Icet, Stream, Sater, Kelly and Curls.

Also,

Mr. President: I am instructed by the House of Representatives to inform the Senate that the Speaker has appointed the following conference committee to act with a like committee from the Senate on **SCS** for **HCS** for **HB 7**. Representatives: Icet, Stream, Sater, Kelly and Curls.

Also,

Mr. President: I am instructed by the House of Representatives to inform the Senate that the Speaker has appointed the following conference committee to act with a like committee from the Senate on **SCS** for **HCS** for **HB 8**. Representatives: Icet, Stream, Sater, Kelly and Curls.

Also,

Mr. President: I am instructed by the House of Representatives to inform the Senate that the Speaker has appointed the following conference committee to act with a like committee from the Senate on **SCS** for **HCS** for **HB 9**. Representatives: Icet, Stream, Sater, Kelly and Curls.

Also,

Mr. President: I am instructed by the House of Representatives to inform the Senate that the Speaker has appointed the following conference committee to act with a like committee from the Senate on **SCS** for **HCS** for **HB 10**. Representatives: Icet, Stream, Sater, Kelly and Curls.

Also,

Mr. President: I am instructed by the House of Representatives to inform the Senate that the Speaker has appointed the following conference committee to act with a like committee from the Senate on **SCS** for **HCS** for **HB 11**. Representatives: Icet, Stream, Sater, Kelly and Curls.

Also,

Mr. President: I am instructed by the House of Representatives to inform the Senate that the Speaker has appointed the following conference committee to act with a like committee from the Senate on **SCS** for **HCS** for **HB 12**. Representatives: Icet, Stream, Sater, Kelly and Curls.

Also,

Mr. President: I am instructed by the House of Representatives to inform the Senate that the Speaker has appointed the following conference committee to act with a like committee from the Senate on **SCS** for **HB 13**. Representatives: Icet, Stream, Sater, Kelly and Curls.

Also,

Mr. President: I am instructed by the House of Representatives to inform the Senate that the House refuses to adopt **SCS** for **HB 91** and requests the Senate to recede from its position and failing to do so grant the House a conference thereon.

Also,

Mr. President: I am instructed by the House of Representatives to inform the Senate that the House

refuses to adopt **SCS** for **HB 269**, as amended, and requests the Senate to recede from its position and failing to do so grant the House a conference thereon.

Also,

Mr. President: I am instructed by the House of Representatives to inform the Senate that the House refuses to adopt **SCS** for **HCS** for **HB 265** and requests the Senate to recede from its position and failing to do so grant the House a conference thereon.

Also,

Mr. President: I am instructed by the House of Representatives to inform the Senate that the House refuses to adopt **SCS** for **HCS** for **HB 397** and **HCS** for **HB 947** and requests the Senate to recede from its position and failing to do so grant the House a conference thereon.

Also,

Mr. President: I am instructed by the House of Representatives to inform the Senate that the House refuses to adopt **SCS No. 2** for **HCS** for **HB 148** and requests the Senate to recede from its position and failing to do so grant the House a conference thereon.

Also,

Mr. President: I am instructed by the House of Representatives to inform the Senate that the House has taken up and passed **HCS** for **SCS** for **SB 242**, entitled:

An Act to repeal section 204.569, RSMo, and to enact in lieu thereof two new sections relating to sewer districts, with an emergency clause for a certain section.

With House Amendment No. 1 to House Amendment No. 1 and House Amendment No. 1, as amended.

HOUSE AMENDMENT NO. 1 TO
HOUSE AMENDMENT NO. 1

Amend House Amendment No. 1 to House Committee Substitute for Senate Committee Substitute for Senate Bill No. 242, Page 1, Section 204.363, Line 10, by inserting after the word "district", the following:

"**and no city of the third classification that imposes a storm water usage fee based on the runoff rate of storm water on impervious surfaces shall impose such user fee on property owned by any church, public school nonprofit organization, or political subdivision**"; 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. 242, Section 204.363 by removing all of said Section from the bill and inserting in lieu thereof the following:

"**204.363. No person who owns real property that is used for residential purposes within the boundaries of any district created under section 30 of article VI of the Missouri Constitution shall be assessed any fee, charge, or tax for storm water management services if the district does not directly provide sanitary sewer services to such property and if the storm water runoff from such person's property does not flow, or is not otherwise conveyed, to a sewer maintained by such district.**"; 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.

HOUSE BILLS ON THIRD READING

At the request of Senator Bartle, **HB 659**, with **SCS**, was placed on the Informal Calendar.

HCS for **HB 89**, entitled:

An Act to repeal section 300.390 and 577.060, RSMo, and to enact in lieu thereof two new sections relating to traffic violations, with a penalty provision.

Was taken up by Senator Wilson.

On motion of Senator Wilson, **HCS** for **HB 89** was read the 3rd time and passed by the following vote:

YEAS—Senators

Barnitz	Bartle	Bray	Callahan	Champion	Clemens	Crowell	Cunningham
Days	Dempsey	Engler	Goodman	Green	Griesheimer	Justus	Lager
Lembke	Mayer	McKenna	Nodler	Pearce	Purgason	Ridgeway	Schaefer
Schmitt	Shields	Shoemyer	Stouffer	Wilson—29			

NAYS—Senators—None

Absent—Senators

Rupp	Scott	Smith	Vogel	Wright-Jones—5

Absent with leave—Senators—None

Vacancies—None

The President declared the bill passed.

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

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

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

HB 253, introduced by Representative Davis, et al, entitled:

An Act to amend chapter 307, RSMo, by adding thereto one new section relating to motorcycle headlight modulators.

Was taken up by Senator Stouffer.

On motion of Senator Stouffer, **HB 253** was read the 3rd time and passed by the following vote:

YEAS—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	Shields	Shoemyer	Stouffer	Wilson—30		

NAYS—Senators—None

Absent—Senators

Scott Smith Vogel Wright-Jones—4

Absent with leave—Senators—None

Vacancies—None

The President declared the bill passed.

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

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

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

At the request of Senator Stouffer, **HB 683**, with **SCS**, was placed on the Informal Calendar.

HCS for **HBs 128** and **340**, entitled:

An Act to repeal section 9.020, RSMo, and to enact in lieu thereof two new sections relating to holidays.

Was taken up by Senator Scott.

Senator Rupp assumed the Chair.

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

SENATE AMENDMENT NO. 1

Amend House Committee Substitute for House Bills Nos. 128 and 340, Page 1, Section 9.020, Line 4, by inserting at the end of said line the following:

"**September 28, 2009, September 18, 2010, October 8, 2011, September 26, 2012, September 14, 2013, October 4, 2014, September 23, 2015, October 12, 2016, and September 30, 2017 shall be known as "Yom Kippur".**".

Senator Bray moved that the above amendment be adopted.

At the request of Senator Scott, **HCS** for **HBs 128** and **340**, with **SA 1** (pending), was placed on the Informal Calendar.

HB 544, with **SCS**, introduced by Representative Smith (150), et al, entitled:

An Act to amend chapter 37, RSMo, by adding thereto one new section relating to Missouri accountability portal.

Was taken up by Senator Goodman.

SCS for **HB 544**, entitled:

SENATE COMMITTEE SUBSTITUTE FOR
HOUSE BILL NO. 544

An Act to amend chapters 33 and 37, RSMo, by adding thereto two new sections relating to the oversight of public funds.

Was taken up.

Senator Goodman moved that **SCS** for **HB 544** be adopted.

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

SENATE AMENDMENT NO. 1

Amend Senate Committee Substitute for House Bill No. 544, Page 1, Section A, Line 2, by inserting after all of said line the following:

"**8.016. The commissioner of the office of administration shall provide each member of the senate and each member of the house with a key that accesses the dome of the state capitol.**"; and

Further amend the title and enacting clause accordingly.

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

Senator Shoemyer offered **SA 2**:

SENATE AMENDMENT NO. 2

Amend Senate Committee Substitute for House Bill No. 544, Page 4, Section 37.850, Line 12, by inserting the following after the number "4." on said line:

"**For purposes of this section, the Missouri State Employees' Retirement System shall be considered a "state program." The Missouri State Employees' Retirement System shall provide to the commissioner of administration daily access to its financial transactions to enable the commissioner to maintain such information on the accountability portal in the same manner as other state programs.**

5.".

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

Senator Callahan offered **SA 3**:

SENATE AMENDMENT NO. 3

Amend Senate Committee Substitute for House Bill No. 544, Page 2, Section 33.850, Line 23, by inserting after all of said line the following:

"**(3) Determining whether the funds received from the American Recovery and Reinvestment Act, as passed by the 111th United States Congress, should be utilized to buy back a portion of the state's unredeemed tax credits at a discounted rate;**"; and

Further renumber the remaining subdivisions accordingly.

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

Senator Goodman moved that **SCS** for **HB 544**, as amended, be adopted, which motion prevailed.

On motion of Senator Goodman, **SCS** for **HB 544**, as amended, was read the 3rd time and passed by the following vote:

YEAS—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	Stouffer	Vogel	Wilson

Wright-Jones—33

NAYS—Senators—None

Absent—Senator Smith—1

Absent with leave—Senators—None

Vacancies—None

The President declared the bill passed.

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

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

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

HCS for **HB 844**, entitled:

An Act to repeal section 41.1000, RSMo, and to enact in lieu thereof one new section relating to the civil air patrol.

Was taken up by Senator Green.

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

SENATE AMENDMENT NO. 1

Amend House Committee Substitute for House Bill No. 844, Page 2, Section 41.1000, Line 30, by striking the words “or may become”.

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

Senator Green moved that **HCS** for **HB 844**, as amended, be 3rd read and finally passed, which motion failed to receive a constitutional majority by the following vote:

YEAS—Senators

Callahan	Clemens	Days	Green	Griesheimer	Justus	Lembke	McKenna
Pearce	Rupp	Schaefer	Stouffer	Wilson	Wright-Jones—14		

NAYS—Senators

Barnitz	Bartle	Bray	Crowell	Cunningham	Dempsey	Engler	Goodman
Lager	Mayer	Nodler	Purgason	Ridgeway	Schmitt	Scott	Shields
Shoemyer	Vogel—18						

Absent—Senators

Champion Smith—2

Absent with leave—Senators—None

Vacancies—None

PRIVILEGED MOTIONS

Senator Purgason moved that the Senate refuse to recede from its position on **SCS** for **HB 91**, and grant the House a conference thereon, which motion prevailed.

Senator Scott moved that the Senate refuse to recede from its position on **SCS** for **HB 269**, as amended, and grant the House a conference thereon, which motion prevailed.

Senator Crowell moved that the Senate refuse to recede from its position on **SCS** for **HCS** for **HB 265**, and grant the House a conference thereon, which motion prevailed.

Senator Ridgeway moved that the Senate refuse to recede from its position on **SCS** for **HCS** for **HB 397** and **HCS** for **HB 947**, and grant the House a conference thereon, which motion prevailed.

Senator Griesheimer moved that the Senate refuse to recede from its position on **SCS No. 2** for **HCS** for **HB 148**, and grant the House a conference thereon, which motion prevailed.

Senator Pearce moved that the Senate refuse to concur in **HCS** for **SCS** for **SB 242**, as amended, and request the House to recede from its position or, failing to do so, grant the Senate a conference thereon, which motion prevailed.

President Pro Tem Shields assumed the Chair.

REPORTS OF STANDING COMMITTEES

Senator Champion, Chairman of the Committee on Health, Mental Health, Seniors and Families, submitted the following report:

Mr. President: Your Committee on Health, Mental Health, Seniors and Families, to which was referred **HCS** for **HB 740**, begs leave to report that it has considered the same and recommends that the bill do pass.

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

Mr. President: Your Committee on Rules, Joint Rules, Resolutions and Ethics, to which was referred **HCS** for **HCR 16**, begs leave to report that it has considered the same and recommends that the concurrent resolution do pass.

Also,

Mr. President: Your Committee on Rules, Joint Rules, Resolutions and Ethics, to which was referred **SCR 13**, begs leave to report that it has considered the same and recommends that the concurrent resolution do pass.

Also,

Mr. President: Your Committee on Rules, Joint Rules, Resolutions and Ethics, to which was referred **SCR 27**, begs leave to report that it has considered the same and recommends that the concurrent resolution do pass.

Senator Rupp assumed the Chair.

MESSAGES FROM THE HOUSE

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

Mr. President: I am instructed by the House of Representatives to inform the Senate that the House has taken up and passed **SB 526**.

With House Amendments 1, 2, 3 and 4.

HOUSE AMENDMENT NO. 1

Amend Senate Bill No. 526, Section A, Page 1, Line 3, by inserting immediately after said line the following:

"265.525. 1. This section shall be known as the "Missouri Rice Certification Act".

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

(1) "Characteristics of commercial impact", characteristics determined by the rice advisory council under subsection 7 of this section that may adversely affect the marketability of rice in the event of commingling with other rice and may include, but are not limited to, those characteristics that cannot be visually identified without the aid of specialized equipment or testing, those characteristics that create a significant economic impact in their removal from commingled rice, and those characteristics whose removal from commingled rice is infeasible;

(2) "Council", the rice advisory council established in this section;

(3) "Department", the department of agriculture;

(4) "Director", the director of the department of agriculture;

(5) "End user", any company or corporation**, not to include a producer,** that **[**uses rice as a major ingredient in industrial food processing**] is a major industrial user of rice in food processing**;

(6) "Handler", any person**, not to include a producer,** engaged in this state in the business of **buying** marketing**, drying, milling, or warehousing** rice, **[**including persons engaged in the drying, milling, or storing of rice**]**;

(7) "Person", any individual, partnership, limited liability company, limited liability partnership, corporation, firm, company, or any other entity doing business in Missouri;

(8) "Producer", any person who produces, or causes to be produced, rice;

(9) "Rice", all rough or paddy rice or brown rice (Oryza species) produced in or shipped in Missouri, including rice produced for seed. It does not include wild rice (Zinzania aquatic or Zinzania palustris).

3. Except as provided by rules promulgated by the department, it shall be unlawful for any person to introduce, sell, plant, produce, harvest, transport, store, process, or otherwise handle rice identified as having characteristics of commercial impact.

4. There is hereby created within the department of agriculture the "Rice Advisory Council". The council shall be made up of the following ten members:

(1) The director, or his or her designee;

(2) Three members appointed by the director to include:

(a) An individual**[** representing handlers**] employed by or as a handler** in Missouri;

(b) An individual **[**representing end users**] employed as or by an end user**;

(c) An individual representing the biotechnology industry who is familiar with rice genetics;

(3) Six members appointed by the director as recommended by the Missouri Rice Research and Merchandising Council to include:

(a) Two producers, neither of whom shall be employed by or serve on the board of any rice mill or rice merchandiser;

(b) Two scientists employed by institutes of higher education in Missouri;

(c) A representative of rice mills operating in Missouri; and

(d) A representative of rice seed dealers.

5. Members of the council shall serve terms of three years in length except that the director shall be a permanent member of the council and the director shall stagger the terms of the initial appointments so that three members serve terms of two years, three members serve terms of three years, and three members serve terms of four years. There is no limit to the number of terms a member may serve. Vacancies shall be filled in the same manner of representation as the original appointments.

6. The rice advisory council shall meet no less than twice annually as determined by the chairperson of the council, who shall be elected by the council at its first meeting and once every calendar year thereafter. Members of the council shall serve without compensation but shall be reimbursed for their actual and necessary expenses incurred in the performance of their duties.

7. The powers and duties of the rice advisory council shall include, but not be limited to, all of the following:

(1) Identifying rice varieties that have characteristics of commercial impact;

(2) Reviewing the efficacy of terms and conditions of identity preservation programs imposed on the planting, producing, harvesting, transporting, drying, storing, testing, or otherwise handling of rice identified using the most current industry standards and generally accepted scientific principles;

(3) Reviewing each rice variety identified as having characteristics of commercial impact not less often than every two years, or upon receipt of a petition from the purveyor of the rice;

(4) Making recommendations to the director on all matters pertaining to this section, including, but not limited to, enforcement of this section.

