

Journal of the Senate

FIRST REGULAR SESSION

SEVENTY-FIRST DAY—WEDNESDAY, MAY 22, 2013

The Senate met pursuant to adjournment.

President Pro Tem Dempsey in the Chair.

REPORTS OF STANDING COMMITTEES

On behalf of Senator Richard, Chairman of the Committee on Rules, Joint Rules, Resolutions and Ethics, Senator Dempsey submitted the following reports:

Mr. President: Your Committee on Rules, Joint Rules, Resolutions and Ethics, to which were referred **CCS No. 2** for **HCS** for **SCS** for **SB 9**; **SS** for **SCS** for **SB 29**; **CCS** for **SCS** for **SB 33**; **CCS** for **HCS** for **SS** for **SB 34**; **SB 35**; **CCS** for **SCS** for **SB 36**; **CCS** for **HCS** for **SCS** for **SB 42**; **SCS** for **SB 47**; **SB 58**; **SCS** for **SB 69**; **SB 72**; **HCS** for **SB 73**; **SB 77**; **HCS** for **SCS** for **SB 89**; **CCS** for **HCS** for **SB 100**; **CCS** for **SCS** for **SB 106**; **HCS** for **SB 110**; **HCS** for **SS** for **SCS** for **SB 116**; **CCS** for **HCS** for **SCS** for **SB 117**; **HCS** for **SCS** for **SB 118**; **SS** for **SCS** for **SB 121**; **SS** for **SCS** for **SB 125**; **SCS** for **SB 126**; **CCS** for **HCS** for **SB 127**; **SS** for **SCS** for **SB 129**; **HCS** for **SB 148**; **CCS** for **HCS** for **SCS** for **SB 157** and **SB 102**; **SS** for **SCS** for **SB 159**; **CCS** for **HCS** for **SB 161**; **SB 170**; **HCS** for **SCS** for **SB 186**; **SB 197**; **HCS** for **SB 205**; **SB 208**; **SB 216**; **CCS** for **SCS** for **SB 224**; **HCS** for **SCS** for **SB 229**; **SB 230**; **SB 236**; **CCS** for **SCS** for **SB 248**; **SS** for **SB 251**; **HCS** for **SS** for **SB 252**; **SCS** for **SB 254**; **CCS** for **HCS** for **SCS** for **SB 256**; **SB 257**; **SCS** for **SB 258**; **SB 265**; **SS** for **SB 267**; **HCS** for **SS** for **SB 282**; **CCS** for **SB 327**; **CCS No. 2** for **HCS** for **SB 330**; **CCS** for **HCS** for **SB 342**; **SS** for **SB 357**; and **SCS** for **SB 381**, begs leave to report that it has examined the same and finds that the bills have been duly enrolled and that the printed copies furnished the Senators are correct.

SIGNING OF BILLS

The President Pro Tem announced that all other business would be suspended and **CCS No. 2** for **HCS** for **SCS** for **SB 9**; **SS** for **SB 28**; **SS** for **SCS** for **SB 29**; **CCS** for **SCS** for **SB 33**; **CCS** for **HCS** for **SS** for **SB 34**; **SB 35**; **CCS** for **SCS** for **SB 36**; **CCS** for **HCS** for **SCS** for **SB 42**; **SCS** for **SB 47**; **SB 58**; **SCS** for **SB 69**; **SB 72**; **HCS** for **SB 73**; **SB 77**; **HCS** for **SCS** for **SB 89**; **CCS** for **HCS** for **SB 100**; **CCS** for **SCS** for **SB 106**; **HCS** for **SB 110**; **HCS** for **SS** for **SCS** for **SB 116**; **CCS** for **HCS** for **SCS** for **SB 117**; **HCS** for **SCS** for **SB 118**; **SS** for **SCS** for **SB 121**; **SS** for **SCS** for **SB 125**; **SCS** for **SB 126**; **CCS** for **HCS** for **SB 127**; **SS** for **SCS** for **SB 129**; **HCS** for **SB 148**; **CCS** for **HCS** for **SCS** for **SB 157** and **SB 102**; **SS** for **SCS** for **SB 159**; **CCS** for **HCS** for **SB 161**; **SB 170**; **HCS** for **SCS** for **SB 186**; **HCS** for **SB 188**; **SB 197**; **HCS** for **SB 205**; **SB 208**; **SB 216**; **CCS** for **SCS** for **SB 224**; **HCS** for **SCS** for **SB 229**; **SB 230**; **SB 236**;

CCS for SCS for **SB 248**; SS for **SB 251**; HCS for SS for **SB 252**; SCS for **SB 254**; CCS for HCS for SCS for **SB 256**; **SB 257**; SCS for **SB 258**; **SB 265**; SS for **SB 267**; HCS for SS for **SB 282**; CCS for **SB 327**; **CCS No. 2** for HCS for **SB 330**; CCS for HCS for **SB 342**; SS for **SB 357**; and SCS for **SB 381**, having passed both branches of the General Assembly, would be read at length by the Secretary, and if no objections be made, the bills would be signed by the President Pro Tem to the end that they may become law. No objections being made, the bills were so read by the Secretary and signed by the President Pro Tem.

