

Journal of the Senate
NINETY-NINTH GENERAL ASSEMBLY
OF THE
STATE OF MISSOURI
FIRST REGULAR SESSION
VETO SESSION

WEDNESDAY, SEPTEMBER 13, 2017

The Senate was called to order in Veto Session by Lieutenant Governor Mike Parson.

Reverend Carl Gauck offered the following prayer:

“Our competence is from God.” (2 Corinthians 4:5b)

O God our Father we gather here this week as per our constitutional duty. We acknowledge that what we have been able to do come this past session has come from the competence that You have given us. We know that You have given gifts freely to us that we may share them together to make everything we do more complete and make better laws. So we thank You for the courage to go forth as You would have us go and grace to persevere till our work here is completed. In Your Holy Name we pray. Amen.

The Pledge of Allegiance to the Flag was recited.

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

Present—Senators

Brown	Chappelle-Nadal	Crawford	Cunningham	Curls	Eigel	Emery
Hegeman	Holsman	Hoskins	Hummel	Kehoe	Libla	Munzlinger
Nasheed	Onder	Richard	Riddle	Rizzo	Romine	Rowden
Sater	Schaaf	Schatz	Schupp	Sifton	Silvey	Wallingford
Walsh	Wasson	Wieland—31				

Absent—Senators—None

Absent with leave—Senators

Dixon Koenig—2

Vacancies—1

The Lieutenant Governor was present.

**MESSAGES FROM THE
SECRETARY OF STATE**

The President laid before the Senate the following communication from the Secretary of State:

TO THE SECRETARY OF THE SENATE

Honorable Adriane D. Crouse

Jefferson City, MO

Madam:

I, John R. Ashcroft, Secretary of State of the State of Missouri, hereby certify that at the Special Election held in the 28th Senatorial District in the State of Missouri, on the 8th day of August, 2017, as provided by law, the following named person was elected to the office of State Senator, 28th Senatorial District as shown by the election results certified to this office by the election authorities of the 28th Senatorial District.

Name	Office
Sandy Crawford	State Senate
273 State Highway 32	28th Senatorial District
Buffalo, MO 65622	

SEAL

IN WITNESS WHEREOF, I have hereunto set my hand and affixed the seal of my office this 29th day of August, 2017.

/s/ John R. Ashcroft
Secretary of State

Senator Kehoe announced photographers from the Associated Press, KOMU-TV, Gasconade County Republican, KTVI, Fox 2, KMIZ, Columbia Missourian, Jefferson City News Tribune and KRCG-TV were given permission to take pictures in the Senate Chamber.

RESOLUTIONS

Senator Kehoe offered the following resolution, which was read and adopted:

SENATE RESOLUTION NO. 1

BE IT RESOLVED by the Senate that the Secretary of Senate inform the House of Representatives that the Senate is duly convened and is now in session as provided by Article III, Section 32 of the Constitution and is ready for the consideration of its business.

Senator Kehoe offered the following resolution, which was read and adopted:

SENATE RESOLUTION NO. 2

BE IT RESOLVED by the Senate that the rules of the Senate, as adopted by the Ninety-ninth General Assembly, First Regular Session, be declared to be the rules of the Veto Session of the Ninety-ninth General Assembly.

Senator Kehoe offered the following resolution, which was read:

SENATE RESOLUTION NO. 3

Whereas, it has been the tradition of the Missouri Senate to jealously guard the honor, integrity, and public standing of its membership, and the Missouri Senate has always been quick to defend against and quick to condemn any internal or external threat to that tradition; and

Whereas, on August 17, 2017, Senator Maria Chappelle-Nadal wrote the following on the social media website Facebook, "I hope Trump is Assassinated!"; and

Whereas, such expression of a desire for violence against the President of the United States of America by another elected official is unfitting and unbecoming of a member of the Missouri Senate and constitutes disorderly conduct; and

Whereas, such expression also demonstrates a disrespect for the democratic process as enshrined in the United States and Missouri Constitutions; and

