

Journal of the Senate

FIRST REGULAR SESSION

THIRTY-SIXTH DAY—TUESDAY, MARCH 9, 1999

The Senate met pursuant to adjournment.

Senator Wiggins in the Chair.

The Reverend Carl R. Gauck offered the following prayer:

Gracious and Merciful God: Throughout these Lenten days, O God, we behold the great love You have shown us. Give to us patience through the rough and tumble of life and help us come to realize that life's abrasions are, for the believer, a way to become like a diamond more polished for service in Your kingdom. 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.

Senator Jacob announced that photographers from the Senate and KOMU-TV had been given permission to take pictures in the Senate Chamber today.

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

Present—Senators

Banks	Bland	Caskey	Childers
Clay	Ehlmann	Flotron	Goode
Graves	House	Howard	Jacob
Johnson	Kenney	Kinder	Klarich
Mathewson	Maxwell	Mueller	Quick
Rohrbach	Russell	Schneider	Scott
Sims	Singleton	Staples	Steelman
Stoll	Westfall	Wiggins	Yeckel—32

Absent with leave—Senators

Bentley DePasco—2

The Lieutenant Governor was present.

REFERRALS

President Pro Tem Quick referred **SCR 17** to the Committee on Rules, Joint Rules and Resolutions.

President Pro Tem Quick referred **SS** for **SCS** for **SB 335** to the Committee on State Budget Control.

THIRD READING OF SENATE BILLS

SB 180, introduced by Senator Johnson, entitled:

An Act to repeal section 169.670, RSMo Supp. 1998, as enacted by house substitute for house committee substitute for senate committee substitute for senate bill no. 501 of the eighty-ninth general assembly, second regular session and section 169.670, RSMo Supp. 1998, as enacted by senate bill no. 733 of the eighty-ninth general assembly, second regular session, relating to public school retirement systems, and to enact in lieu thereof one new section relating to the same subject, with an emergency clause.

Was taken up.

On motion of Senator Johnson, **SB 180** was read the 3rd time and passed by the following vote:

YEAS—Senators

Banks	Bland	Caskey	Childers
Clay	Flotron	Graves	House
Howard	Jacob	Johnson	Kenney
Kinder	Klarich	Mathewson	Maxwell
Mueller	Quick	Russell	Scott
Sims	Singleton	Staples	Steelman
Stoll	Westfall	Wiggins	Yeckel—28

NAYS—Senator Rohrbach—1

Absent—Senators

Ehlmann Goode Schneider—3

Absent with leave—Senators

Bentley DePasco—2

The President declared the bill passed.

The emergency clause was adopted by the following vote:

YEAS—Senators

Banks	Bland	Caskey	Childers
Clay	Flotron	Goode	Graves
House	Howard	Jacob	Johnson
Kenney	Kinder	Klarich	Mathewson
Maxwell	Mueller	Quick	Russell
Scott	Sims	Singleton	Staples
Steelman	Stoll	Westfall	Wiggins
Yeckel—29			

NAYS—Senator Rohrbach—1

Absent—Senators

Ehlmann Schneider—2

Absent with leave—Senators

Bentley DePasco—2

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

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

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

President Wilson assumed the Chair.

SB 20, introduced by Senators Goode, et al, entitled:

An Act to amend chapter 67, RSMo, by adding thereto twenty-two new sections relating to community improvement, with penalty provisions and with a termination date.

Was taken up by Senator Goode.

Senator Goode moved that **SB 20** be read the 3rd time and finally passed.

At the request of Senator Goode, **SB 20** was placed on the Informal Calendar.

RESOLUTIONS

Senators Quick, Howard, Wiggins, Caskey, Russell, Mathewson and Childers offered the following resolution, which was read and adopted:

SENATE RESOLUTION NO. 360

WHEREAS, upon occasion the members of the Missouri Senate take pause from their legislative work in order to honor an individual who has brought glory to this fine state through career achievements that have been marked by competence, professionalism, diligence, and dedication; and

WHEREAS, born in St. Joseph, Missouri, on November 4, 1916, Walter Cronkite began his exemplary journalism career as a campus correspondent for the Houston Post during high school and his freshman year at the University of Texas; and

WHEREAS, Walter Cronkite enjoyed a reputation for honesty, objectivity, superb research, and unflappability in the face of danger throughout his more than sixty years in journalism which continues even today as a consultant in association with his son Chip's documentary production company, Cronkite Productions, Incorporated, and assignments as a special correspondent for CBS, with which he has been affiliated for more than forty-eight years; and

WHEREAS, Walter Cronkite joined CBS News in Washington as a correspondent in 1950 and went on to serve as anchorman and managing editor of the CBS Evening News for nineteen years; and

WHEREAS, Walter Cronkite has served as a journalist in a variety of venues including that of a sports announcer for an Oklahoma City radio station, correspondent and bureau chief with United Press for eleven years, and broadcast journalist with CBS, PBS, The Discovery Channel, syndication, and others; and

WHEREAS, a close-at-hand World War II correspondent, Walter Cronkite chronicled nearly every major news story of the second half of the twentieth century including the Cold War, Viet Nam, the hostage crisis of Tehran, this nation's Bicentennial, Watergate, assassinations, space exploration, and the individuals and world leaders closely associated with those events; and

WHEREAS, with the dedication and induction of his bronze bust into the Hall of Famous Missourians, Walter Cronkite joins an illustrious group of native Missourians chosen for the enormity of contributions to their respective fields such as Emmett Kelly, Sr.; Harry S Truman; George Washington Carver; Mark Twain; Charlie "Bird" Parker; Walter Elias Disney; Generals John J. Pershing and Omar N. Bradley; Thomas Hart Benton; and others:

NOW, THEREFORE, BE IT RESOLVED that we, the members of the Missouri Senate, Ninetieth General Assembly, join unanimously to applaud the life and work of Walter Cronkite upon his well-deserved induction into the Hall of Famous Missourians on Monday, March 8, 1999; and

BE IT FURTHER RESOLVED that the Secretary of the Senate be instructed to prepare a properly inscribed copy of this resolution to honor Walter Cronkite and to express our unwavering esteem for him.