8. The department shall have the power to:

(1) Maintain the integrity and prevent the contamination of rice which has not been identified as having characteristics of commercial impact;

(2) Prevent the introduction of disease, weeds, or other pests that would adversely affect rice which has not been identified as having characteristics of commercial impact;

(3) Require that persons selling, offering for sale, or otherwise distributing seed for the production of rice identified as having characteristics of commercial impact, or that persons bringing rice identified as having characteristics of commercial impact into the state for processing, notify the department of the location of planting sites and the dates and procedures for planting, producing, harvesting, transporting, drying, storing, testing, or otherwise handling of rice identified as having characteristics of commercial impact;

(4) Require that persons receiving rice having been identified as having characteristics of commercial impact produced outside the state for processing notify the department of the location of the receipt and the procedures for processing, transporting, drying, storing, testing, or otherwise handling the rice to prevent commercial impact to other rice and the spread of weeds, disease, or other pests;

(5) Enforce restrictions and prohibitions imposed by the department on the selling, planting, producing, harvesting, transporting, drying, storing, testing, processing, or otherwise handling of rice identified as having characteristics of commercial impact; and

(6) Investigate alleged violations of this section, issue notices of violation, provide for an appeals process for persons aggrieved by the provisions of this section, and impose penalties for violation of this section.

9. The department may establish and collect reasonable fees for any sampling and testing of rice that the department determines is necessary to implement the provisions of this section. Any such fees shall be reviewed by the rice advisory council.

10. The department shall promulgate 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. 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, 2007, shall be invalid and void.

11. The department shall regularly report to the rice advisory council any findings of rice varieties that could potentially have characteristics of commercial impact.

12. If the rice advisory council determines that any rice variety with characteristics of commercial impact is documented as causing unreasonable adverse effects on the environment or public health, the council may issue recommendations to the department. Within sixty days of receiving any such recommendations from the council, the department shall hold a public hearing for the purpose of determining the nature and extent of commercial impact. Within thirty days of holding any such public hearing, the department shall issue a detailed opinion in response to the council recommendations.

13. The penalty for violating a provision of this section shall be no less than ten thousand dollars nor more than one hundred thousand dollars per day per violation.

14. If the department determines a person has violated any provision of this section, the department shall provide written notice to such person informing the person of the violation. The notice shall inform the person of the right to request an appeal. Nothing in this section shall prevent a person from seeking judicial relief in a court of competent jurisdiction.

15. The provisions of this section shall become effective one hundred eighty days from August 28, 2007.

16. The provisions of this section shall not be subject to the provisions of sections 610.010 to 610.200, RSMo."; and

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

HOUSE AMENDMENT NO. 2

Amend Senate Bill No. 526, Page 4, Section 267.600, Line 19 by inserting after said line the following:

"**267.800. Interstate and intrastate movement of animals pursuant to the health and management of privately owned domestic captive cervids within the state of Missouri shall be under the jurisdiction and control of the Missouri department of agriculture. Any costs associated with inspections by the department under this section shall be at the expense of the owner of the cervids.**"; and

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

HOUSE AMENDMENT NO. 3

Amend Senate Bill No. 526, Page 4, Section 267.600, Line 19, by inserting after all of said line the following:

"**Section 1. The department of agriculture shall not retain, contract, or otherwise use the services or personnel of any nonprofit organization for the purpose of inspection or licensing of any animal shelter, pound or dog pound, boarding kennel, commercial kennel, contract kennel, pet shop, or exhibition facility, or for any purpose regarding the administration of sections 273.325 to 273.357, RSMo. No person employed, affiliated with, or who is a former or current member of a nonprofit organization organized for the purposes of promoting animal rights or welfare shall be employed or appointed as the state veterinarian's designee or animal welfare official, or otherwise be affiliated in any manner with the department of agriculture.**"; and

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

HOUSE AMENDMENT NO. 4

Amend Senate Bill No. 526, Section A, Page 1, Line 3, by inserting after all of said line the following:

"32.115. 1. The department of revenue shall grant a tax credit, to be applied in the following order until used, against:

(1) The annual tax on gross premium receipts of insurance companies in chapter 148, RSMo;

(2) The tax on banks determined pursuant to subdivision (2) of subsection 2 of section 148.030, RSMo;

(3) The tax on banks determined in subdivision (1) of subsection 2 of section 148.030, RSMo;

(4) The tax on other financial institutions in chapter 148, RSMo;

(5) The corporation franchise tax in chapter 147, RSMo;

(6) The state income tax in chapter 143, RSMo; and

(7) The annual tax on gross receipts of express companies in chapter 153, RSMo.

2. For proposals approved pursuant to section 32.110:

(1) The amount of the tax credit shall not exceed fifty percent of the total amount contributed during the taxable year by the business firm or, in the case of a financial institution, where applicable, during the relevant income period in programs approved pursuant to section 32.110;

(2) Except as provided in subsection 2 or 5 of this section, a tax credit of up to seventy percent may be allowed for contributions to programs where activities fall within the scope of special program priorities as defined with the approval of the governor in regulations promulgated by the director of the department

of economic development;

(3) Except as provided in subsection 2 or 5 of this section, the tax credit allowed for contributions to programs located in any community shall be equal to seventy percent of the total amount contributed where such community is a city, town or village which has fifteen thousand or less inhabitants as of the last decennial census and is located in a county which is either located in:

(a) An area that is not part of a standard metropolitan statistical area;

(b) A standard metropolitan statistical area but such county has only one city, town or village which has more than fifteen thousand inhabitants; or

(c) A standard metropolitan statistical area and a substantial number of persons in such county derive their income from agriculture.

Such community may also be in an unincorporated area in such county as provided in subdivision (1), (2) or (3) of this subsection. Except in no case shall the total economic benefit of the combined federal and state tax savings to the taxpayer exceed the amount contributed by the taxpayer during the tax year;

(4) Such tax credit allocation, equal to seventy percent of the total amount contributed, shall not exceed four million dollars in fiscal year 1999 and six million dollars in fiscal year 2000 and any subsequent fiscal year. When the maximum dollar limit on the seventy percent tax credit allocation is committed, the tax credit allocation for such programs shall then be equal to fifty percent credit of the total amount contributed. Regulations establishing special program priorities are to be promulgated during the first month of each fiscal year and at such times during the year as the public interest dictates. Such credit shall not exceed two hundred and fifty thousand dollars annually except as provided in subdivision (5) of this subsection. No tax credit shall be approved for any bank, bank and trust company, insurance company, trust company, national bank, savings association, or building and loan association for activities that are a part of its normal course of business. Any tax credit not used in the period the contribution was made may be carried over the next five succeeding calendar or fiscal years until the full credit has been claimed. Except as otherwise provided for proposals approved pursuant to section 32.111, 32.112 or 32.117, in no event shall the total amount of all other tax credits allowed pursuant to sections 32.100 to 32.125 exceed thirty-two million dollars in any one fiscal year, of which six million shall be credits allowed pursuant to section 135.460, RSMo. If six million dollars in credits are not approved, then the remaining credits may be used for programs approved pursuant to sections 32.100 to 32.125**. To the extent that as of the last day of April in any year, less than thirty million dollars in tax credits have been issued under the provisions of this section, such remaining unissued tax credits shall be made available for allocation pursuant to the provisions of section 135.704, RSMo**;

(5) The credit may exceed two hundred fifty thousand dollars annually and shall not be limited if community services, crime prevention, education, job training, physical revitalization or economic development, as defined by section 32.105, is rendered in an area defined by federal or state law as an impoverished, economically distressed, or blighted area or as a neighborhood experiencing problems endangering its existence as a viable and stable neighborhood, or if the community services, crime prevention, education, job training, physical revitalization or economic development is limited to impoverished persons.

3. For proposals approved pursuant to section 32.111:

(1) The amount of the tax credit shall not exceed fifty-five percent of the total amount invested in

affordable housing assistance activities or market rate housing in distressed communities as defined in section 135.530, RSMo, by a business firm. Whenever such investment is made in the form of an equity investment or a loan, as opposed to a donation alone, tax credits may be claimed only where the loan or equity investment is accompanied by a donation which is eligible for federal income tax charitable deduction, and where the total value of the tax credits herein plus the value of the federal income tax charitable deduction is less than or equal to the value of the donation. Any tax credit not used in the period for which the credit was approved may be carried over the next ten succeeding calendar or fiscal years until the full credit has been allowed. If the affordable housing units or market rate housing units in distressed communities for which a tax is claimed are within a larger structure, parts of which are not the subject of a tax credit claim, then expenditures applicable to the entire structure shall be reduced on a prorated basis in proportion to the ratio of the number of square feet devoted to the affordable housing units or market rate housing units in distressed communities, for purposes of determining the amount of the tax credit. The total amount of tax credit granted for programs approved pursuant to section 32.111 for the fiscal year beginning July 1, 1991, shall not exceed two million dollars, to be increased by no more than two million dollars each succeeding fiscal year, until the total tax credits that may be approved reaches ten million dollars in any fiscal year;

(2) For any year during the compliance period indicated in the land use restriction agreement, the owner of the affordable housing rental units for which a credit is being claimed shall certify to the commission that all tenants renting claimed units are income eligible for affordable housing units and that the rentals for each claimed unit are in compliance with the provisions of sections 32.100 to 32.125. The commission is authorized, in its discretion, to audit the records and accounts of the owner to verify such certification;

(3) In the case of owner-occupied affordable housing units, the qualifying owner occupant shall, before the end of the first year in which credits are claimed, certify to the commission that the occupant is income eligible during the preceding two years, and at the time of the initial purchase contract, but not thereafter. The qualifying owner occupant shall further certify to the commission, before the end of the first year in which credits are claimed, that during the compliance period indicated in the land use restriction agreement, the cost of the affordable housing unit to the occupant for the claimed unit can reasonably be projected to be in compliance with the provisions of sections 32.100 to 32.125. Any succeeding owner occupant acquiring the affordable housing unit during the compliance period indicated in the land use restriction agreement shall make the same certification;

(4) If at any time during the compliance period the commission determines a project for which a proposal has been approved is not in compliance with the applicable provisions of sections 32.100 to 32.125 or rules promulgated therefor, the commission may within one hundred fifty days of notice to the owner either seek injunctive enforcement action against the owner, or seek legal damages against the owner representing the value of the tax credits, or foreclose on the lien in the land use restriction agreement, selling the project at a public sale, and paying to the owner the proceeds of the sale, less the costs of the sale and less the value of all tax credits allowed herein. The commission shall remit to the director of revenue the portion of the legal damages collected or the sale proceeds representing the value of the tax credits. However, except in the event of intentional fraud by the taxpayer, the proposal's certificate of eligibility for tax credits shall not be revoked.

4. For proposals approved pursuant to section 32.112, the amount of the tax credit shall not exceed fifty-five percent of the total amount contributed to a neighborhood organization by business firms. Any tax credit not used in the period for which the credit was approved may be carried over the next ten

succeeding calendar or fiscal years until the full credit has been allowed. The total amount of tax credit granted for programs approved pursuant to section 32.112 shall not exceed one million dollars for each fiscal year.

5. The total amount of tax credits used for market rate housing in distressed communities pursuant to sections 32.100 to 32.125 shall not exceed thirty percent of the total amount of all tax credits authorized pursuant to sections 32.111 and 32.112.

135.484. 1. Beginning January 1, 2000, tax credits shall be allowed pursuant to section 135.481 in an amount not to exceed sixteen million dollars per year. Of this total amount of tax credits in any given year, eight million dollars shall be set aside for projects in areas described in subdivision (6) of section 135.478 and eight million dollars for projects in areas described in subdivision (10) of section 135.478. The maximum tax credit for a project consisting of multiple-unit qualifying residences in a distressed community shall not exceed three million dollars. **To the extent that as of the first day of December in any year, less than sixteen million dollars in tax credits have been issued under the provisions of this section, such remaining unissued tax credits shall be made available for allocation under the provisions of section 135.704.**

2. Any amount of credit which exceeds the tax liability of a taxpayer for the tax year in which the credit is first claimed may be carried back to any of the taxpayer's three prior tax years and carried forward to any of the taxpayer's five subsequent tax years. A certificate of tax credit issued to a taxpayer by the department may be assigned, transferred, sold or otherwise conveyed. Whenever a certificate of tax credit is assigned, transferred, sold or otherwise conveyed, a notarized endorsement shall be filed with the department specifying the name and address of the new owner of the tax credit and the value of the credit.

3. The tax credits allowed pursuant to sections 135.475 to 135.487 may not be claimed in addition to any other state tax credits, with the exception of the historic structures rehabilitation tax credit authorized pursuant to sections 253.545 to 253.559, RSMo, which insofar as sections 135.475 to 135.487 are concerned may be claimed only in conjunction with the tax credit allowed pursuant to subsection 4 of section 135.481. In order for a taxpayer eligible for the historic structures rehabilitation tax credit to claim the tax credit allowed pursuant to subsection 4 of section 135.481, the taxpayer must comply with the requirements of sections 253.545 to 253.559, RSMo, and in such cases, the amount of the tax credit pursuant to subsection 4 of section 135.481 shall be limited to the lesser of twenty percent of the taxpayer's eligible costs or forty thousand dollars.

135.535. 1. A corporation, limited liability corporation, partnership or sole proprietorship, which moves its operations from outside Missouri or outside a distressed community into a distressed community, or which commences operations in a distressed community on or after January 1, 1999, and in either case has more than seventy-five percent of its employees at the facility in the distressed community, and which has fewer than one hundred employees for whom payroll taxes are paid, and which is a manufacturing, biomedical, medical devices, scientific research, animal research, computer software design or development, computer programming, including Internet, web hosting, and other information technology, wireless or wired or other telecommunications or a professional firm shall receive a forty percent credit against income taxes owed pursuant to chapter 143, 147 or 148, RSMo, other than taxes withheld pursuant to sections 143.191 to 143.265, RSMo, for each of the three years after such move, if approved by the department of economic development, which shall issue a certificate of eligibility if the department determines that the taxpayer is eligible for such credit. The maximum amount of credits per taxpayer set forth in this subsection

shall not exceed one hundred twenty-five thousand dollars for each of the three years for which the credit is claimed. The department of economic development, by means of rule or regulation promulgated pursuant to the provisions of chapter 536, RSMo, shall assign appropriate North American Industry Classification System numbers to the companies which are eligible for the tax credits provided for in this section. Such three-year credits shall be awarded only one time to any company which moves its operations from outside of Missouri or outside of a distressed community into a distressed community or to a company which commences operations within a distressed community. A taxpayer shall file an application for certification of the tax credits for the first year in which credits are claimed and for each of the two succeeding taxable years for which credits are claimed.

2. Employees of such facilities physically working and earning wages for that work within a distressed community whose employers have been approved for tax credits pursuant to subsection 1 of this section by the department of economic development for whom payroll taxes are paid shall also be eligible to receive a tax credit against individual income tax, imposed pursuant to chapter 143, RSMo, equal to one and one-half percent of their gross salary paid at such facility earned for each of the three years that the facility receives the tax credit provided by this section, so long as they were qualified employees of such entity. The employer shall calculate the amount of such credit and shall report the amount to the employee and the department of revenue.

3. A tax credit against income taxes owed pursuant to chapter 143, 147 or 148, RSMo, other than the taxes withheld pursuant to sections 143.191 to 143.265, RSMo, in lieu of the credit against income taxes as provided in subsection 1 of this section, may be taken by such an entity in a distressed community in an amount of forty percent of the amount of funds expended for computer equipment and its maintenance, medical laboratories and equipment, research laboratory equipment, manufacturing equipment, fiber optic equipment, high speed telecommunications, wiring or software development expense up to a maximum of seventy-five thousand dollars in tax credits for such equipment or expense per year per entity and for each of three years after commencement in or moving operations into a distressed community.

4. A corporation, partnership or sole partnership, which has no more than one hundred employees for whom payroll taxes are paid, which is already located in a distressed community and which expends funds for such equipment pursuant to subsection 3 of this section in an amount exceeding its average of the prior two years for such equipment, shall be eligible to receive a tax credit against income taxes owed pursuant to chapters 143, 147 and 148, RSMo, in an amount equal to the lesser of seventy-five thousand dollars or twenty-five percent of the funds expended for such additional equipment per such entity. Tax credits allowed pursuant to this subsection or subsection 1 of this section may be carried back to any of the three prior tax years and carried forward to any of the **next** five tax years.