Whereas, pursuant to Article III, Section 18 of the Missouri Constitution, the Senate retains the sole right and responsibility to determine the qualifications of its members; and

Whereas, pursuant to Article III, Section 18 of the Missouri Constitution, the Senate may punish a member for disorderly conduct:

Now Therefore, Be It Resolved that the disorderly conduct of Senator Chappelle-Nadal, as put forth in this resolution, is of a type and of such magnitude to warrant a public censure; and

Be It Further Resolved that the members of the Missouri Senate, Ninety-ninth General Assembly, Veto Session of the First Regular Session, hereby find and conclude that Senator Maria Chappelle-Nadal engaged in disorderly conduct and is hereby immediately censured; and

Be It Further Resolved that the members of the Missouri Senate urge Senator Chappelle-Nadal to conduct herself in a manner that respects the longstanding traditions of the Missouri Senate; and

Be It Further Resolved that the members of the Missouri Senate urge Senator Chappelle-Nadal to respect her position as a Senator by refraining from action or words that incite or encourage violence; and

Be It Further Resolved that the members of the Missouri Senate urge Senator Chappelle-Nadal to resign or, upon failure to do so, she may be subject to potential expulsion at a future session of the Missouri Senate.

Senator Kehoe requested unanimous consent of the Senate that Senate Rule 71 be suspended for the purpose of taking **SR 3** up for adoption, which request was granted.

Under the provisions of Senate Rule 91, Senator Chappelle-Nadal was excused from voting on the adoption of the resolution.

Senator Kehoe moved that the above resolution be adopted and requested a roll call vote be taken. He was joined in his request by Senators Eigel, Libla, Munzlinger and Riddle.

On motion of Senator Kehoe, **SR 3** was adopted by the following vote:

YEAS—Senators

Brown	Crawford	Cunningham	Eigel	Emery	Hegeman	Holsman
Hoskins	Hummel	Kehoe	Libla	Munzlinger	Onder	Richard
Riddle	Rizzo	Romine	Rowden	Sater	Schaaf	Schatz
Schupp	Sifton	Silvey	Wallingford	Walsh	Wasson	Wieland—28

NAYS—Senators

Curls Nasheed—2

Absent—Senators—None

Absent with leave—Senators

Dixon Koenig—2

Excused from voting—Senator Chappelle-Nadal—1

Vacancies—1

Senator Munzlinger offered Senate Resolution No. 4, regarding Eagle Scout Andrew Scott Carriker, which was adopted.

Senator Munzlinger offered Senate Resolution No. 5, regarding Eagle Scout Jacob Aaron Capps, which was adopted.

Senator Munzlinger offered Senate Resolution No. 6, regarding Eagle Scout Mason Fletcher Elmore, which was adopted.

Senator Munzlinger offered Senate Resolution No. 7, regarding Eagle Scout Ian Bradley Polovich, which was adopted.

Senator Munzlinger offered Senate Resolution No. 8, regarding Eagle Scout John Samuel Vincent, Jr., which was adopted.

COMMUNICATIONS FROM THE GOVERNOR

The following communications, regarding vetoed Senate Bills were received by the Secretary of State, reading of which was waived:

GOVERNOR OF MISSOURI
JEFFERSON CITY
65102
July 14, 2017

TO THE SECRETARY OF THE SENATE
99th GENERAL ASSEMBLY
FIRST REGULAR SESSION
STATE OF MISSOURI

Herewith I return to you Senate Bill No. 65 entitled:

AN ACT

To repeal section 306.126, RSMo, and to enact in lieu thereof one new section relating to boat passengers.

I disapprove of Senate Bill No. 65. My reasons for disapproval are as follows:

Senate Bill No. 65 allows anyone, including children, to ride or sit on the gunwales, decking over the bow, top of the seat back, or decking over the back of a motorboat without adequate guards or railing.

To paint a picture, this bill would allow two children to ride on an open bow of a speedboat traveling in excess of 40 mph on any body of water, including the Lake of the Ozarks.