Also,

The President Pro Tem announced that all other business would be suspended and **CCS No. 2** for SS for HCS for **HJR 11** and **7**; SCS for **HJR 16**; SCS for HCS for **HB 1**; CCS for SCS for HCS for **HB 3**; CCS for SCS for HCS for **HB 4**; CCS for SCS for HCS for **HB 5**; CCS for SCS for HCS for **HB 6**; CCS for SCS for HCS for **HB 7**; CCS for SCS for HCS for **HB 8**; CCS for SCS for HCS for **HB 9**; CCS for SCS for HCS for **HB 10**; CCS for SCS for HCS for **HB 12**; SCS for HCS for **HB 13**; SCS for HCS for **HB 17**; SCS for **HB 18**; SS for SCS for HCS for **HB 19**; SS for SCS for HCS for **HB 28**; **SS No. 2** for **HB 34**; SS for HCS for **HB 58**; **HB 68**; CCS for SS for SCS for HCS for **HB 117**; **HB 133**; SS for SCS for **HB 142**; SCS for **HB 148**; HCS for **HB 159**; SS for SCS for HCS for **HB 175**; SCS for **HB 196**; **HB 212**; SCS for HCS for **HB 233**; HCS for **HB 235**; **HB 278**; SCS for **HB 301**; SCS for HCS for **HBs 303** and **304**; CCS for SS for SCS for **HB 307**; SS for HCS for **HB 315**; **HB 316**; SCS for **HB 329**; SS for **HB 331**; CCS for SS for **HB 336**; **HB 339**; SS for SCS for HCS for **HB 345**; HCS for **HB 349**; **HB 400**; HCS for **HB 418**; SS for SCS for **HB 428**; **HB 432**; SCS for HCS for **HB 436**; HCS for **HBs 446** and **211**; **HB 451**; **HB 478**; SCS for **HB 498**; **HB 510**; SS for SCS for **HB 542**; HCS for **HB 656**; **HB 673**; HCS for **HB 675**; **HB 702**; **HB 715**; and SCS for HCS for **HB 722**, having passed both branches of the General Assembly, would be read at length by the Secretary, and if no objections be made, the joint resolutions and bills would be signed by the President Pro Tem to the end that they may become law. No objections being made, the bills were so read by the Secretary and signed by the President Pro Tem.

OBJECTIONS

Senator Justus submitted the following:

Mr. President,

I object to the signing of the CONFERENCE COMMITTEE SUBSTITUTE FOR SENATE COMMITTEE SUBSTITUTE FOR HOUSE COMMITTEE SUBSTITUTE FOR HOUSE BILL NO. 2 for the following reason:

While no motion was made and adopted to allow the HB 2 conference committee to exceed the differences with regard to any provision of HB 2, there is no question that the CCS/SCS/HCS/HB 2 exceeds the differences between the two chambers' versions of the act.

Specifically:

HB 2, Section 2.015 Early Childhood Special Education:

Both House and Senate versions derive funding for Section 2.015 from the State Schools Money Fund; the CCS version utilizes the Missouri Senior Protection Fund (which does not exist) in order to fund Section 2.015.

HB 2, Section 2.175 First Steps:

Both House and Senate versions derive funding for Section 2.175 from General Revenue; the CCS version utilizes the Missouri Senior Protection Fund (which does not exist) in order to fund Section 2.175.

While neither the Rules of the Missouri Senate nor the Missouri Constitution contain any provision relating to conference committees exceeding the differences, however, Rule 97 of the Rules of the Missouri Senate provides, "In cases not provided for in these rules, the senate shall be governed by the rules laid down in the practice and procedures adopted by the Senate of the United States and Jefferson's Manual..."

Rule XXVIII of the U.S. Senate Rule provides as follows,

1...

(b) If matter which was agreed to by both Houses is stricken from the bill a point of order may be made against the report, and if the point of order is sustained, the report is rejected or shall be recommitted to the committee of conference if the House of Representatives has not already acted thereon.

(c) If new matter is inserted in the report, a point of order may be made against the conference report and it shall be disposed of as provided under paragraph 4.