5. An existing corporation, partnership or sole proprietorship that is located within a distressed community and that relocates employees from another facility outside of the distressed community to its facility within the distressed community, and an existing business located within a distressed community that hires new employees for that facility may both be eligible for the tax credits allowed by subsections 1 and 3 of this section. To be eligible for such tax credits, such a business, during one of its tax years, shall employ within a distressed community at least twice as many employees as were employed at the beginning of that tax year. A business hiring employees shall have no more than one hundred employees before the addition of the new employees. This subsection shall only apply to a business which is a manufacturing, biomedical, medical devices, scientific research, animal research, computer software design or development, computer programming or telecommunications business, or a professional firm.

6. Tax credits shall be approved for applicants meeting the requirements of this section in the order that such applications are received. Certificates of tax credits issued in accordance with this section may be transferred, sold or assigned by notarized endorsement which names the transferee.

7. The tax credits allowed pursuant to subsections 1, 2, 3, 4 and 5 of this section shall be for an amount of no more than ten million dollars for each year beginning in 1999. To the extent there are available tax credits remaining under the ten million dollar cap provided in this section, **[**up to one hundred thousand dollars in the**]** **such** remaining credits shall first be used for tax credits authorized under section 135.562. **To the extent that as of the first day of December in any year, less than ten million dollars in tax credits have been issued under the provisions of this section, such remaining unissued tax credits shall be made available for allocation under the provisions of section 135.704.** The total maximum credit for all entities already located in distressed communities and claiming credits pursuant to subsection 4 of this section shall be seven hundred and fifty thousand dollars. The department of economic development in approving taxpayers for the credit as provided for in subsection 6 of this section shall use information provided by the department of revenue regarding taxes paid in the previous year, or projected taxes for those entities newly established in the state, as the method of determining when this maximum will be reached and shall maintain a record of the order of approval. Any tax credit not used in the period for which the credit was approved may be carried over until the full credit has been allowed.

8. A Missouri employer relocating into a distressed community and having employees covered by a collective bargaining agreement at the facility from which it is relocating shall not be eligible for the credits in subsection 1, 3, 4 or 5 of this section, and its employees shall not be eligible for the credit in subsection 2 of this section if the relocation violates or terminates a collective bargaining agreement covering employees at the facility, unless the affected collective bargaining unit concurs with the move.

9. Notwithstanding any provision of law to the contrary, no taxpayer shall earn the tax credits allowed in this section and the tax credits otherwise allowed in section 135.110, or the tax credits, exemptions, and refund otherwise allowed in sections 135.200, 135.220, 135.225 and 135.245, respectively, for the same business for the same tax period.

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

(1) "Adjusted purchase price", the product of:

(a) The amount paid to the issuer of a qualified equity investment for such qualified equity investment; and

(b) The following fraction:

a. The numerator shall be the dollar amount of qualified low-income community investments held by the issuer in this state as of the credit allowance date during the applicable tax year; and

b. The denominator shall be the total dollar amount of qualified low-income community investments held by the issuer in all states as of the credit allowance date during the applicable tax year;

c. For purposes of calculating the amount of qualified low-income community investments held by an issuer, an investment shall be considered held by an issuer even if the investment has been sold or repaid; provided that the issuer reinvests an amount equal to the capital returned to or recovered by the issuer from the original investment, exclusive of any profits realized, in another qualified low-income community investment within twelve months of the receipt of such capital. An issuer shall not be required to reinvest

capital returned from qualified low-income community investments after the sixth anniversary of the issuance of the qualified equity investment, the proceeds of which were used to make the qualified low-income community investment, and the qualified low-income community investment shall be considered held by the issuer through the seventh anniversary of the qualified equity investment's issuance;

(2) "Applicable percentage", zero percent for each of the first two credit allowance dates, seven percent for the third credit allowance date, and eight percent for the next four credit allowance dates;

(3) "Credit allowance date", with respect to any qualified equity investment:

(a) The date on which such investment is initially made; and

(b) Each of the six anniversary dates of such date thereafter;

(4) "Long-term debt security", any debt instrument issued by a qualified community development entity, at par value or a premium, with an original maturity date of at least seven years from the date of its issuance, with no acceleration of repayment, amortization, or prepayment features prior to its original maturity date, and with no distribution, payment, or interest features related to the profitability of the qualified community development entity or the performance of the qualified community development entity's investment portfolio. The foregoing shall in no way limit the holder's ability to accelerate payments on the debt instrument in situations where the issuer has defaulted on covenants designed to ensure compliance with this section or Section 45D of the Internal Revenue Code of 1986, as amended;

(5) "Qualified active low-income community business", the meaning given such term in Section 45D of the Internal Revenue Code of 1986, as amended; provided that any business that derives or projects to derive fifteen percent or more of its annual revenue from the rental or sale of real estate shall not be considered to be a qualified active low-income community business;

(6) "Qualified community development entity", the meaning given such term in Section 45D of the Internal Revenue Code of 1986, as amended; provided that such entity has entered into an allocation agreement with the Community Development Financial Institutions Fund of the U.S. Treasury Department with respect to credits authorized by Section 45D of the Internal Revenue Code of 1986, as amended, which includes the state of Missouri within the service area set forth in such allocation agreement;

(7) "Qualified equity investment", any equity investment in, or long-term debt security issued by, a qualified community development entity that:

(a) Is acquired after September 4, 2007, at its original issuance solely in exchange for cash;

(b) Has at least eighty-five percent of its cash purchase price used by the issuer to make qualified low-income community investments; and

(c) Is designated by the issuer as a qualified equity investment under this subdivision and is certified by the department of economic development as not exceeding the limitation contained in subsection 2 of this section.

This term shall include any qualified equity investment that does not meet the provisions of paragraph (a) of this subdivision if such investment was a qualified equity investment in the hands of a prior holder;

(8) "Qualified low-income community investment", any capital or equity investment in, or loan to, any qualified active low-income community business. With respect to any one qualified active low-income community business, the maximum amount of qualified low-income community investments made in such

business, on a collective basis with all of its affiliates, that may be used from the calculation of any numerator described in subparagraph a. of paragraph (b) of subdivision (1) of this subsection shall be ten million dollars whether issued to one or several qualified community development entities;

(9) "Tax credit", a credit against the tax otherwise due under chapter 143, RSMo, excluding withholding tax imposed in sections 143.191 to 143.265, RSMo, or otherwise due under section 375.916, RSMo, or chapter 147, 148, or 153, RSMo;

(10) "Taxpayer", any individual or entity subject to the tax imposed in chapter 143, RSMo, excluding withholding tax imposed in sections 143.191 to 143.265, RSMo, or the tax imposed in section 375.916, RSMo, or chapter 147, 148, or 153, RSMo.

2. A taxpayer that makes a qualified equity investment earns a vested right to tax credits under this section. On each credit allowance date of such qualified equity investment the taxpayer, or subsequent holder of the qualified equity investment, shall be entitled to a tax credit during the taxable year including such credit allowance date. The tax credit amount shall be equal to the applicable percentage of the adjusted purchase price paid to the issuer of such qualified equity investment. The amount of the tax credit claimed shall not exceed the amount of the taxpayer's state tax liability for the tax year for which the tax credit is claimed. No tax credit claimed under this section shall be refundable or transferable. Tax credits earned by a partnership, limited liability company, S-corporation, or other pass-through entity may be allocated to the partners, members, or shareholders of such entity for their direct use in accordance with the provisions of any agreement among such partners, members, or shareholders. Any amount of tax credit that the taxpayer is prohibited by this section from claiming in a taxable year may be carried forward to any of the taxpayer's five subsequent taxable years. The department of economic development shall limit the monetary amount of qualified equity investments permitted under this section to a level necessary to limit tax credit utilization at no more than fifteen million dollars of tax credits in any fiscal year. **To the extent that as of the last day of April in any year, less than fifteen million dollars in tax credits have been issued under the provisions of this section, such remaining unissued tax credits shall be made available for allocation under the provisions of section 135.704.** Such limitation on qualified equity investments shall be based on the anticipated utilization of credits without regard to the potential for taxpayers to carry forward tax credits to later tax years.

3. The issuer of the qualified equity investment shall certify to the department of economic development the anticipated dollar amount of such investments to be made in this state during the first twelve-month period following the initial credit allowance date. If on the second credit allowance date, the actual dollar amount of such investments is different than the amount estimated, the department of economic development shall adjust the credits arising on the second allowance date to account for such difference.

4. The department of economic development shall recapture the tax credit allowed under this section with respect to such qualified equity investment under this section if:

(1) Any amount of the federal tax credit available with respect to a qualified equity investment that is eligible for a tax credit under this section is recaptured under Section 45D of the Internal Revenue Code of 1986, as amended; or

(2) The issuer redeems or makes principal repayment with respect to a qualified equity investment prior to the seventh anniversary of the issuance of such qualified equity investment.

Any tax credit that is subject to recapture shall be recaptured from the taxpayer that claimed the tax credit

on a return.

5. The department of economic development shall promulgate rules to implement the provisions of this section, including recapture provisions on a scaled proportional basis, and to administer the allocation of tax credits issued for qualified equity investments, which shall be conducted on a first-come, first-serve basis. 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 September 4, 2007, shall be invalid and void.

6. For fiscal years following fiscal year 2010, qualified equity investments shall not be made under this section unless reauthorization is made pursuant to this subsection. For all fiscal years following fiscal year 2010, unless the general assembly adopts a concurrent resolution granting authority to the department of economic development to approve qualified equity investments for the Missouri new markets development program and clearly describing the amount of tax credits available for the next fiscal year, or otherwise complies with the provisions of this subsection, no qualified equity investments may be permitted to be made under this section. The amount of available tax credits contained in such a resolution shall not exceed the limitation provided under subsection 2 of this section. In any year in which the provisions of this section shall sunset pursuant to subsection 7 of this section, reauthorization shall be made by general law and not by concurrent resolution. Nothing in this subsection shall preclude a taxpayer who makes a qualified equity investment prior to the expiration of authority to make qualified equity investments from claiming tax credits relating to such qualified equity investment for each applicable credit allowance date.

7. Under section 23.253, RSMo, of the Missouri sunset act:

(1) The provisions of the new program authorized under this section shall automatically sunset six years after September 4, 2007, unless reauthorized by an act of the general assembly; and

(2) If such program is reauthorized, the program authorized under this section shall automatically sunset twelve years after the effective date of the reauthorization of this section; and

(3) This section shall terminate on September first of the calendar year immediately following the calendar year in which the program authorized under this section is sunset.

However, nothing in this subsection shall preclude a taxpayer who makes a qualified equity investment prior to sunset of this section under the provisions of section 23.253, RSMo, from claiming tax credits relating to such qualified equity investment for each credit allowance date.

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

(1) "Authority", the Missouri agricultural and small business development authority established in chapter 348, RSMo;

(2) "Milk producer", any person with a valid Missouri milk producer identification number who operates a dairy farm and provides, sells, or offers milk for sale to a milk plant, receiving station, or transfer station;

(3) "Noncontrollable input cost", feed, fertilizer, and fuel costs;

(4) "Livestock", any swine or beef cattle;

(5) "Livestock production costs", the market value of feed commodities used in the production of livestock, including but not limited to corn and soybeans, of the type and in the quantity determined by the authority needed to bring livestock to market based on the sale weight of such livestock;

(6) "Market value", the market price of any feed commodity or livestock on the date of sale;

(7) "Qualifying loss", an aggregate loss from the sale of milk or livestock including any federal and state payments during a twelve-month period based on the total of all sales of milk and livestock during such twelve-month period;

(8) "Taxpayer", any individual, partnership, or corporation as described in sections 143.441 and 143.471, RSMo, that is subject to the tax imposed in chapter 143, RSMo, excluding withholding tax imposed by sections 143.191 to 143.265, RSMo, or the tax imposed in chapter 147, RSMo.

2. For all taxable years beginning on or after January 1, 2010, any resident taxpayer who is actively engaged in business as a milk, swine, or cattle producer shall be granted a tax credit based upon the amount of milk, swine, or cattle produced and sold. The tax credit authorized under this section shall be allowed based upon production for any month in which the average amount of revenue received from products drops below the announced production price determined by the authority on the basis of noncontrollable input cost. The tax credit authorized under this section may be claimed against a taxpayer's state tax liability or quarterly estimated tax in the year of issuance. If the amount of the tax credit issued exceeds the amount of the taxpayer's state tax liability for the tax year for which the credit is claimed, the difference shall not be refundable but may be carried forward to any of the taxpayer's three subsequent taxable years. The tax credits authorized under this section may be transferred, sold, assigned, or otherwise conveyed, and the new owner shall have the same rights as the original taxpayer.

3. The authority shall be responsible for the administration and issuance of the certificate of tax credits authorized by this section. The authority may impose a fee for the provision of services authorized by this section.

4. Taxpayers shall apply for the milk, swine, or cattle production tax credit by submitting an application to the authority on a form provided by the authority.

5. If, based on the calculations made by the authority, the current livestock or milk production costs exceed the current market prices of livestock or milk, any participant in the program shall be eligible to receive a tax credit if the participant has a qualifying loss for a twelve-month period.

6. The authority shall not issue more than twenty thousand dollars in tax credits per producer taxpayer per year. The authority shall not issue more tax credits in any calendar year than are allocable to this program for such calendar year as provided under section 32.115, RSMo, section 99.1205, RSMo, sections 135.484, 135.535, and 135.680, and section 208.770, RSMo.

7. The authority may promulgate 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. 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, 2009, shall be invalid and void.

8. Under section 23.253, RSMo, of the Missouri sunset act:

(1) The provisions of the new program authorized under this section shall automatically sunset on December thirty-first six years after August 28, 2009, unless reauthorized by an act of the general assembly; and

(2) If such program is reauthorized, the program authorized under this section shall automatically sunset on December thirty-first twelve years after the effective date of the reauthorization of this section; and

(3) This section shall terminate on September first of the calendar year immediately following the calendar year in which the program authorized under this section is sunset.

208.770. 1. Moneys deposited in or withdrawn pursuant to subsection 1 of section 208.760 from a family development account by an account holder are exempted from taxation pursuant to chapter 143, RSMo, excluding withholding tax imposed by sections 143.191 to 143.265, RSMo, and chapter 147, 148 or 153, RSMo, provided, however, that any money withdrawn for an unapproved use should be subject to tax as required by law.

2. Interest earned by a family development account is exempted from taxation pursuant to chapter 143, RSMo.

3. Any funds in a family development account, including accrued interest, shall be disregarded when determining eligibility to receive, or the amount of, any public assistance or benefits.

4. A program contributor shall be allowed a credit against the tax imposed by chapter 143, RSMo, excluding withholding tax imposed by sections 143.191 to 143.265, RSMo, and chapter 147, 148 or 153, RSMo, pursuant to sections 208.750 to 208.775. Contributions up to fifty thousand dollars per program contributor are eligible for the tax credit which shall not exceed fifty percent of the contribution amount.

5. The department of economic development shall verify all tax credit claims by contributors. The administrator of the community-based organization, with the cooperation of the participating financial institutions, shall submit the names of contributors and the total amount each contributor contributes to a family development account reserve fund for the calendar year. The director shall determine the date by which such information shall be submitted to the department by the local administrator. The department shall submit verification of qualified tax credits pursuant to sections 208.750 to 208.775 to the department of revenue.

6. The total tax credits authorized pursuant to sections 208.750 to 208.775 shall not exceed four million dollars in any fiscal year. **To the extent that as of the last day of April in any year, less than four million dollars in tax credits have been issued under the provisions of this section, such remaining unissued tax credits shall be made available for allocation under the provisions of section 135.704, RSMo.**"; 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.

Also,

Mr. President: I am instructed by the House of Representatives to inform the Senate that the House has taken up and passed **SCS** for **SB 140**.

Bill ordered enrolled.

On motion of Senator Engler, the Senate recessed until 2:15 p.m.

RECESS

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

Senator Goodman announced that photographers from the University of Central Missouri and MO Lawyers Media were given permission to take pictures in the Senate Chamber today.

MESSAGES FROM THE HOUSE

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

Mr. President: I am instructed by the House of Representatives to inform the Senate that the House has taken up and passed **SS** for **SCS** for **SB 141**.

Bill ordered enrolled.