For almost 50 years, Missouri law has required the public safety measure that this law would overturn. According to data collected by the United States Coast Guard, falls overboard are the leading cause of death on Missouri waterways, and open motorboats—by far—cause the most injuries and deaths. From 2005 to 2016, 57 deaths and 95 injuries attributable to falls overboard occurred on Missouri waterways. Missouri's neighboring states have also put in place this commonsense protection. *See, e.g.*, 625 ILCS 45/5-21; Ark. Code Ann. § 27-101-202; 301 Ky. Admin. Regs. 6:030.

I respect the intentions of the sponsors of Senate Bill No. 65. Like them, I want to make Missouri a safe place for people to enjoy our many waterways and outdoor recreational activities. I also understand that one purpose of this bill may have been to exempt small boats that travel at low speeds on slow moving float streams from the provisions that prohibit passengers from riding on certain areas of the boat. The final language contained in this bill, however, may have unintended consequences.

Since this legislation passed, I have spoken with members of the Missouri State Highway Patrol responsible for public safety on Missouri's waterways. Last year, they issued more than 900 warnings or citations for the failure to comply with section 306.126, RSMo. The majority of the warnings or citations occurred at the Lake of the Ozarks, which the United States Coast Guard has consistently ranked as one of the most dangerous waterways in the country. Our State's law enforcement officers have expressed serious concerns that removing the common-sense safety measures contained in 306.126, RSMo. would directly lead to more injuries and deaths on Missouri's larger waterways where more boats operate in dangerous water conditions.

The legislature should have had—but did not have—the benefit of the testimony referenced above as this bill moved through the process, and I understand that many legislators were not made aware of these public safety concerns. I appreciate that on certain waterways we may want to revise current law, and I believe that we can do so in a way that enhances individual liberty and personal responsibility while still protecting public safety.

Going forward, I am committed to working with the sponsors of this legislation to achieve our mutual goals of enacting measures that provide common-sense protections for boaters, while at the same time maximizing enjoyment of our beautiful lakes and streams. I cannot, however, add my endorsement to this bill in its current form.

In accordance with the above stated reasons for disapproval, I am returning Senate Bill No. 65 without my approval.

Sincerely,
Eric R. Greitens
Governor

Also,

GOVERNOR OF MISSOURI

JEFFERSON CITY

65102

July 14, 2017

TO THE SECRETARY OF THE SENATE
99th GENERAL ASSEMBLY
FIRST REGULAR SESSION
STATE OF MISSOURI

Herewith I return to you Conference Committee Substitute for Senate Committee Substitute No. 2 for Senate Bill No. 128 entitled:

AN ACT

To repeal sections 105.478, 144.026, 210.845, 302.441, 400.9-501, 452.370, 452.747, 454.500, 456.1-103, 456.4-414, 456.4-420, 456.8-808, 475.024, 478.463, 479.020, 479.170, 479.353, 488.029, 488.2206, 488.2250, 488.5050, 513.430, 513.440, 514.040, 515.575, 515.635, 552.020, 557.035, 565.076, 565.091, 566.010, 575.280, 577.001, 577.010, 577.037, 577.060, and 595.045, RSMo, and to enact in lieu thereof sixty-eight new sections relating to judicial proceedings, with penalty provisions.

I disapprove of Conference Committee Substitute for Senate Committee Substitute No. 2 for Senate Bill No. 128. My reasons for disapproval are as follows.

Conference Committee Substitute for Senate Committee Substitute No. 2 for Senate Bill No. 128 started as a one-page, 35-word bill that removed the division designations from the Jackson County courts. The final bill is no longer short or simple. Quite the opposite; now it spans 77 pages and impacts unrelated issues in 68 statutory sections.¹ This final bill violates the Missouri Constitution and contradicts other legislation passed this session and already signed.