3. *(a) In any case in which a disagreement to an amendment in the nature of a substitute has been referred to conferees-*

(1) it shall be in order for the conferees to report a substitute on the same subject matter;

(2) the conferees may not include in the report matter not committed to them by either House; and

(3) the conferees may include in their report in any such case matter which is a germane modification of subjects in disagreement.

(b) In any case in which the conferees violate subparagraph (a), a point of order may be made against the conference report and it shall be disposed of as provided under paragraph 4.

4. *(a) A Senator may raise a point of order that one or more provisions of a conference report violates paragraph 2 or paragraph 3, as the case may be. The Presiding Officer may sustain the point of order as to some or all of the provisions against which the Senator raised the point of order.*

(b) If the Presiding Officer sustains the point of order as to any of the provisions against which the Senator raised the point of order, then those provisions against which the Presiding Officer sustains the point of order shall be stricken. After all other points of order under this paragraph have been disposed of-

(1) the Senate shall proceed to consider the question of whether the Senate should recede from its amendment to the House bill, or its disagreement to the amendment of the House, and concur with a further amendment, which further amendment shall consist of only that portion of the conference report that has not been stricken;

(2) the question in clause (1) shall be decided under the same debate limitation as the conference report; and

(3) no further amendment shall be in order.

According to Jefferson's Manual, "The conferees may argue in support of what is done in their House, but not against it, *nor assent to any new thing there propounded*, till their House be informed and agree to it." Sec. XL VI

Furthermore, as stated by Riddick:

Conferees may not add new matter not committed to them in a conference by either House; a conference report may not include new "matter entirely irrelevant to the subject matter" not contained in the House or Senate-passed versions of a measure as distinct from a substitute therefor... If conferees exceed their authority with respect to any matter, the report of the conferees is subject to a point of order.

Riddick, Page 484.

Because the CONFERENCE COMMITTEE SUBSTITUTE FOR SENATE COMMITTEE SUBSTITUTE FOR HOUSE COMMITTEE SUBSTITUTE FOR HOUSE BILL NO. 2 exceeds the differences without leave of the body, I hereby object to the signing of this conference committee substitute and request that this objection be printed in the Journal of the Senate and accompany the bill when the bill is so signed and delivered to the Governor.

Very Best Regards,
/s/ Jolie Justus
Senator Jolie Justus
10th District

Also,

Mr. President,

I object to the signing of the CONFERENCE COMMITTEE SUBSTITUTE FOR SENATE COMMITTEE SUBSTITUTE FOR HOUSE COMMITTEE SUBSTITUTE FOR HOUSE BILL NO. 11 for the following reason:

While no motion was made and adopted to allow the HB 11 conference committee to exceed the differences with regard to any provision of HB 11, there is no question that the CCS/SCS/HCS/HB 11 exceeds the differences between the two chambers' versions of the act.

Specifically:

HB 11, Section 11.520: Federally Qualified Health Care Clinics:

Both House and Senate versions of HB 11 utilize funding from General Revenue in order to fund Section 11.520; the CCS version utilizes the Missouri Senior Protection Fund (which does not exist) in order to fund Section 11.520.

While neither the Rules of the Missouri Senate nor the Missouri Constitution contain any provision relating to conference committees exceeding the differences, however, Rule 97 of the Rules of the Missouri Senate provides, "In cases not provided for in these rules, the senate shall be governed by the rules laid down in the practice and procedures adopted by the Senate of the United States and Jefferson's Manual..."

Rule XXVIII of the U.S. Senate Rule provides as follows,

1...

(b) If matter which was agreed to by both Houses is stricken from the bill a point of order may be made against the report, and if the point of order is sustained, the report is rejected or shall be recommitted to the committee of conference if the House of Representatives has not already acted thereon.

(c) If new matter is inserted in the report, a point of order may be made against the conference report and it shall be disposed of as provided under paragraph 4.

3. (a) In any case in which a disagreement to an amendment in the nature of a substitute has been referred to conferees-

(1) it shall be in order for the conferees to report a substitute on the same subject matter;

(2) the conferees may not include in the report matter not committed to them by either House; and

(3) the conferees may include in their report in any such case matter which is a germane modification of subjects in disagreement.

(b) In any case in which the conferees violate subparagraph (a), a point of order may be made against the conference report and it shall be disposed of as provided under paragraph 4.

4. (a) A Senator may raise a point of order that one or more provisions of a conference report violates paragraph 2 or paragraph 3, as the case may be. The Presiding Officer may sustain the point of order as to some or all of the provisions against which the Senator raised the point of order.