Also,

Mr. President: I am instructed by the House of Representatives to inform the Senate that the House has taken up and passed **HCS** for **SS** for **SB 307**, entitled:

An Act to amend chapters 190 and 633, RSMo, by adding thereto sixteen new sections relating to ambulance service reimbursement allowance tax, with an emergency clause for a certain section.

With House Amendment No. 1 and House Amendment No. 2 adopted, emergency clause in House Amendment No. 2 defeated.

HOUSE AMENDMENT NO. 1

Amend House Committee Substitute for Senate Substitute for Senate Bill No. 307, Page 1, In the Title, Line 3 by deleting the words "ambulance service reimbursement allowance tax" and inserting in lieu thereof the following "provider assessments"; and

Further amend said bill, Page 8, Section 633.402, Line 85 by inserting after all of said section the following:

"**660.425. 1. In addition to all other fees and taxes required or paid, a tax is hereby imposed upon in-home services providers for the privilege of providing in-home services under chapter 208, RSMo. The tax is imposed upon payments received by an in-home services provider for the provision of in-home services under chapter 208, RSMo.**

2. For purposes of sections 660.425 to 660.465, the following terms shall mean:

(1) "Engaging in the business of providing in-home services", all payments received by an in-home services provider for the provision of in-home services under chapter 208, RSMo;

(2) "In-home services", homemaker services, personal care services, chore services, respite services, consumer-directed services, and services, when provided in the individual's home and under a plan of care created by a physician, necessary to keep children out of hospitals. In-home services shall not include home health services as defined by federal and state law;

(3) "In-home services provider", any provider or vendor, as defined in section 208.900, RSMo, of compensated in-home services under chapter 208, RSMo, and under a provider agreement or

contracted with the department of social services or the department of health and senior services.

660.430. 1. Each in-home services provider in this state providing in-home services under chapter 208, RSMo, shall, in addition to all other fees and taxes now required or paid, pay an in-home services gross receipts tax, not to exceed six and one-half percent of gross receipts, for the privilege of engaging in the business of providing in-home services in this state.

2. Each in-home services provider's tax shall be based on a formula set forth in rules promulgated by the department of social services. 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, 2009, shall be invalid and void.

3. The director of the department of social services or the director's designee may prescribe the form and contents of any forms or other documents required by sections 660.425 to 660.465.

4. Notwithstanding any other provision of law to the contrary, appeals regarding the promulgation of rules under this section shall be made to the circuit court of Cole County. The circuit court of Cole County shall hear the matter as the court of original jurisdiction.

660.435. 1. For purposes of assessing the tax under sections 660.425 to 660.465, the department of health and senior services shall make available to the department of social services a list of all providers and vendors under this section.

2. Each in-home services provider subject to sections 660.425 to 660.465 shall keep such records as may be necessary to determine the total payments received for the provision of in-home services under chapter 208, RSMo, by the in-home services provider. Every in-home services provider shall submit to the department of social services a statement that accurately reflects such information as is necessary to determine such in-home services provider's tax due.

3. The director of the department of social services may prescribe the form and contents of any forms or other documents required by this section.

4. Each in-home services provider shall report the total payments received for the provision of in-home services under chapter 208, RSMo, to the department of social services.

660.440. 1. The tax imposed by sections 660.425 to 660.465 shall become effective upon authorization by the federal Centers for Medicare & Medicaid Services for a gross receipts tax for in-home services.

2. If the federal Centers for Medicare & Medicaid Services determines that their authorization is not necessary for the tax imposed under sections 660.425 to 660.465, the tax shall become effective sixty days after the date of such determination.

660.445. 1. The determination of the amount of tax due shall be the total amount of payments reported to the department multiplied by the tax rate established by rule by the department of social services.

2. The department of social services shall notify each in-home services provider of the amount of tax due. Such amount may be paid in increments over the balance of the assessment period.

3. The department of social services may adjust the tax due quarterly on a prospective basis. The department of social services may adjust the tax due more frequently for individual providers if there is a substantial and statistically significant change in the in-home services provided or in the payments received for such services provided under chapter 208, RSMo. The department of social services may define such adjustment criteria by rule.

660.450. The director of the department of social services may offset the tax owed by an in-home services provider against any Missouri Medicaid payment due such in-home services provider, if the in-home services provider requests such an offset. The amounts to be offset shall result, so far as practicable, in withholding from the in-home services provider an amount substantially equal to the assessment due from the in-home services provider. The office of administration and the state treasurer may make any fund transfers necessary to execute the offset.

660.455. 1. The in-home services tax owed or, if an offset has been made, the balance after such offset, if any, shall be remitted by the in-home services provider to the department of social services. The remittance shall be made payable to the director of the department of social services and shall be deposited in the state treasury to the credit of the "In-home Services Gross Receipts Tax Fund" which is hereby created to provide payments for in-home services provided under chapter 208, RSMo. All investment earnings of the fund shall be credited to the fund.

2. An offset authorized by section 660.450 or a payment to the in-home services gross receipts tax fund shall be accepted as payment of the obligation set forth in section 660.425.

3. The state treasurer shall maintain records showing the amount of money in the in-home services gross receipts tax fund at any time and the amount of investment earnings on such amount.

4. Notwithstanding the provisions of section 33.080, RSMo, to the contrary, any unexpended balance in the in-home services gross receipts tax fund at the end of the biennium shall not revert to the credit of the general revenue fund.

660.460. 1. The department of social services shall notify each in-home services provider with a tax due of more than ninety days of the amount of such balance. If any in-home services provider fails to pay its in-home services tax within thirty days of such notice, the in-home services tax shall be delinquent.

2. If any tax imposed under sections 660.425 to 660.465 is unpaid and delinquent, the department of social services may proceed to enforce the state's lien against the property of the in-home services provider and compel the payment of such assessment in the circuit court having jurisdiction in the county where the in-home services provider is located. In addition, the department of social services may cancel or refuse to issue, extend, or reinstate a Medicaid provider agreement to any in-home services provider that fails to pay the tax imposed by section 660.425.

3. Failure to pay the tax imposed under section 660.425 shall be grounds for failure to renew a provider agreement for services under chapter 208, RSMo, or failure to renew a provider contract. The department of social services may revoke the provider agreement of any in-home services provider that fails to pay such tax, or notify the department of health and senior services to revoke the provider contract.

660.465. 1. The in-home services tax required by sections 660.425 to 660.465 shall expire:

(1) Ninety days after any one or more of the following conditions are met:

(a) The aggregate in-home services fee as appropriated by the general assembly paid to in-home services providers for in-home services provided under chapter 208, RSMo, is less than the fiscal year 2010 in-home services fees reimbursement amount; or

(b) The formula used to calculate the reimbursement as appropriated by the general assembly for in-home services provided is changed resulting in lower reimbursement to in-home services providers in the aggregate than provided in fiscal year 2010; or

(2) September 1, 2011. The director of the department of social services shall notify the revisor of statutes of the expiration date as provided in this subsection.

2. Sections 660.425 to 660.465 shall expire on September 1, 2011."; 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 Bill No. 307, Section 190.839, Page 5, Line 1 by inserting immediately after all of said section and line the following:

"**205.202. 1. The governing body of any hospital district established under sections 205.160 to 205.379 in any county of the third classification without a township form of government and with more than thirteen thousand five hundred but fewer than thirteen thousand six hundred inhabitants may, by resolution, abolish the property tax levied in such district under this chapter and impose a sales tax on all retail sales made within the district which are subject to sales tax under chapter 144, RSMo. The tax authorized in this section shall be not more than one percent, and shall be imposed solely for the purpose of funding the hospital district. The tax authorized in this section shall be in addition to all other sales taxes imposed by law, and shall be stated separately from all other charges and taxes.**

2. No such resolution adopted under this section shall become effective unless the governing body of the hospital district submits to the voters residing within the district at a state general, primary, or special election a proposal to authorize the governing body of the district to impose a tax under this section. If a majority of the votes cast on the question by the qualified voters voting thereon are in favor of the question, then the tax shall become effective on the first day of the second calendar quarter after the director of revenue receives notification of adoption of the local sales tax. If a majority of the votes cast on the question by the qualified voters voting thereon are opposed to the question, then the tax shall not become effective unless and until the question is resubmitted under this section to the qualified voters and such question is approved by a majority of the qualified voters voting on the question.

3. All revenue collected under this section by the director of the department of revenue on behalf of the hospital district, except for one percent for the cost of collection which shall be deposited in the state's general revenue fund, shall be deposited in a special trust fund, which is hereby created and shall be known as the "Hospital District Sales Tax Fund", and shall be used solely for the designated purposes. Moneys in the fund shall not be deemed to be state funds, and shall not be commingled with any funds of the state. The director may make refunds from the amounts in the fund and credited to

the district for erroneous payments and overpayments made, and may redeem dishonored checks and drafts deposited to the credit of such district. Any funds in the special fund which are not needed for current expenditures shall be invested in the same manner as other funds are invested. Any interest and moneys earned on such investments shall be credited to the fund.

4. The governing body of any hospital district that has adopted the sales tax authorized in this section may submit the question of repeal of the tax to the voters on any date available for elections for the district. If a majority of the votes cast on the question by the qualified voters voting thereon are in favor of the repeal, that repeal shall become effective on December thirty-first of the calendar year in which such repeal was approved. If a majority of the votes cast on the question by the qualified voters voting thereon are opposed to the repeal, then the sales tax authorized in this section shall remain effective until the question is resubmitted under this section to the qualified voters and the repeal is approved by a majority of the qualified voters voting on the question.

5. Whenever the governing body of any hospital district that has adopted the sales tax authorized in this section receives a petition, signed by a number of registered voters of the district equal to at least ten percent of the number of registered voters of the district voting in the last gubernatorial election, calling for an election to repeal the sales tax imposed under this section, the governing body shall submit to the voters of the district a proposal to repeal the tax. If a majority of the votes cast on the question by the qualified voters voting thereon are in favor of the repeal, the repeal shall become effective on December thirty-first of the calendar year in which such repeal was approved. If a majority of the votes cast on the question by the qualified voters voting thereon are opposed to the repeal, then the sales tax authorized in this section shall remain effective until the question is resubmitted under this section to the qualified voters and the repeal is approved by a majority of the qualified voters voting on the question.

6. If the tax is repealed or terminated by any means, all funds remaining in the special trust fund shall continue to be used solely for the designated purposes, and the hospital district shall notify the director of the department of revenue of the action at least ninety days before the effective date of the repeal and the director may order retention in the trust fund, for a period of one year, of two percent of the amount collected after receipt of such notice to cover possible refunds or overpayment of the tax and to redeem dishonored checks and drafts deposited to the credit of such accounts. After one year has elapsed after the effective date of abolition of the tax in such district, the director shall remit the balance in the account to the district and close the account of that district. The director shall notify each district of each instance of any amount refunded or any check redeemed from receipts due the district."; and

Further amend said Substitute, Section B, Page 8, Line 6 by inserting immediately after all of said section and line the following:

"Section B. Because immediate action is necessary to allow certain hospital districts to lower their property tax levies, the enactment of section 205.202 of 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 the enactment of section 205.202 of section A of this act shall be in full force and effect upon its passage and approval."; and

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

Emergency clause adopted for a certain section.

In which the concurrence of the Senate is respectfully requested.

CONCURRENT RESOLUTIONS

Senator Stouffer offered the following concurrent resolution:

SENATE CONCURRENT RESOLUTION NO. 28

WHEREAS, the State of Missouri contains 553 miles of the Missouri River, which borders 23 Missouri counties and over 50 Missouri communities, making it one of the state's greatest natural resources; and

WHEREAS, eighteen power plants, which have the capacity to generate over 11,000 megawatts of electricity, draw cooling water from the lower Missouri River basin; and

WHEREAS, the State of Missouri has constructed infrastructure to support water supply and power generation in the lower Missouri River basin with the understanding that reliable navigation flows would be maintained in the future; and

WHEREAS, the Missouri General Assembly supports this natural resource as a vital link in the State of Missouri's total transportation system and wishes to maximize this valuable asset in order to move freight and to support our state's economy; and

WHEREAS, removing water from the Missouri River in upstream states will have a significant, negative economic and social impact upon Missouri and other downstream states by impacting navigation, power generation, and drinking water availability; and

WHEREAS, the State of North Dakota has for decades relentlessly pursued the Garrison Diversion which would pump Missouri River water across the Continental Divide into the Red River of the North against the wishes of Missouri, Minnesota, Canada, Manitoba and conservation groups; and

WHEREAS, the needs of the Red River basin could be met by in-basin sources which provide the highest benefit-to-cost ratio of all plans considered; and

WHEREAS, the Garrison Diversion has been reviewed and rejected by the last four successive Presidential Administrations; and

WHEREAS, the Garrison Diversion has the capacity to annually divert nearly the equivalent of Kansas City's entire water supply for nine years; and

WHEREAS, the Bureau of Reclamation has assumed unprecedented rates of population growth in the Red River Valley while predicting no growth in water use in the Missouri River basin; and

WHEREAS, the proposed diversion would endanger the many uses of the Missouri River water for drinking water, power plant cooling and transportation for citizens of Missouri:

NOW, THEREFORE, BE IT RESOLVED by the members of the Missouri Senate, Ninety-fifth General Assembly, First Regular Session, the House of Representatives concurring therein, hereby urge the United States Congress to deny any request for authorization to transfer water out of the Missouri River by use of the Garrison Diversion; and

BE IT FURTHER RESOLVED that the members of the Missouri Senate, Ninety-fifth General Assembly, First Regular Session, the House of Representatives concurring therein, hereby urge Missouri's Congressional delegation to vehemently oppose the Garrison Diversion and actively favor an in-basin alternative for the Red River Valley; and

BE IT FURTHER RESOLVED that the Secretary of the Senate be instructed to prepare a properly inscribed copy of this resolution for the Secretary of Interior, the U.S. Bureau of Reclamation, and to each member of Missouri's Congressional delegation.

HOUSE BILLS ON THIRD READING

HB 239, with **SCS**, introduced by Representative Jones (89), et al, entitled:

An Act to repeal sections 472.335, 473.333, 475.130, and 475.190, RSMo, and to enact in lieu thereof four new sections relating to a conservator’s investment in property.

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

SCS for **HB 239**, entitled:

SENATE COMMITTEE SUBSTITUTE FOR
HOUSE BILL NO. 239

An Act to repeal sections 172.290, 402.010, 402.015, 402.025, 402.030, 402.035, 402.040, 402.045, 402.055, 402.060, 456.5-505, 469.411, 472.335, 473.333, 475.130, and 475.190, RSMo, and to enact in lieu thereof twenty new sections relating to the management of funds.

Was taken up.

Senator Pearce moved that **SCS** for **HB 239** be adopted.

Senator Pearce offered **SA 1**:

SENATE AMENDMENT NO. 1

Amend Senate Committee Substitute for House Bill No. 239, Page 5, Section 402.132, Line 56, by striking all of said line; and further amend line 57, by striking the following: "that the person has special skills or"; and further amend line 59, by striking the comma "," from said line.

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

Senator Pearce moved that **SCS** for **HB 239**, as amended, be adopted, which motion prevailed.

On motion of Senator Pearce, **SCS** for **HB 239**, as amended, was read the 3rd time and passed by the following vote:

YEAS—Senators

Barnitz	Bartle	Bray	Callahan	Champion	Clemens	Crowell	Cunningham
Days	Dempsey	Engler	Goodman	Green	Griesheimer	Justus	Lager
Lembke	Mayer	McKenna	Nodler	Pearce	Purgason	Rupp	Schaefer
Schmitt	Scott	Shields	Shoemyer	Smith	Stouffer	Wilson	Wright-Jones—32

NAYS—Senators—None

Absent—Senators

Ridgeway Vogel—2

Absent with leave—Senators—None

Vacancies—None

The President declared the bill passed.

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

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

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

HB 842, with **SCS**, introduced by Representative Wood, entitled:

An Act to repeal section 339.710, RSMo, and to enact in lieu thereof one new section relating to real estate brokers and agents.

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

SCS for **HB 842**, entitled:

SENATE COMMITTEE SUBSTITUTE FOR
HOUSE BILL NO. 842

An Act to repeal sections 339.503 and 339.710, RSMo, and to enact in lieu thereof two new sections relating to real estate.