Multiple constitutional issues plague Conference Committee Substitute for Senate Committee Substitute No. 2 for Senate Bill No. 128. The issues begin with the assortment of subjects covered by the bill. The Missouri Constitution requires that “[n]o bill shall contain more than one subject which shall be clearly expressed in its title, . . .” Article III, Section 23. “The test to determine if a bill contains more than one subject is whether all provisions of the bill fairly relate to the same subject, have a natural connection therewith or are incidents or means to accomplish its purpose.” *Hammerschmidt v. Boone County*, 877 S.W.2d 98, 102 (Mo. banc 1994) (internal quotation omitted).

Conference Committee Substitute for Senate Committee Substitute No. 2 for Senate Bill No. 128’s subject is “relating to judicial proceedings,” but many provisions are entirely non-judicial. Examples clutter the bill. For example, the bill prohibits the Department of Revenue from contacting taxpayers by mail about possible sales taxes owed. A different section authorizes conservation agents to write tickets for littering. Another portion requires the attorney general to report on claims that never reached the courthouse.² Elsewhere, the bill permits trustees to terminate up to \$250,000 trusts and allows parents to transfer their parental rights by signing a notarized form. The list could go on.

These parts of the bill cannot relate to judicial proceedings when they do not involve judicial proceedings. As evidenced by these examples and others, Conference Committee Substitute for Senate Committee Substitute No. 2 for Senate Bill No. 128 violates the Missouri Constitution’s single subject requirement. Moreover, any futile attempt to argue that every issue in the bill relates to a single subject would implicate the Missouri Constitution’s clear title requirement, because the broad and amorphous “judicial proceedings” title does not give notice of the wide range of unrelated issues actually covered. *See Home Builders Ass’n of Greater St. Louis v. State*, 75 S.W.3d 267, 270 (Mo. banc 2012).

Conference Committee Substitute for Senate Committee Substitute No. 2 for Senate Bill No. 128 compounds these constitutional concerns by undermining other legislation. One of this session’s important tort reform successes, Senate Substitute for Senate Bill No. 31, limited a party’s damages evidence to the actual cost of medical care. *See* Section 490.715.5. Conference Committee Substitute for Senate Committee Substitute No. 2 for Senate Bill No. 128 does the exact opposite by presuming that the bills for medical care are fair and reasonable. *See* Section 595.219.5. By allowing plaintiffs’ attorneys to argue conflicts with Senate Substitute for Senate Bill No. 31 or to seek potentially inconsistent outcomes, Conference Committee Substitute for Senate Committee Substitute No. 2 for Senate Bill No. 128 undercuts the hard-fought tort reform gains achieved this session.

¹ Ironically, the final bill does not even accomplish its original objective: instead of removing the Jackson County court division designations, the final bill preserves them.

² Monthly reports already published by the Attorney General prove this point. Through May 31, almost 100 claims had been settled in 2017 that were not subject to litigation.

Other inconsistencies exist. Conference Committee Substitute for House Committee Substitute for Senate Substitute for Senate Bill No. 34 helps protect the home addresses of victims of rape, human trafficking, and domestic violence. This bill contains a similar, but not identical, provision. Indeed, the language differs in a dozen different ways. I appreciate the good intentions of the legislators who worked on this important issue, but the inconsistency between the two bills can only negatively affect the protections provided by Conference Committee Substitute for House Committee Substitute for Senate Substitute for Senate Bill No. 34.

A separate and serious flaw in the bill concerns the fees charged by court reporters. The State of Missouri employs more than 140 court reporters, assigning one to each circuit judge. Each court reporter creates the courtroom's official transcript of proceedings. How much state-employed court reporters can charge is currently capped by statute. Any citizen or party seeking an official transcript of the proceedings must purchase the transcript from the court reporter. Since court reporters are the only official transcribers, they have a monopoly on courtroom transcripts.

Conference Committee Substitute for Senate Committee Substitute No. 2 for Senate Bill No. 128 would remove the price caps altogether.³ Under this bill, court reporters could charge any price they choose. A court reporter could, for example, charge \$100 per page. This is problematic because court reporters have a monopoly on producing these transcripts.