(b) If the Presiding Officer sustains the point of order as to any of the provisions against which the Senator raised the point of order, then those provisions against which the Presiding Officer sustains the point of order shall be stricken. After all other points of order under this paragraph have been disposed of-

(1) the Senate shall proceed to consider the question of whether the Senate should recede from its amendment to the House bill, or its disagreement to the amendment of the House, and concur with a further amendment, which further amendment shall consist of only that portion of the conference report that has not been stricken;

(2) the question in clause (1) shall be decided under the same debate limitation as the conference report; and

(3) no further amendment shall be in order.

According to Jefferson's Manual, "The conferees may argue in support of what is done in their House, but not against it, *nor assent to any new thing there propounded, till their House be informed and agree to it.*" Sec. XL VI

Furthermore, as stated by Riddick:

Conferees may not add new matter not committed to them in a conference by either House; a conference report may not include new "matter entirely irrelevant to the subject matter" not contained in the House or Senate-passed versions of a measure as distinct from a substitute therefor...If conferees exceed their authority with respect to any matter, the report of the conferees is subject to a point of order.

Riddick, Page 484.

Because the CONFERENCE COMMITTEE SUBSTITUTE FOR SENATE COMMITTEE SUBSTITUTE FOR HOUSE COMMITTEE SUBSTITUTE FOR HOUSE BILL NO. 11 exceeds the differences without leave of the body, I hereby object to the signing of this conference committee substitute and request that this objection be printed in the Journal of the Senate and accompany the bill when the bill is so signed

and delivered to the Governor.

Very Best Regards,
/s/ Jolie Justus
Senator Jolie Justus
10th District

SIGNING OF BILLS

The President Pro Tem announced that all other business would be suspended and **CCS for SCS for HCS for HB 2** and **CCS for SCS for HCS for HB 11**, having passed both branches of the General Assembly, would be read at length by the Secretary, and, the objections notwithstanding, the bills would be signed by the President Pro Tem to the end that they may become law. The bills were so read by the Secretary and signed by the President Pro Tem.

BILLS DELIVERED TO THE GOVERNOR

CCS No. 2 for HCS for SCS for SB 9; SS for SB 28; SS for SCS for SB 29; CCS for SCS for SB 33; CCS for HCS for SS for SB 34; SB 35; CCS for SCS for SB 36; CCS for HCS for SCS for SB 42; SCS for SB 47; SB 58; SCS for SB 69; SB 72; HCS for SB 73; SB 77; HCS for SCS for SB 89; CCS for HCS for SB 100; CCS for SCS for SB 106; HCS for SB 110; HCS for SS for SCS for SB 116; CCS for HCS for SCS for SB 117; HCS for SCS for SB 118; SS for SCS for SB 121; SS for SCS for SB 125; SCS for SB 126; CCS for HCS for SB 127; SS for SCS for SB 129; HCS for SB 148; CCS for HCS for SCS for SB 157 and SB 102; SS for SCS for SB 159; CCS for HCS for SB 161; SB 170; HCS for SCS for SB 186; HCS for SB 188; SB 197; HCS for SB 205; SB 208; SB 216; CCS for SCS for SB 224; HCS for SCS for SB 229; SB 230; SB 236; CCS for SCS for SB 248; SS for SB 251; HCS for SS for SB 252; SCS for SB 254; CCS for HCS for SCS for SB 256; SB 257; SCS for SB 258; SB 265; SS for SB 267; HCS for SS for SB 282; CCS for SB 327; CCS No. 2 for HCS for SB 330; CCS for HCS for SB 342; SS for SB 357; and SCS for SB 381, after having been duly signed by the Speaker of the House of Representatives in open session, were delivered to the Governor by the Secretary of the Senate.

COMMUNICATIONS

President Pro Tem Dempsey submitted the following:

May 22, 2013

The Honorable Bob Dixon, Chairman
Standing Committee on the Judiciary and Civil and Criminal Jurisprudence
State Capitol, Room 332
Jefferson City, MO 65101

Dear Senator Dixon:

Please be advised that, pursuant to Senate Rule 31, the Standing Committee on the Judiciary and Civil and Criminal Jurisprudence is authorized to meet during the interim of the First Regular Session and the Second Regular Session of the 97th General Assembly to consider the following:

1. Revision of the Missouri Criminal Code.
2. Organization of the State Judiciary, including judicial resources, and the justice system.
3. State Public Defender system.
4. Comprehensive review of court costs, fees, miscellaneous charges and surcharges.

The actual and necessary expenses of the Committee shall be paid in accordance with the stipulations outlined in Senate Rule 31.

Sincerely,
/s/ Tom Dempsey
Tom Dempsey

RESOLUTIONS

On behalf of Senator McKenna, Senator Dempsey offered Senate Resolution No. 1048, regarding Ronald Navratil, Crystal City, which was adopted.

On motion of Senator Dempsey, the Senate adjourned until 9:00 a.m., Thursday, May 30, 2013.

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