Was taken up.

Senator Pearce assumed the Chair.

Senator Goodman moved that **SCS** for **HB 842** be adopted.

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

SENATE AMENDMENT NO. 1

Amend Senate Committee Substitute for House Bill No. 842, Page 2, Section 339.503, Line 39, by striking the following: "adverse possession,".

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

Senator Goodman moved that **SCS** for **HB 842**, as amended, be adopted, which motion prevailed.

On motion of Senator Goodman, **SCS** for **HB 842**, as amended, was read the 3rd time and passed by the following vote:

YEAS—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	Shields	Shoemyer	Smith	Stouffer	Vogel	Wilson

Wright-Jones—33

NAYS—Senators—None

Absent—Senator Scott—1

Absent with leave—Senators—None

Vacancies—None

The President declared the bill passed.

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

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

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

At the request of Senator Griesheimer, **HCS** for **HB 495**, with **SCS**, was placed on the Informal Calendar.

HB 132, introduced by Representative Fallert, et al, entitled:

An Act to repeal section 311.090, RSMo, and to enact in lieu thereof one new section relating to the sale of liquor.

Was taken up by Senator McKenna.

Senator McKenna offered **SS** for **HB 132**, entitled:

SENATE SUBSTITUTE FOR
HOUSE BILL NO. 132

An Act to repeal sections 92.047, 311.020, 311.055, 311.060, 311.070, 311.090, 311.181, 311.182, 311.195, 311.200, 311.211, 311.212, 311.218, 311.260, 311.265, 311.280, 311.290, 311.300, 311.332, 311.333, 311.334, 311.335, 311.336, 311.338, 311.360, 311.480, 311.482, 311.485, 311.486, 311.487, 311.490, 311.520, 311.610, 311.630, 311.665, 311.680, 311.685, 311.722, 312.010, 312.020, 312.030, 312.040, 312.050, 312.060, 312.070, 312.080, 312.090, 312.100, 312.110, 312.120, 312.130, 312.140, 312.150, 312.160, 312.170, 312.180, 312.190, 312.200, 312.210, 312.220, 312.230, 312.233, 312.235, 312.237, 312.270, 312.280, 312.290, 312.300, 312.310, 312.320, 312.330, 312.340, 312.350, 312.360, 312.370, 312.380, 312.390, 312.400, 312.405, 312.407, 312.410, 312.420, 312.430, 312.440, 312.450, 312.460, 312.470, 312.480, 312.484, 312.490, 312.500, 312.510, 313.075, 313.340, 313.665, 313.840, 571.107, and 650.005, RSMo, and to enact in lieu thereof forty-five new sections relating to liquor control, with penalty provisions.

Senator McKenna moved that **SS** for **HB 132** be adopted, which motion prevailed.

On motion of Senator McKenna, **SS** for **HB 132** was read the 3rd time and passed by the following vote:

YEAS—Senators

Barnitz	Bray	Callahan	Clemens	Crowell	Cunningham	Days	Dempsey
Engler	Goodman	Green	Griesheimer	Justus	Lager	Lembke	Mayer
McKenna	Nodler	Pearce	Ridgeway	Rupp	Schaefer	Schmitt	Shields
Shoemyer	Smith	Vogel	Wilson	Wright-Jones—29			

NAYS—Senators

Bartle	Purgason	Scott	Stouffer—4

Absent—Senator Champion—1

Absent with leave—Senators—None

Vacancies—None

The President declared the bill passed.

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

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

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

HB 229, with **SCS**, introduced by Representative Ervin, entitled:

An Act to repeal sections 143.111, 143.113, 354.536, 376.426, 376.450, 376.453, 376.776, 379.930, 379.940, and 379.952, RSMo, and to enact in lieu thereof eleven new sections relating to health insurance.

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

SCS for **HB 229**, entitled:

SENATE COMMITTEE SUBSTITUTE FOR
HOUSE BILL NO. 229

An Act to repeal sections 143.111, 143.113, 354.442, 354.536, 376.397, 376.401, 376.421, 376.424, 376.426, 376.450, 376.453, 376.776, 376.960, 376.966, 376.986, 376.995, 379.930, 379.940, and 379.952, RSMo, and to enact in lieu thereof twenty new sections relating to health insurance.

Was taken up.

Senator Dempsey moved that **SCS** for **HB 229** be adopted.

Senator Dempsey offered **SS** for **SCS** for **HB 229**, entitled:

SENATE SUBSTITUTE FOR
SENATE COMMITTEE SUBSTITUTE FOR
HOUSE BILL NO. 229

An Act to repeal sections 143.111, 143.113, 354.442, 354.536, 376.384, 376.397, 376.401, 376.421, 376.424, 376.426, 376.450, 376.453, 376.776, 376.960, 376.966, 376.986, 376.995, 379.930, 379.940, and 379.952, RSMo, and to enact in lieu thereof twenty-four new sections relating to health insurance.

Senator Dempsey moved that **SS** for **SCS** for **HB 229** be adopted.

Senator Rupp offered **SA 1**:

SENATE AMENDMENT NO. 1

Amend Senate Substitute for Senate Committee Substitute for House Bill No. 229, Page 77, Section 376.995, Line 14 of said page, by inserting after all of said line thereof the following:

"**376.1224. 1. For purposes of this section, the following terms shall mean:**

(1) "Applied behavior analysis", the design, implementation, and evaluation of environmental modifications, using behavioral stimuli and consequences, to produce socially significant improvement in human behavior, including the use of direct observation, measurement, and functional analysis of the relationships between environment and behavior;

(2) "Autism service provider":

(a) Any person, entity, or group that provides diagnostic or treatment services for autism spectrum disorders who is licensed or certified by the state of Missouri;

(b) Any person who is certified as a board certified behavior analyst by the behavior analyst certification board; or

(c) Any person, if not licensed or certified, who is supervised by a person who is certified as a board certified behavioral analyst by the Behavioral Analyst Certification Board, whether such board certified behavioral analyst supervises as an individual or as an employee of or in association with an entity or group; provided however, the definition of autism service provider shall specifically exclude parents and siblings of autistic persons to the extent such parents or siblings are providing diagnostic or treatment services to their child or sibling;

(3) "Autism spectrum disorders", a neurobiological disorder, an illness of the nervous system, which includes Autistic Disorder, Asperger's Disorder, Pervasive Developmental Disorder Not Otherwise Specified, Rett's Disorder, and Childhood Disintegrative Disorder, as defined in the most recent edition of the Diagnostic and Statistical Manual of Mental Disorders of the American Psychiatric Association;

(4) "Diagnosis of autism spectrum disorders", medically necessary assessments, evaluations, or tests in order to diagnose whether an individual has an autism spectrum disorder;

(5) "Habilitative or rehabilitative care", professional, counseling, and guidance services and treatment programs, including applied behavior analysis, that are necessary to develop and restore the functioning of an individual;

(6) "Health benefit plan", shall have the same meaning ascribed to it as in section 376.1350;

(7) "Health carrier", shall have the same meaning ascribed to it as in section 376.1350;

(8) "Pharmacy care", medications used to address symptoms of an autism spectrum disorder prescribed by a licensed physician, and any health-related services deemed medically necessary to determine the need or effectiveness of the medications;

(9) "Psychiatric care", direct or consultative services provided by a psychiatrist licensed in the state in which the psychiatrist practices;

(10) "Psychological care", direct or consultative services provided by a psychologist licensed in the state in which the psychologist practices;

(11) "Therapeutic care", services provided by licensed speech therapists, occupational therapists, or physical therapists;

(12) "Treatment for autism spectrum disorders", care prescribed and provided or ordered and provided for an individual diagnosed with an autism spectrum disorder by a licensed physician or licensed psychologist, pursuant to the powers granted under such licensed physician's or licensed psychologist's license, including, but not limited to:

(a) Psychiatric care;

(b) Psychological care;

(c) Habilitative or rehabilitative care, including applied behavior analysis therapy;

(d) Therapeutic care;

(e) Pharmacy care.

2. All health benefit plans that are delivered, issued for delivery, continued, or renewed on or after January 1, 2010, if written in the state of Missouri or outside the state of Missouri but insuring Missouri residents, shall provide individuals less than eighteen years of age coverage for the diagnosis and treatment of autism spectrum disorders to the extent that the diagnosis and treatment of autism spectrum disorders are not already covered by the health benefit plan.

3. With regards to a health benefit plan, a health carrier shall not deny or refuse to issue coverage on, refuse to contract with, or refuse to renew or refuse to reissue or otherwise terminate or restrict coverage on an individual or their dependent solely because the individual is diagnosed with autism

spectrum disorder.

4. (1) Coverage provided under this section is limited to treatment that is ordered by the insured's treating licensed physician or licensed psychologist, pursuant to the powers granted under such licensed physician's or licensed psychologist's license, in accordance with a treatment plan;

(2) The treatment plan upon request by the health benefit plan or health carrier shall include all elements necessary for the health benefit plan or health carrier to appropriately pay claims. Such elements include, but are not limited to, a diagnosis, proposed treatment by type, frequency, and duration of treatment and goals;

(3) Except for inpatient services, if an individual is receiving treatment for an autism spectrum disorder, a health carrier shall have the right to review the treatment plan not more than once every six months unless the health carrier and the individual's treating physician or psychologist agree that a more frequent review is necessary. The cost of obtaining any review shall be borne by the health benefit plan or health carrier, as applicable;

(4) The coverage for the diagnosis and treatment of autism spectrum disorders under this section is limited to treatment and diagnosis provided within Missouri.

5. Coverage provided under this section for applied behavior analysis shall be subject to a maximum benefit of fifty-five thousand dollars per year for individuals under fifteen years of age. No coverage for applied behavior analysis shall be afforded to individuals fifteen years of age or older. Notwithstanding the foregoing, the annual maximum benefits for applied behavior analysis shall not be subject to any limits on the numbers of visits by an individual to an autism service provider for applied behavior analysis. Coverage provided under this section for services other than applied behavior analysis shall not be subject to any limits on the number of visits an individual may make to an autism service provider. After December 31, 2010, the director of the department of insurance, financial and professional registration shall, on an annual basis, adjust the maximum benefit (for applied behavioral analysis) for inflation using the Medical Care Component of the United States Department of Labor Consumer Price Index for All Urban Consumers. Payments made by a health carrier on behalf of a covered individual for any care, treatment, intervention, service or item, the provision of which was for the treatment of a health condition unrelated to the covered individual's autism spectrum disorder, shall not be applied toward any maximum benefit established under this subsection.

6. This section shall not be construed as limiting benefits which are otherwise available to an individual under a health benefit plan. The health care services required by this section shall not be subject to any greater deductible, coinsurance, or co-payment than other physical health care services provided by a health benefit plan. Coverage of services may be subject to other general exclusions and limitations of the contract or benefit plan, such as coordination of benefits, services provided by family or household members, utilization review of health care services including review of medical necessity, and case management; however, coverage for treatment under this section shall not be denied on the basis that it is educational or habilitative in nature.

7. To the extent any payments or reimbursements are being made for applied behavior analysis, such payments or reimbursements shall be made to either:

(1) Any autism provider;

(2) The person who is supervising an autism service provider, who is also certified as a board certified behavior analyst by the Behavior Analyst Certification Board; or

(3) The entity or group for whom such supervising person, who is certified as a board certified behavior analyst by the Behavior Analyst Certification Board, works or is associated.

8. If a request for qualifications is made of a person who is not licensed as an autism service provider by a health carrier, such person shall provide documented evidence of education and professional training, if any, in applied behavioral analysis.

9. The provisions of this section shall apply to any health care plans issued to employees and their dependents under the Missouri consolidated health care plan established pursuant to chapter 103, RSMo, that are delivered, issued for delivery, continued, or renewed in this state on or after January 1, 2010. The terms "employees" and "health care plans" shall have the same meaning ascribed to them in section 103.003, RSMo.

10. The provisions of this section shall also apply to the following types of plans that are established, extended, modified, or renewed on or after January 1, 2010:

(1) All self-insured governmental plans, as that term is defined in 29 U.S.C. Section 1002(32);

(2) All self-insured group arrangements, to the extent not preempted by federal law;

(3) All plans provided through a multiple employer welfare arrangement, or plans provided through another benefit arrangement, to the extent permitted by the Employee Retirement Income Security Act of 1974, or any waiver or exception to that act provided under federal law or regulation; and

(4) All self-insured school district health plans.

11. The provisions of this section shall not automatically apply to an individually underwritten health benefit plan, but shall be offered as an option to any such plan.

12. The provisions of this section shall not apply to a supplemental insurance policy, including a life care contract, accident-only policy, specified disease policy, hospital policy providing a fixed daily benefit only, Medicare supplement policy, long-term care policy, short-term major medical policy of six months or less duration, or any other supplemental policy."; and

Further amend the title and enacting clause accordingly.

Senator Rupp moved that the above amendment be adopted.

Senator Purgason 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 Bill No. 229, Page 7, Section 376.1224, Line 20 of said page, by inserting immediately after "policy." the following:

"**13. The provisions of this section shall not apply to health benefit plans underwritten for the small group market, as defined in section 376.450.**".

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

SA 1 was again taken up.

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

Senator Days offered **SA 2**:

SENATE AMENDMENT NO. 2

Amend Senate Substitute for Senate Committee Substitute for House Bill No. 229, Page 96, Section 379.952, Line 2 of said page, by inserting after all of said line thereof the following:

"**Section 1. 1. Each health carrier or health benefit plan that offers or issues health benefit plans which are delivered, issued for delivery, continued, or renewed in this state on or after January 1, 2010, shall offer coverage for prosthetic devices and services, including original and replacement devices, as prescribed by a physician acting within the scope of his or her practice.**

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

3. The amount of the benefit for prosthetic devices and services under this section shall be no less than the annual and lifetime benefit maximums applicable to the basic health care services required to be provided under the health benefit plan. If the health benefit plan does not include any annual or lifetime maximums applicable to the basic health care services, the amount of the benefit for prosthetic devices and services shall not be subject to an annual or lifetime maximum benefit level. Any co-payment, coinsurance, deductible, and maximum out-of-pocket amount applied to the benefit for prosthetic devices and services shall be no more than the most common amounts applied to the basic health care services required to provided under the health benefit plan.

4. The provisions of this section shall not apply to a supplemental insurance policy, including a life care contract, accident-only policy, specified disease policy, hospital policy providing a fixed daily benefit only, Medicare supplement policy, long-term care policy, short-term major medical policies of six months or less duration, or any other supplemental policy as determined by the director of the department of insurance, financial institutions and professional registration."; and

Further amend the title and enacting clause accordingly.

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

Senator Stouffer offered **SA 3**:

SENATE AMENDMENT NO. 3

Amend Senate Substitute for Senate Committee Substitute for House Bill No. 229, Page 8, Section 191.1010, Line 25, by inserting immediately after said line the following:

"**191.1127. 1. The MO HealthNet program and the health care for uninsured children program under sections 208.631 to 208.659, RSMo, in consultation with statewide organizations focused on premature infant health care, shall:**

(1) Examine and improve hospital discharge and follow-up care procedures for premature infants born earlier than thirty-seven weeks gestational age to ensure standardized and coordinated processes are followed as premature infants leave the hospital from either a well-baby nursery, step down or transitional nursery, or neonatal intensive care unit and transition to follow-up care by a health care provider in the community;

(2) Urge hospitals serving infants eligible for medical assistance under the MO HealthNet and health care for uninsured children programs to report to the state the causes and incidence of all re-hospitalizations of infants born premature at earlier than thirty-seven weeks gestational age within their first six months of life; and

(3) Use guidance from the Centers for Medicare and Medicaid Services' Neonatal Outcomes Improvement Project to implement programs to improve newborn outcomes, reduce newborn health costs, and establish ongoing quality improvement for newborns.