This change would limit citizen's access to justice and also negatively impact Missouri taxpayers. The Office of Administration's Budget & Planning Division estimates that the State of Missouri paid court reporters more than \$1 million for court transcripts last year. Removing the price caps would cost state government even more. For example, the Missouri State Public Defender predicts that Conference Committee Substitute for Senate Committee Substitute No. 2 for Senate Bill No. 128 would cost its office at least \$100,000 more per year, or the equivalent of two public defenders.

The myriad issues in Conference Committee Substitute for Senate Committee Substitute No. 2 for Senate Bill No. 128 raise serious constitutional, statutory, and policy concerns. Unfortunately, Conference Committee Substitute for Senate Committee Substitute No. 2 for Senate Bill No. 128 contained many provisions I support that were the product of the hard work of many legislators. I look forward to working with the legislature on many of these important policies next session, including improving the foster care system.

In accordance with the above stated reasons for disapproval, I am returning Conference Committee Substitute for Senate Committee Substitute No. 2 for Senate Bill No. 128 without my approval.

Sincerely,
Eric R. Greitens
Governor

Senator Kehoe moved that the Senate proceed to the order of business, Vetoed Bills, and that the calendar be called, which motion prevailed.

SB 65 was called thereafter and no motion was taken thereon.

CCS for SCS No. 2 for SB 128 was called thereafter and no motion was taken thereon.

RESOLUTIONS

Senator Kehoe offered the following resolution, which was read and adopted:

SENATE RESOLUTION NO. 9

BE IT RESOLVED by the Senate that the Secretary of the Senate inform the House of Representatives that the Senate, having been duly convened as provided by Article III, Section 32 of the Constitution, made no motion to override the Governor's veto of Senate Bill No. 65 and Conference Committee Substitute for Senate Committee Substitute No. 2 for Senate Bill No. 128 when the bills were called by the president.

MESSAGES FROM THE HOUSE

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

Mr. President: I am instructed by the House of Representatives to inform the Senate that the House has taken up and adopted **HR 1**.

³ In just the last 10 years, the price caps have more than doubled, from \$1.50 per page in early 2007 to \$3.50 per page today.

HOUSE RESOLUTION NO. 1

BE IT RESOLVED, that the Chief Clerk of the House of Representatives of the Ninety-ninth General Assembly, First Regular Session, inform the Governor and the Senate that the House is duly convened and is now in session in the 2017 Constitutional Veto Session and ready for consideration of business.

Also,

Mr. President: I am instructed by the House of Representatives to inform the Senate that the House has taken up and adopted **HR 2**.

HOUSE RESOLUTION NO. 2

BE IT RESOLVED by the House of Representatives, that the Chief Clerk of the House of Representatives inform the Senate that the House, having been duly convened as provided by Section 32, Article III of the Constitution, made no motions to override the Governor's vetoes on **HCS for HCR 19**, **CCS for SCS for HCS for HB 5**, **CCS for SCS for HCS for HB 6**, **CCS for SCS for HCS for HB 9**, and **HB 850**, when the bills were called by the Speaker.

INTRODUCTIONS OF GUESTS

Senator Hoskins introduced to the Senate, representatives of Johnson County CLIMB, Warrensburg.

On behalf of Senator Richard and himself, Senator Hummel introduced to the Senate, former State Representative Tom Villa, St. Louis City.

Senator Crawford introduced to the Senate, her husband, John, her parents, Bob and Marcelene Franklin, Buffalo; her sister and her husband, Tama Franklin and Mike Grose, and their children, Aaron and Kaylee, Springfield; her nephew, Randall Franklin, Broken Arrow, Oklahoma; Teresa Parson, Bolivar; Shirley Allison, Pleasant Hope; and Chuck Bowman, Columbia.

On motion of Senator Kehoe, the Senate of the Veto Session of the First Regular Session of the 99th General Assembly adjourned sine die, pursuant to the Constitution.

MICHAEL L. PARSON

Lieutenant Governor

ADRIANE D. CROUSE

Secretary of Senate

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