191.1130. 1. The department of health and senior services shall, by December 31, 2009, prepare written educational publications containing information about the possible complications, proper care and support associated with newborn infants who are born premature at earlier than thirty-seven weeks gestational age. The written information, at a minimum, shall include the following:

(1) The unique health issues affecting infants born premature, such as:

(a) Increased risk of developmental problems;

(b) Nutritional challenges;

(c) Infection;

(d) Chronic lung disease (bronchopulmonary dysplasia);

(e) Vision and hearing impairment;

(d) Breathing problems;

(f) Fine motor skills;

(g) Feeding;

(h) Maintaining body temperature;

(i) Jaundice;

(j) Hyperactivity;

(k) Infant mortality as well as long-term complications associated with growth and nutrition;

(l) Respiratory; and

(m) Reading, writing, mathematics, and speaking;

(2) The proper care needs of premature infants, developmental screenings and monitoring and health care services available to premature infants through the MO HealthNet program and other public or private health programs;

(3) Methods, vaccines, and other preventative measures to protect premature infants from infectious diseases, including viral respiratory infections;

(4) The emotional and financial burdens and other challenges that parents and family members of premature infants experience and information about community resources available to support them.

2. The publications shall be written in clear language to educate parents of premature infants across a variety of socioeconomic statuses. The department may consult with community

organizations that focus on premature infants or pediatric health care. The department shall update the publications every two years.

3. The department shall distribute these publications to children's health providers, maternal care providers, hospitals, public health departments, and medical organizations and encourage those organizations to provide the publications to parents or guardians of premature infants."; and

Further amend the title and enacting clause accordingly.

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

Senator Lembke offered **SA 4**:

SENATE AMENDMENT NO. 4

Amend Senate Substitute for Senate Committee Substitute for House Bill No. 229, Page 19, Section 376.384, Line 27, by inserting after all of said line the following:

"**376.391. A health benefit plan or health carrier, as defined in section 376.1350, including but not limited to preferred provider organizations, independent physicians associations, third-party administrators, or any entity that contracts with licensed health care providers shall not impose any co-payment that exceeds fifty percent of the total cost of providing any single health care service to its enrollees.**"; and

Further amend the title and enacting clause accordingly.

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

Senator Scott offered **SA 5**:

SENATE AMENDMENT NO. 5

Amend Senate Substitute for Senate Committee Substitute for House Bill No. 229, Page 77, Section 376.995, Line 14, by inserting immediately after said line the following:

"376.1350. For purposes of sections 376.1350 to 376.1390, the following terms mean:

(1) "Adverse determination", a determination by a health carrier or its designee utilization review organization that an admission, availability of care, continued stay or other health care service has been reviewed and, based upon the information provided, does not meet the health carrier's requirements for medical necessity, appropriateness, health care setting, level of care or effectiveness, and the payment for the requested service is therefore denied, reduced or terminated;

(2) "Ambulatory review", utilization review of health care services performed or provided in an outpatient setting;

(3) "Case management", a coordinated set of activities conducted for individual patient management of serious, complicated, protracted or other health conditions;

(4) "Certification", a determination by a health carrier or its designee utilization review organization that an admission, availability of care, continued stay or other health care service has been reviewed and, based on the information provided, satisfies the health carrier's requirements for medical necessity, appropriateness, health care setting, level of care and effectiveness;

(5) "Clinical peer", a physician or other health care professional who holds a nonrestricted license in

a state of the United States and in the same or similar specialty as typically manages the medical condition, procedure or treatment under review;

(6) "Clinical review criteria", the written screening procedures, decision abstracts, clinical protocols and practice guidelines used by the health carrier to determine the necessity and appropriateness of health care services;

(7) "Concurrent review", utilization review conducted during a patient's hospital stay or course of treatment;

(8) "Covered benefit" or "benefit", a health care service that an enrollee is entitled under the terms of a health benefit plan;

(9) "Director", the director of the department of insurance, financial institutions and professional registration;

(10) "Discharge planning", the formal process for determining, prior to discharge from a facility, the coordination and management of the care that a patient receives following discharge from a facility;

(11) "Drug", any substance prescribed by a licensed health care provider acting within the scope of the provider's license and that is intended for use in the diagnosis, mitigation, treatment or prevention of disease. The term includes only those substances that are approved by the FDA for at least one indication;

(12) "Emergency medical condition", the sudden and, at the time, unexpected onset of a health condition that manifests itself by symptoms of sufficient severity that would lead a prudent lay person, possessing an average knowledge of medicine and health, to believe that immediate medical care is required, which may include, but shall not be limited to:

(a) Placing the person's health in significant jeopardy;

(b) Serious impairment to a bodily function;

(c) Serious dysfunction of any bodily organ or part;

(d) Inadequately controlled pain; or

(e) With respect to a pregnant woman who is having contractions:

a. That there is inadequate time to effect a safe transfer to another hospital before delivery; or

b. That transfer to another hospital may pose a threat to the health or safety of the woman or unborn child;

(13) "Emergency service", a health care item or service furnished or required to evaluate and treat an emergency medical condition, which may include, but shall not be limited to, health care services that are provided in a licensed hospital's emergency facility by an appropriate provider;

(14) "Enrollee", a policyholder, subscriber, covered person or other individual participating in a health benefit plan;

(15) "FDA", the federal Food and Drug Administration;

(16) "Facility", an institution providing health care services or a health care setting, including but not limited to hospitals and other licensed inpatient centers, ambulatory surgical or treatment centers, skilled nursing centers, residential treatment centers, diagnostic, laboratory and imaging centers, and rehabilitation

and other therapeutic health settings;

(17) "Grievance", a written complaint submitted by or on behalf of an enrollee regarding the:

(a) Availability, delivery or quality of health care services, including a complaint regarding an adverse determination made pursuant to utilization review;

(b) Claims payment, handling or reimbursement for health care services; or

(c) Matters pertaining to the contractual relationship between an enrollee and a health carrier;

(18) "Health benefit plan", a policy, contract, certificate or agreement entered into, offered or issued by a health carrier to provide, deliver, arrange for, pay for, or reimburse any of the costs of health care services; except that, health benefit plan shall not include any coverage pursuant to liability insurance policy, workers' compensation insurance policy, or medical payments insurance issued as a supplement to a liability policy**, or a supplemental insurance policy, including a life care contract, accident-only policy, specified disease policy, hospital policy providing a fixed daily benefit only, Medicare supplement policy, long-term care policy, short-term major medical policy of six months or less duration, or any other supplemental policy**;

(19) "Health care professional", a physician or other health care practitioner licensed, accredited or certified by the state of Missouri to perform specified health services consistent with state law;

(20) "Health care provider" or "provider", a health care professional or a facility;

(21) "Health care service", a service for the diagnosis, prevention, treatment, cure or relief of a health condition, illness, injury or disease;

(22) "Health carrier", an entity subject to the insurance laws and regulations of this state that contracts or offers to contract to provide, deliver, arrange for, pay for or reimburse any of the costs of health care services, including a sickness and accident insurance company, a health maintenance organization, a nonprofit hospital and health service corporation, or any other entity providing a plan of health insurance, health benefits or health services; except that such plan shall not include any coverage pursuant to a liability insurance policy, workers' compensation insurance policy, or medical payments insurance issued as a supplement to a liability policy**, or a supplemental insurance policy, including a life care contract, accident-only policy, specified disease policy, hospital policy providing a fixed daily benefit only, Medicare supplement policy, long-term care policy, short-term major medical policy of six months or less duration, or any other supplemental policy**;

(23) "Health indemnity plan", a health benefit plan that is not a managed care plan;

(24) "Managed care plan", a health benefit plan that either requires an enrollee to use, or creates incentives, including financial incentives, for an enrollee to use, health care providers managed, owned, under contract with or employed by the health carrier;

(25) "Participating provider", a provider who, under a contract with the health carrier or with its contractor or subcontractor, has agreed to provide health care services to enrollees with an expectation of receiving payment, other than coinsurance, co-payments or deductibles, directly or indirectly from the health carrier;

(26) "Peer-reviewed medical literature", a published scientific study in a journal or other publication in which original manuscripts have been published only after having been critically reviewed for scientific

accuracy, validity and reliability by unbiased independent experts, and that has been determined by the International Committee of Medical Journal Editors to have met the uniform requirements for manuscripts submitted to biomedical journals or is published in a journal specified by the United States Department of Health and Human Services pursuant to Section 1861(t)(2)(B) of the Social Security Act, as amended, as acceptable peer-reviewed medical literature. Peer-reviewed medical literature shall not include publications or supplements to publications that are sponsored to a significant extent by a pharmaceutical manufacturing company or health carrier;

(27) "Person", an individual, a corporation, a partnership, an association, a joint venture, a joint stock company, a trust, an unincorporated organization, any similar entity or any combination of the foregoing;

(28) "Prospective review", utilization review conducted prior to an admission or a course of treatment;

(29) "Retrospective review", utilization review of medical necessity that is conducted after services have been provided to a patient, but does not include the review of a claim that is limited to an evaluation of reimbursement levels, veracity of documentation, accuracy of coding or adjudication for payment;

(30) "Second opinion", an opportunity or requirement to obtain a clinical evaluation by a provider other than the one originally making a recommendation for a proposed health service to assess the clinical necessity and appropriateness of the initial proposed health service;

(31) "Stabilize", with respect to an emergency medical condition, that no material deterioration of the condition is likely to result or occur before an individual may be transferred;

(32) "Standard reference compendia":

(a) The American Hospital Formulary Service-Drug Information; or

(b) The United States Pharmacopoeia-Drug Information;

(33) "Utilization review", a set of formal techniques designed to monitor the use of, or evaluate the clinical necessity, appropriateness, efficacy, or efficiency of, health care services, procedures, or settings. Techniques may include ambulatory review, prospective review, second opinion, certification, concurrent review, case management, discharge planning or retrospective review. Utilization review shall not include elective requests for clarification of coverage;

(34) "Utilization review organization", a utilization review agent as defined in section 374.500, RSMo.";

Further amend the title and enacting clause accordingly.

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

Senator Goodman offered **SA 6**:

SENATE AMENDMENT NO. 6

Amend Senate Substitute for Senate Committee Substitute for House Bill No. 229, Page 96, Section 379.952, Line 2, by inserting after all of said line the following:

"**Section 1. 1. The provisions of chapter 376, RSMo, relating to health insurance, health maintenance organizations, health benefit plans, group health services, and health carriers shall not apply to a plan that provides health care services to low income individuals on a prepaid basis and that meets the following conditions:**

(1) Eligibility in the plan is limited to persons who earn less than two hundred percent of the

federal poverty level and are not covered under any other group insurance arrangement;

(2) The plan is operated on a nonprofit basis under the sponsorship of a nonprofit organization that is qualified as exempt from federal taxation under Section 501(c)(3) of the Internal Revenue Code of 1986, as amended;

(3) Covered primary care services are provided to enrollees either by providers on staff of the sponsoring organization or by volunteers recruited from a local medical society who have, in both instances, agreed to provide their services for free or for nominal reimbursement for out-of-pocket expenses or expendable supplies directly related to, and incurred as a result of, the service provided to the enrollee;

(4) Payments to outside contractors for marketing, claims administration and similar services total no more than ten percent of the total charges;

(5) The plan has received the approval and endorsement of the local medical society in consultation with the Missouri State Medical Association; and

(6) The sponsoring nonprofit organization files an annual report with the secretary of state within ninety days of the close of the organization's fiscal year that includes, at a minimum, the following information:

(a) The number of plan enrollees;

(b) Total services rendered under the plan;

(c) Plan financial statements;

(d) Administrative costs and salaries paid by the plan; and

(e) Other information that may be reasonably requested by the secretary of state.

2. A plan that meets the requirements of this section shall not be considered to be engaging in the business of insurance for purposes of chapter 376, RSMo, or any provision of Title XXIV, RSMo, and shall not be subject to the jurisdiction of the director of the department of insurance, financial institutions and professional registration.

Section 2. 1. Any volunteer physician, dentist, optometrist, pharmacist, registered professional nurse, licensed practical nurse, psychiatrist, psychologist, professional counselors, or clinical social workers licensed to practice in this state under the provisions of chapter 332, 334, 335, 336, 337, or 338, RSMo, or any volunteer retired physician, dentist, optometrist, pharmacist, registered professional nurse, licensed practical nurse, psychiatrist, psychologist, professional counselor, or clinical social worker who provides medical or mental health treatment to a patient at a nonprofit faith-based community health center that provides health care services for a nominal fee and is qualified as exempt from federal taxation under Section 501(c)(3) of the Internal Revenue Code of 1986, as amended, shall not be liable for any civil damages for acts or omissions unless the damages were occasioned by gross negligence or by willful or wanton acts or omissions by such health care provider under this section in rendering such treatment.

2. For purposes of this section, a "volunteer" is an individual rendering medical or mental health treatment who is not compensated for his or her services on a salary or prorated equivalent basis.

3. In order for a retired physician, dentist, optometrist, pharmacist, registered professional nurse,

licensed practical nurse, psychiatrist, psychologist, professional counselor, or clinical social worker to receive the immunity from liability under this section, such health care provider shall have been in good standing with their respective governing professional board at the time of his or her retirement."; and

Further amend the title and enacting clause accordingly.

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

Senator Crowell offered **SA 7**:

SENATE AMENDMENT NO. 7

Amend Senate Substitute for Senate Committee Substitute for House Bill No. 229, Page 8, Section 191.1010, Line 25 of said page, by inserting after all of said line the following:

"208.215. 1. MO HealthNet is payer of last resort unless otherwise specified by law. When any person, corporation, institution, public agency or private agency is liable, either pursuant to contract or otherwise, to a participant receiving public assistance on account of personal injury to or disability or disease or benefits arising from a health insurance plan to which the participant may be entitled, payments made by the department of social services or MO HealthNet division shall be a debt due the state and recoverable from the liable party or participant for all payments made **[**in**] on** behalf of the participant and the debt due the state shall not exceed the payments made from MO HealthNet benefits provided under sections 208.151 to 208.158 and section 208.162 and section 208.204 on behalf of the participant, minor or estate for payments on account of the injury, disease, or disability or benefits arising from a health insurance program to which the participant may be entitled. **Any health benefit plan as defined in section 376.1350, RSMo, third party administrator, administrative service organization, and pharmacy benefits manager, shall process and pay all properly submitted medical assistance subrogation claims or MO HealthNet subrogation claims:**

(1) For a period of three years from the date services were provided or rendered, regardless of any other timely filing requirement otherwise imposed by such entity, and the entity shall not deny such claims on the basis of the type or format of the claim form, failure to present proper documentation of coverage at the point of sale, or failure to obtain prior authorization; and

(2) If any action by the state to enforce its rights with respect to such claim is commenced within six years of the state's submission of such claim.

2. The department of social services, MO HealthNet division, or its contractor may maintain an appropriate action to recover funds paid by the department of social services or MO HealthNet division or its contractor that are due under this section in the name of the state of Missouri against the person, corporation, institution, public agency, or private agency liable to the participant, minor or estate.

3. Any participant, minor, guardian, conservator, personal representative, estate, including persons entitled under section 537.080, RSMo, to bring an action for wrongful death who pursues legal rights against a person, corporation, institution, public agency, or private agency liable to that participant or minor for injuries, disease or disability or benefits arising from a health insurance plan to which the participant may be entitled as outlined in subsection 1 of this section shall upon actual knowledge that the department of social services or MO HealthNet division has paid MO HealthNet benefits as defined by this chapter promptly notify the MO HealthNet division as to the pursuit of such legal rights.

4. Every applicant or participant by application assigns his right to the department of social services or MO HealthNet division of any funds recovered or expected to be recovered to the extent provided for in this section. All applicants and participants, including a person authorized by the probate code, shall cooperate with the department of social services, MO HealthNet division in identifying and providing information to assist the state in pursuing any third party who may be liable to pay for care and services available under the state's plan for MO HealthNet benefits as provided in sections 208.151 to 208.159 and sections 208.162 and 208.204. All applicants and participants shall cooperate with the agency in obtaining third-party resources due to the applicant, participant, or child for whom assistance is claimed. Failure to cooperate without good cause as determined by the department of social services, MO HealthNet division in accordance with federally prescribed standards shall render the applicant or participant ineligible for MO HealthNet benefits under sections 208.151 to 208.159 and sections 208.162 and 208.204. A **[**recipient**]** **participant** who has notice or who has actual knowledge of the department's rights to third-party benefits who receives any third-party benefit or proceeds for a covered illness or injury is either required to pay the division within sixty days after receipt of settlement proceeds the full amount of the third-party benefits up to the total MO HealthNet benefits provided or to place the full amount of the third-party benefits in a trust account for the benefit of the division pending judicial or administrative determination of the division's right to third-party benefits.

5. Every person, corporation or partnership who acts for or on behalf of a person who is or was eligible for MO HealthNet benefits under sections 208.151 to 208.159 and sections 208.162 and 208.204 for purposes of pursuing the applicant's or participant's claim which accrued as a result of a nonoccupational or nonwork-related incident or occurrence resulting in the payment of MO HealthNet benefits shall notify the MO HealthNet division upon agreeing to assist such person and further shall notify the MO HealthNet division of any institution of a proceeding, settlement or the results of the pursuit of the claim and give thirty days' notice before any judgment, award, or settlement may be satisfied in any action or any claim by the applicant or participant to recover damages for such injuries, disease, or disability, or benefits arising from a health insurance program to which the participant may be entitled.

6. Every participant, minor, guardian, conservator, personal representative, estate, including persons entitled under section 537.080, RSMo, to bring an action for wrongful death, or his attorney or legal representative shall promptly notify the MO HealthNet division of any recovery from a third party and shall immediately reimburse the department of social services, MO HealthNet division, or its contractor from the proceeds of any settlement, judgment, or other recovery in any action or claim initiated against any such third party. A judgment, award, or settlement in an action by a **[**recipient**]** **participant** to recover damages for injuries or other third-party benefits in which the division has an interest may not be satisfied without first giving the division notice and a reasonable opportunity to file and satisfy the claim or proceed with any action as otherwise permitted by law.

7. The department of social services, MO HealthNet division or its contractor shall have a right to recover the amount of payments made to a provider under this chapter because of an injury, disease, or disability, or benefits arising from a health insurance plan to which the participant may be entitled for which a third party is or may be liable in contract, tort or otherwise under law or equity. Upon request by the MO HealthNet division, all third-party payers shall provide the MO HealthNet division with information contained in a 270/271 Health Care Eligibility Benefits Inquiry and Response standard transaction mandated under the federal Health Insurance Portability and Accountability Act, except that third-party payers shall not include accident-only, specified disease, disability income, hospital indemnity, or other fixed indemnity

insurance policies.

8. The department of social services or MO HealthNet division shall have a lien upon any moneys to be paid by any insurance company or similar business enterprise, person, corporation, institution, public agency or private agency in settlement or satisfaction of a judgment on any claim for injuries or disability or disease benefits arising from a health insurance program to which the participant may be entitled which resulted in medical expenses for which the department or MO HealthNet division made payment. This lien shall also be applicable to any moneys which may come into the possession of any attorney who is handling the claim for injuries, or disability or disease or benefits arising from a health insurance plan to which the participant may be entitled which resulted in payments made by the department or MO HealthNet division. In each case, a lien notice shall be served by certified mail or registered mail, upon the party or parties against whom the applicant or participant has a claim, demand or cause of action. The lien shall claim the charge and describe the interest the department or MO HealthNet division has in the claim, demand or cause of action. The lien shall attach to any verdict or judgment entered and to any money or property which may be recovered on account of such claim, demand, cause of action or suit from and after the time of the service of the notice.

9. On petition filed by the department, or by the participant, or by the defendant, the court, on written notice of all interested parties, may adjudicate the rights of the parties and enforce the charge. The court may approve the settlement of any claim, demand or cause of action either before or after a verdict, and nothing in this section shall be construed as requiring the actual trial or final adjudication of any claim, demand or cause of action upon which the department has charge. The court may determine what portion of the recovery shall be paid to the department against the recovery. In making this determination the court shall conduct an evidentiary hearing and shall consider competent evidence pertaining to the following matters:

(1) The amount of the charge sought to be enforced against the recovery when expressed as a percentage of the gross amount of the recovery; the amount of the charge sought to be enforced against the recovery when expressed as a percentage of the amount obtained by subtracting from the gross amount of the recovery the total attorney's fees and other costs incurred by the participant incident to the recovery; and whether the department should, as a matter of fairness and equity, bear its proportionate share of the fees and costs incurred to generate the recovery from which the charge is sought to be satisfied;

(2) The amount, if any, of the attorney's fees and other costs incurred by the participant incident to the recovery and paid by the participant up to the time of recovery, and the amount of such fees and costs remaining unpaid at the time of recovery;

(3) The total hospital, doctor and other medical expenses incurred for care and treatment of the injury to the date of recovery therefor, the portion of such expenses theretofore paid by the participant, by insurance provided by the participant, and by the department, and the amount of such previously incurred expenses which remain unpaid at the time of recovery and by whom such incurred, unpaid expenses are to be paid;

(4) Whether the recovery represents less than substantially full recompense for the injury and the hospital, doctor and other medical expenses incurred to the date of recovery for the care and treatment of the injury, so that reduction of the charge sought to be enforced against the recovery would not likely result in a double recovery or unjust enrichment to the participant;

(5) The age of the participant and of persons dependent for support upon the participant, the nature and permanency of the participant's injuries as they affect not only the future employability and education of

the participant but also the reasonably necessary and foreseeable future material, maintenance, medical rehabilitative and training needs of the participant, the cost of such reasonably necessary and foreseeable future needs, and the resources available to meet such needs and pay such costs;

(6) The realistic ability of the participant to repay in whole or in part the charge sought to be enforced against the recovery when judged in light of the factors enumerated above.

10. The burden of producing evidence sufficient to support the exercise by the court of its discretion to reduce the amount of a proven charge sought to be enforced against the recovery shall rest with the party seeking such reduction.

11. The court may reduce and apportion the department's or MO HealthNet division's lien proportionate to the recovery of the claimant. The court may consider the nature and extent of the injury, economic and noneconomic loss, settlement offers, comparative negligence as it applies to the case at hand, hospital costs, physician costs, and all other appropriate costs. The department or MO HealthNet division shall pay its pro rata share of the attorney's fees based on the department's or MO HealthNet division's lien as it compares to the total settlement agreed upon. This section shall not affect the priority of an attorney's lien under section 484.140, RSMo. The charges of the department or MO HealthNet division or contractor described in this section, however, shall take priority over all other liens and charges existing under the laws of the state of Missouri with the exception of the attorney's lien under such statute.

12. Whenever the department of social services or MO HealthNet division has a statutory charge under this section against a recovery for damages incurred by a participant because of its advancement of any assistance, such charge shall not be satisfied out of any recovery until the attorney's claim for fees is satisfied, **[**irrespective**] regardless** of whether **[**or not**]** an action based on participant's claim has been filed in court. Nothing herein shall prohibit the director from entering into a compromise agreement with any participant, after consideration of the factors in subsections 9 to 13 of this section.

13. This section shall be inapplicable to any claim, demand or cause of action arising under the workers' compensation act, chapter 287, RSMo. From funds recovered pursuant to this section the federal government shall be paid a portion thereof equal to the proportionate part originally provided by the federal government to pay for MO HealthNet benefits to the participant or minor involved. The department or MO HealthNet division shall enforce TEFRA liens, 42 U.S.C. 1396p, as authorized by federal law and regulation on permanently institutionalized individuals. The department or MO HealthNet division shall have the right to enforce TEFRA liens, 42 U.S.C. 1396p, as authorized by federal law and regulation on all other institutionalized individuals. For the purposes of this subsection, "permanently institutionalized individuals" includes those people who the department or MO HealthNet division determines cannot reasonably be expected to be discharged and return home, and "property" includes the homestead and all other personal and real property in which the participant has sole legal interest or a legal interest based upon co-ownership of the property which is the result of a transfer of property for less than the fair market value within thirty months prior to the **[**participant's**] participants** entering the nursing facility. The following provisions shall apply to such liens:

(1) The lien shall be for the debt due the state for MO HealthNet benefits paid or to be paid on behalf of a participant. The amount of the lien shall be for the full amount due the state at the time the lien is enforced;

(2) The MO HealthNet division shall file for record, with the recorder of deeds of the county in which any real property of the participant is situated, a written notice of the lien. The notice of lien shall contain

the name of the participant and a description of the real estate. The recorder shall note the time of receiving such notice, and shall record and index the notice of lien in the same manner as deeds of real estate are required to be recorded and indexed. The director or the director's designee may release or discharge all or part of the lien and notice of the release shall also be filed with the recorder. The department of social services, MO HealthNet division, shall provide payment to the recorder of deeds the fees set for similar filings in connection with the filing of a lien and any other necessary documents;

(3) No such lien may be imposed against the property of any individual prior to the individual's death on account of MO HealthNet benefits paid except:

(a) In the case of the real property of an individual:

a. Who is an inpatient in a nursing facility, intermediate care facility for the mentally retarded, or other medical institution, if such individual is required, as a condition of receiving services in such institution, to spend for costs of medical care all but a minimal amount of his or her income required for personal needs; and

b. With respect to whom the director of the MO HealthNet division or the director's designee determines, after notice and opportunity for hearing, that he cannot reasonably be expected to be discharged from the medical institution and to return home. The hearing, if requested, shall proceed under the provisions of chapter 536, RSMo, before a hearing officer designated by the director of the MO HealthNet division; or

(b) Pursuant to the judgment of a court on account of benefits incorrectly paid on behalf of such individual;

(4) No lien may be imposed under paragraph (b) of subdivision (3) of this subsection on such individual's home if one or more of the following persons is lawfully residing in such home:

(a) The spouse of such individual;

(b) Such individual's child who is under twenty-one years of age, or is blind or permanently and totally disabled; or

(c) A sibling of such individual who has an equity interest in such home and who was residing in such individual's home for a period of at least one year immediately before the date of the individual's admission to the medical institution;

(5) Any lien imposed with respect to an individual pursuant to subparagraph b of paragraph (a) of subdivision (3) of this subsection shall dissolve upon that individual's discharge from the medical institution and return home.

14. The debt due the state provided by this section is subordinate to the lien provided by section 484.130, RSMo, or section 484.140, RSMo, relating to an attorney's lien and to the participant's expenses of the claim against the third party.

15. Application for and acceptance of MO HealthNet benefits under this chapter shall constitute an assignment to the department of social services or MO HealthNet division of any rights to support for the purpose of medical care as determined by a court or administrative order and of any other rights to payment for medical care.

16. All participants receiving benefits as defined in this chapter shall cooperate with the state by

reporting to the family support division or the MO HealthNet division, within thirty days, any occurrences where an injury to their persons or to a member of a household who receives MO HealthNet benefits is sustained, on such form or forms as provided by the family support division or MO HealthNet division.

17. If a person fails to comply with the provision of any judicial or administrative decree or temporary order requiring that person to maintain medical insurance on or be responsible for medical expenses for a dependent child, spouse, or ex-spouse, in addition to other remedies available, that person shall be liable to the state for the entire cost of the medical care provided pursuant to eligibility under any public assistance program on behalf of that dependent child, spouse, or ex-spouse during the period for which the required medical care was provided. Where a duty of support exists and no judicial or administrative decree or temporary order for support has been entered, the person owing the duty of support shall be liable to the state for the entire cost of the medical care provided on behalf of the dependent child or spouse to whom the duty of support is owed.

18. The department director or the director's designee may compromise, settle or waive any such claim in whole or in part in the interest of the MO HealthNet program. Notwithstanding any provision in this section to the contrary, the department of social services, MO HealthNet division is not required to seek reimbursement from a liable third party on claims for which the amount it reasonably expects to recover will be less than the cost of recovery or for which recovery efforts will not be cost-effective. Cost-effectiveness is determined based on the following:

(1) Actual and legal issues of liability as may exist between the **[**recipient**] participant** and the liable party;

(2) Total funds available for settlement; and

(3) An estimate of the cost to the division of pursuing its claim.”; and

Further amend the title and enacting clause accordingly.

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

Senator Schmitt offered **SA 8**:

SENATE AMENDMENT NO. 8

Amend Senate Substitute for Senate Committee Substitute for House Bill No. 229, Page 5, Section 191.1005, Lines 22-28 of said page, by striking all of said lines; and

Further amend said bill and section, page 6, lines 1-28 of said page, by striking all of said lines; and

Further amend said bill and section, page 7, lines 1-15 of said page, by striking all of said lines and inserting in lieu thereof the following:

“**(17) All quality measures shall be endorsed by the National Quality Forum (NQF), or its successor organization. Where NQF-endorsed measures do not exist, the next level of measures to be considered, until such measures are endorsed by the National Quality Forum (NQF), or its successor organization, shall be those endorsed by the Ambulatory Care Quality Alliance, the National Committee for Quality Assurance, or the Joint Commission on the Accreditation of Healthcare Organizations, Healthcare Effectiveness and Data Information Set (HEDIS).**”.

Senator Schmitt moved that the above amendment be adopted.

Senator Dempsey offered **SSA 1** for **SA 8**, which was read:

SENATE SUBSTITUTE AMENDMENT NO. 1 FOR
SENATE AMENDMENT NO. 8

Amend Senate Substitute for Senate Committee Substitute for House Bill No. 229, Page 5, Section 191.1005, Lines 22-27, by striking all of said lines and inserting in lieu thereof the following:

"**(17) All quality measures shall be endorsed by the National Quality Forum (NQF), or its successor organization. Where NQF-endorsed measures do not exist, the next level of measures to be considered, until such measures are endorsed by the National Quality Forum (NQF), or its successor organization, shall be those endorsed by the Ambulatory Care Quality Alliance, the National Committee for Quality Assurance, or the Joint Commission on the Accreditation of Healthcare Organizations, Healthcare Effectiveness and Data Information Set (HEDIS).**"; and

Further amend said bill and section, page 6, line 20 by striking the word "January 1, 2010" and inserting in lieu thereof the following: "**January 1, 2011**".

Senator Dempsey moved that the above substitute amendment be adopted.

Senator Ridgeway offered **SA 1** to **SSA 1** for **SA 8**, which was read:

SENATE AMENDMENT NO. 1 TO
SENATE SUBSTITUTE AMENDMENT NO. 1 FOR
SENATE AMENDMENT NO. 8

Amend Senate Substitute Amendment No. 1 for Senate Amendment No. 8 to Senate Substitute for Senate Committee Substitute for House Bill No. 229, Page 1, Line 12, by inserting after the word "(HEDIS)" the following: "**, clinical societies and specialty associations relevant to a specific disease and clinical condition, or the Centers for Medicare and Medicaid Services**".

Senator Ridgeway moved that the above amendment be adopted.

At the request of Senator Dempsey, **HB 229**, with **SCS**, **SS** for **SCS**, **SA 8**, **SSA 1** for **SA 8** and **SA 1** to **SSA 1** for **SA 8** (pending), was placed on the Informal Calendar.

MESSAGES FROM THE HOUSE

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

Mr. President: I am instructed by the House of Representatives to inform the Senate that the House has taken up and passed **SB 513**.

With House Amendment No. 1 to House Amendment No. 1, House Amendment No. 1, as amended.

HOUSE AMENDMENT NO. 1 TO
HOUSE AMENDMENT NO. 1

Amend House Amendment 1 to Senate Bill No. 513, Section 67.281, Page 1, Line 4 by inserting after the word "**of**" on said line the following:

"**newly constructed**"; and

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

HOUSE AMENDMENT NO. 1

Amend Senate Bill No. 513, Page 1, Section A, Line 2, by inserting after all of said line the following:

"**67.281. On or before the date of entering into a purchase contract, any builder of single-family dwellings or residences or multifamily dwellings of four or fewer units shall offer to any purchaser the option to install or equip such dwellings or residences with a fire sprinkler system at the purchaser's cost. Notwithstanding any other provision of law to the contrary, no code, order, ordinance, rule, regulation, or resolution adopted by any political subdivision shall be construed to deny any purchaser of any such dwelling or residence the option to choose or decline the installation or equipping of such dwelling or residence with a fire sprinkler system. Any code, order, ordinance, rule, regulation, or resolution adopted by any political subdivision shall include a provision requiring each builder to provide each purchaser of any such dwelling or residence with the option of purchasing a fire sprinkler system for such dwelling or residence. This section shall expire on December 31, 2011.**"; and

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

In which the concurrence of the Senate is respectfully requested.

Also,

Mr. President: I am instructed by the House of Representatives to inform the Senate that the Speaker has appointed the following conference committee to act with a like committee from the Senate on **SCS** for **HB 91**. Representatives: Pollock, Silvey, Fallert, Day and Kirkton.

Also,

Mr. President: I am instructed by the House of Representatives to inform the Senate that the Speaker has appointed the following conference committee to act with a like committee from the Senate on **SCS** for **HB 269**, as amended. Representatives: Parson, Talboy, Jones (117), Cox and Calloway.

Also,

Mr. President: I am instructed by the House of Representatives to inform the Senate that the House refuses to adopt **SS** for **SCS** for **HB 395**, as amended, and requests the Senate to recede from its position and failing to do so grant the House a conference thereon.

CONFERENCE COMMITTEE APPOINTMENTS

President Pro Tem Shields appointed the following conference committee to act with a like committee from the House on **SCS No. 2** for **HCS** for **HB 148**: Senators Griesheimer, Lager, Schmitt, McKenna and Shoemyer.

President Pro Tem Shields appointed the following conference committee to act with a like committee from the House on **SCS** for **HB 269**, as amended: Senators Scott, Griesheimer, Pearce, Days and Barnitz.

President Pro Tem Shields appointed the following conference committee to act with a like committee from the House on **SCS** for **HB 91**: Senators Purgason, Crowell, Griesheimer, Green and Barnitz.

President Pro Tem Shields appointed the following conference committee to act with a like committee from the House on **SCS** for **HCS** for **HB 265**: Senators Crowell, Mayer, Cunningham, Days and Green.

HOUSE BILLS ON SECOND READING

The following Bills and Joint Resolutions were read the 2nd time and referred to the Committees indicated:

HCS for **HBs 568** and **534**—Financial and Governmental Organizations and Elections.

HCS for **HB 657**—Agriculture, Food Production and Outdoor Resources.

HCS for **HBs 64** and **545**—Ways and Means.

HJR 15—General Laws.

HJR 17—Appropriations.

HJR 11—General Laws.

HCS for **HB 958**—Ways and Means.

HOUSE BILLS ON THIRD READING

HCS for **HB 495**, with **SCS**, entitled:

An Act to repeal sections 190.308 and 392.460, RSMo, and to enact in lieu thereof two new sections relating to telecommunications, with a penalty provision.

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

SCS for **HCS** for **HB 495**, entitled:

SENATE COMMITTEE SUBSTITUTE FOR
HOUSE COMMITTEE SUBSTITUTE FOR
HOUSE BILL NO. 495

An Act to repeal sections 190.308 and 392.460, RSMo, and to enact in lieu thereof three new sections relating to telecommunications, with a penalty provision.

Was taken up.

Senator Griesheimer moved that **SCS** for **HCS** for **HB 495** be adopted.

Senator Griesheimer offered **SS** for **SCS** for **HCS** for **HB 495**, entitled:

SENATE SUBSTITUTE FOR
SENATE COMMITTEE SUBSTITUTE FOR
HOUSE COMMITTEE SUBSTITUTE FOR
HOUSE BILL NO. 495

An Act to repeal sections 190.308 and 392.460, RSMo, and to enact in lieu thereof three new sections relating to telecommunications, with a penalty provision.

Senator Griesheimer moved that **SS** for **SCS** for **HCS** for **HB 495** be adopted.

Senator Scott 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. 495, Page 9, Section 392.600, Line 25, by placing after said line the following:

"5. Any telecommunications provider which benefits financially from the reductions required under this section, shall, for the next five years, invest all said savings in cell phone towers and their technology in Missouri "rural service areas" as defined by the FCC (Federal Communications Commission)."

Senator Scott moved that the above amendment be adopted.

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

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

Amend Senate Substitute for Senate Committee Substitute for House Committee Substitute for House Bill No. 495, Pages 8-9, Section 392.600, by striking all of said section from the bill; and

Further amend the title and enacting clause accordingly.

Senator Rupp moved that the above substitute amendment be adopted, which motion failed on a standing division vote.

Senator Dempsey assumed the Chair.

Senator Griesheimer offered **SSA 2** for **SA 1**:

SENATE SUBSTITUTE AMENDMENT NO. 2 FOR
SENATE AMENDMENT NO. 1

Amend Senate Substitute for Senate Committee Substitute for House Committee Substitute for House Bill No. 495, Page 9, Section 392.600, Line 25, by inserting after all of said line the following:

"**5. Any telecommunications provider which benefits financially from the reductions required under this section shall invest in wireless or other technology to benefit Missouri rural service areas, as the term "rural service area" is defined by the Federal Communications Commission.**".

Senator Griesheimer moved that the above substitute amendment be adopted.

Senator Scott offered **SA 1** to **SSA 2** for **SA 1**, which was read:

SENATE AMENDMENT NO. 1 TO
SENATE SUBSTITUTE AMENDMENT NO. 2 FOR
SENATE AMENDMENT NO. 1

Amend Senate Substitute Amendment No. 2 for Senate Amendment No. 1 to Senate Substitute for Senate Committee Substitute for House Committee Substitute for House Bill No. 495, Page 1, Section 392.600, Line 4, by deleting lines 5, 6, and 7 and replace in lieu thereof the following: "for the next five years all said savings in wireless towers or other technology in Missouri rural service areas, as the term "rural service area" is defined by the Federal Communications Commission.".

Senator Scott moved that the above amendment be adopted.

At the request of Senator Griesheimer, **HCS** for **HB 495**, with **SCS**, **SS** for **SCS**, **SA 1**, **SSA 2** for **SA 1** and **SA 1** to **SSA 2** for **SA 1** (pending), was placed on the Informal Calendar.

RESOLUTIONS

Senator Barnitz offered Senate Resolution No. 997, regarding Debbie Roach, Newburg, which was adopted.

Senator Cunningham offered Senate Resolution No. 998, regarding David A. Terschluse, MD, Chesterfield, which was adopted.

Senator Crowell offered Senate Resolution No. 999, regarding Yvonne M. Campbell, Kelso, which

was adopted.

Senator Crowell offered Senate Resolution No. 1000, regarding Patricia Heisserer, Cape Girardeau, which was adopted.

Senator Crowell offered Senate Resolution No. 1001, regarding Shawn Brooks, Cape Girardeau, which was adopted.

Senator Crowell offered Senate Resolution No. 1002, regarding Susan Cook, Cape Girardeau, which was adopted.

Senator Crowell offered Senate Resolution No. 1003, regarding Jeremy T. Barnes, Ph.D., which was adopted.

Senator Goodman offered Senate Resolution No. 1004, regarding Blue Eye High School students, Zach Taillon and Erika Pluff, which was adopted.

Senator Wright-Jones offered Senate Resolution No. 1005, regarding the death of Mary Jane Phillips, Saint Louis, which was adopted.

INTRODUCTIONS OF GUESTS

Senator Clemens introduced to the Senate, Danielle Bellis, Aurora.

Senator Griesheimer introduced to the Senate, Franklin County Clerk Debbie Door, her son, Brian, his wife, Brandy and their son, Taylor, Union; and Taylor was made an honorary page.

Senator Crowell introduced to the Senate, seventh and eighth grade students from St. Augustine School, Scott City.

Senator Bray introduced to the Senate, Mary Kurth, Karrie Peters, parents and forty-four fourth grade students from Remington Traditional School, Maryland Heights; and Devin Kennedy, Evan McFarland, Alyssa Reyes and Erykah White were made honorary pages.

Senator Griesheimer introduced to the Senate, Karen Tucker, parents, teachers and fourteen fifth and sixth grade students from St. Ignatius Catholic School, Concord Hill.

Senator Bray introduced to the Senate, Assistant Principal Philip Rone, coaches Kelvin Lee, Doug Taylor and members of the Class 5 State Champion Chaminade High School "Red Devils" basketball team, St. Louis.

Senator Green introduced to the Senate, Germaine Stewart, adults and forty-one fourth grade students from Gibson Elementary School, St. Louis; and Kasey Taylor, Tyarra Todd and Trazaughn Watson were made honorary pages.

Senator Shields introduced to the Senate, Jenny Brown, Nicole Hinckley, Stephanie Jones and sixty-eight fourth grade students from Hyde Elementary School, St. Joseph.

Senator Scott introduced to the Senate, Chad Puckett and Janice Block, Jake Lampson, James Ritche, Jaclyn Jamison, Brandi Beaker and Christen Booth from the Show-Me Christian Youth Home, La Monte.

Senator Barnitz introduced to the Senate, Kathy Alexander and Donna McLinn, Crawford County.

Senator Goodman introduced to the Senate, thirty eighth grade students from Reeds Spring Middle School.

Senator Lembke introduced to the Senate, Madeline Peters, Affton; her daughter, Mary Anderson, and her children, Madison, Tori, Christopher and Jacob, Ballwin.

Senator Pearce introduced to the Senate, Athletic Director Jerry Hughes, Head Coach Kim Anderson and members of the University of Central Missouri men's basketball team, Tyler Oakley, Josiah Miller, Tyler Richardson, D.J. Slifer, Nathan Frazier, Victor Lee, Joe Young, Esian Henderson, Alex Moosmann, De′Andre Byrd, Sanijay Watts, Tremaine Luellen and Zach Redel.

Senator Scott introduced to the Senate, Dallas Dieckman, Ashley Renck, Kylie Dicket and Bailey O'Reilly, representatives of University of Central Missouri Collegiate Farm Bureau.

Senator Bray introduced to the Senate, the Physician of the Day, Dr. Jeffrey Craver, M.D., Clayton.

Senator Wright-Jones introduced to the Senate, former State Representative Quincy Troupe, St. Louis.

Senator Mayer introduced to the Senate, Brenda Hildrich, Naomi Yandell and Jim Swinger, Poplar Bluff.

Senator Wright-Jones introduced to the Senate, Alderwoman Kacie Starr Triplett and Alderman Antonio French, St. Louis.

Senator Shoemyer introduced to the Senate, his sister, Tammy Ratliff, Shelbina.

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

SENATE CALENDAR

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SIXTY-FIRST DAY–WEDNESDAY, APRIL 29, 2009

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FORMAL CALENDAR

THIRD READING OF SENATE BILLS

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

SENATE BILLS FOR PERFECTION

SB 569-Lembke, with SCS

HOUSE BILLS ON THIRD READING

HB 65-Wilson (119), et al (Pearce) (In Fiscal Oversight)
HCS for HB 82, with SCS (Pearce) (In Fiscal Oversight)
HCS for HB 205, with SCS (Goodman)
HCS for HB 740 (Nodler)

INFORMAL CALENDAR

SENATE BILLS FOR PERFECTION

SB 7-Griesheimer, with SS (pending)
SB 18-Bray, et al, with SCS & SS for SCS (pending)
SB 29-Stouffer
SBs 45, 212, 136, 278, 279, 285 & 288-Pearce and Smith, with SCS & SS#3 for SCS (pending)
SB 57-Stouffer, with SCS & SA 1 (pending)
SB 72-Stouffer, with SCS
SB 94-Justus, et al, with SCS & SS for SCS (pending)
SB 174-Griesheimer and Goodman, with SCS, SS#2 for SCS & SA 2 (pending)
SCS for SB 189-Shields
SBs 223 & 226-Goodman and Nodler, with SCS & SA 1 (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 236-Lembke
SB 254-Barnitz, with SS (pending)
SBs 261, 159, 180 & 181-Bartle and Goodman, with SCS & SS#3 for SCS (pending)
SB 264-Mayer
SB 267-Mayer and Green, with SA 1 (pending)
SB 284-Lembke, et al, with SA 1 (pending)
SB 299-Griesheimer, with SCS & SS for SCS (pending)
SB 321-Days, et al, with SCS (pending)
SB 364-Clemens and Schaefer
SB 409-Stouffer, with SCS (pending)
SB 477-Wright-Jones, with SS (pending)
SB 527-Nodler and Bray
SB 555-Lager, with SCS, SS for SCS & SA 2 (pending)
SB 572-Dempsey and Justus
SJR 12-Scott, with SCS (pending)

HOUSE BILLS ON THIRD READING

HCS for HBs 128 & 340, with SA 1 (pending) (Scott)
SS for HCS for HB 154 (Shields) (In Fiscal Oversight)
HCS for HB 191, with SCS & SS for SCS (pending) (Griesheimer)
HB 229-Ervin, with SCS, SS for SCS, SA 8, SSA 1 for SA 8 & SA 1 to SSA 1 for SA 8 (pending) (Dempsey)
HB 287-Day, et al, with SS (pending) (Mayer)
SS for SCS for HB 376-Hobbs, et al (Griesheimer) (In Fiscal Oversight)
HCS for HB 481 (Lembke)
HB 488-Schad, et al, with SCS (pending) (Pearce)
HCS for HB 495, with SCS, SS for SCS, SA 1, SSA 2 for SA 1 & SA 1 to SSA 2 for SA 1 (pending) (Griesheimer)
HB 659-Dusenberg, et al, with SCS (Bartle)
HB 683-Schieffer, et al, with SCS (Stouffer)
HB 709-Dusenberg, et al (Bartle)
HCS for HJR 10 (Lembke)

CONSENT CALENDAR

House Bills

Reported 4/9

HCS for HB 251 (Clemens)
HB 210-Deeken (Crowell)
HB 400-Nasheed, et al (Smith)
HB 593-Viebrock (Crowell)
HB 678-Wasson (Goodman)
HB 537-Dixon, et al (Wright-Jones)

Reported 4/14

HB 83-Wood, with SCS (Goodman)
HCS for HB 124 (McKenna)
HB 282-Stevenson, et al (Nodler)
HB 652-Pratt (Bartle)
HB 698-Zimmerman, et al (Schmitt)
HCS for HB 895 (Stouffer)
HB 918-Kelly (Schaefer)
HB 919-Ruestman, et al (Goodman)

Reported 4/15

HCS for HB 525 (Schmitt)
HCS for HB 231 (Rupp)
HB 826-Brown (149), et al (Lembke)
HCS for HB 685 (Goodman)
HB 811-Wasson (Scott)
HCS for HB 273 (Scott)
HCS for HB 485 (Mayer)
HB 859-Dieckhaus, et al (Griesheimer)
HB 283-Wood, with SCS (Goodman)
HCS for HBs 234 & 493 (Shoemyer)
HB 289-Wallace (Mayer)
HB 373-Wallace, with SCS (Mayer)
HB 490-Schad, et al (Pearce)
HB 682-Swinger, et al (Mayer)

SENATE BILLS WITH HOUSE AMENDMENTS

SS for SB 307-Dempsey, with HCS, as amended
SB 513-Dempsey, with HA 1, as amended
SB 526-Clemens, with HA 1, HA 2, HA 3 & HA 4

BILLS IN CONFERENCE AND BILLS CARRYING REQUEST MESSAGES

In Conference

HCS for HB 2, with SS for SCS (Nodler)
HCS for HB 3, with SS for SCS (Nodler)
HCS for HB 4, with SCS (Nodler)
HCS for HB 5, with SCS (Nodler)

HCS for HB 6, with SCS (Nodler)
HCS for HB 7, with SCS (Nodler)
HCS for HB 8, with SCS (Nodler)
HCS for HB 9, with SCS (Nodler)
HCS for HB 10, with SCS (Nodler)
HCS for HB 11, with SCS (Nodler)
HCS for HB 12, with SCS (Nodler)
HB 13-Icet, with SCS (Nodler)
HB 91-Pollock, with SCS (Purgason)
HCS for HB 148, with SCS#2 (Griesheimer)
HCS for HB 265, with SCS (Crowell)
HB 269-Parson, et al, with SCS, as amended (Scott)
HCS for HB 397 & HCS for HB 947, with SCS (Ridgeway)

Requests to Recede or Grant Conference

SCS for SB 242-Pearce, with HCS, as amended (Senate requests House recede or grant conference)
HB 395-Nance, et al, with SS for SCS, as amended (Stouffer) (House requests Senate recede or grant conference)

RESOLUTIONS

Reported from Committee

SR 141-Engler, with point of order (pending)
SCR 7-Pearce
SR 207-Lembke and Smith, with SCS & SS for SCS (pending)
SCR 11-Bartle, et al
SCR 14-Schmitt
SCR 21-Clemens
SCR 10-Rupp
SCR 18-Bartle and Rupp
SCR 23-Schmitt
HCS for HCR 16
SCR 13-Pearce
SCR 27-Rupp

To be Referred

SCR 28-Stouffer

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