INTRODUCTIONS OF GUESTS

Senator Quick introduced to the Senate, Walter Cronkite, who approached the dais and addressed the members of the Senate.

President Wilson resumed the Chair.

THIRD READING OF SENATE BILLS

Senator Goode moved that **SB 20** be called from the Informal Calendar and again taken up for 3rd reading and final passage, which motion prevailed.

President Pro Tem Quick assumed the Chair.

On motion of Senator Goode, **SB 20** was read the 3rd time and passed by the following vote:

YEAS—Senators

Banks	Bland	Childers	Ehlmann
Flotron	Goode	House	Howard
Jacob	Johnson	Kenney	Mathewson
Maxwell	Mueller	Quick	Rohrbach
Russell	Schneider	Scott	Sims
Staples	Stoll	Wiggins	Yeckel—24

NAYS—Senators

Caskey	Graves	Kinder	Klarich
Singleton	Steelman	Westfall—7	

Absent—Senator Clay—1

Absent with leave—Senators

Bentley	DePasco—2
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The President Pro Tem declared the bill passed.

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

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

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

SCS for SB 239, entitled:

SENATE COMMITTEE SUBSTITUTE FOR SENATE BILL NO. 239

An Act to repeal section 205.190, RSMo Supp. 1998, relating to county hospitals in first classification counties without a charter form of government, and to enact in lieu thereof one new section relating to the same subject.

Was taken up by Senator Jacob.

On motion of Senator Jacob, **SCS for SB 239** was read the 3rd time and passed by the following vote:

YEAS—Senators

Banks	Bland	Caskey	Childers
Ehlmann	Flotron	Goode	Graves
House	Howard	Jacob	Johnson
Kenney	Kinder	Klarich	Mathewson
Maxwell	Mueller	Quick	Rohrbach
Russell	Schneider	Scott	Sims
Singleton	Staples	Steelman	Stoll
Westfall	Wiggins	Yeckel—31	

NAYS—Senators—None

Absent—Senator Clay—1

Absent with leave—Senators

Bentley	DePasco—2
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The President Pro Tem declared the bill passed.

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

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

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

SB 197 was placed on the Informal Calendar.

SB 196 was placed on the Informal Calendar.

SB 32, introduced by Senator Howard, entitled:

An Act to amend chapter 288, RSMo, by adding thereto one new section relating to notification of unemployment benefit eligibility by certain employers.

Was taken up.

On motion of Senator Howard, **SB 32** was read the 3rd time and passed by the following vote:

YEAS—Senators

Banks	Bland	Caskey	Childers
Ehlmann	Flotron	Goode	Graves
House	Howard	Jacob	Johnson
Kenney	Kinder	Klarich	Mathewson

Maxwell	Mueller	Quick	Rohrbach
Russell	Schneider	Scott	Sims
Singleton	Steelman	Stoll	Westfall
Wiggins	Yeckel—30		

NAYS—Senators—None

Absent—Senators

Clay	Staples—2
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Absent with leave—Senators

Bentley	DePasco—2
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The President Pro Tem declared the bill passed.

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

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

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

SS No. 2 for SB 163, introduced by Senator House, entitled:

**SENATE SUBSTITUTE NO. 2 FOR
SENATE BILL NO. 163**

An Act to repeal section 170.011, RSMo 1994, relating to public school instruction, and to enact in lieu thereof two new sections relating to the same subject.

Was taken up by Senator House.

On motion of Senator House, **SS No. 2 for SB 163** was read the 3rd time and passed by the following vote:

YEAS—Senators

Banks	Bland	Childers	Clay
Ehlmann	Flotron	Goode	Graves
House	Howard	Jacob	Johnson
Kenney	Kinder	Klarich	Mathewson
Maxwell	Mueller	Quick	Rohrbach
Russell	Schneider	Scott	Sims
Singleton	Staples	Steelman	Stoll
Westfall	Wiggins	Yeckel—31	

NAYS—Senator Caskey—1

Absent—Senators—None

Absent with leave—Senators

Bentley	DePasco—2
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The President Pro Tem declared the bill passed.

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

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

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

SB 379, introduced by Senator Banks, entitled:

An Act to repeal sections 192.650, 192.653 and 192.655, RSMo 1994, relating to a cancer information reporting system, and to enact in lieu thereof three new sections relating to the same subject.

Was taken up.

On motion of Senator Banks, **SB 379** was read the 3rd time and passed by the following vote:

YEAS—Senators

Banks	Bland	Caskey	Childers
Clay	Ehlmann	Flotron	Goode
Graves	House	Howard	Jacob
Johnson	Kenney	Kinder	Klarich
Mathewson	Maxwell	Mueller	Quick
Rohrbach	Russell	Schneider	Scott
Sims	Singleton	Staples	Steelman
Stoll	Westfall	Wiggins	Yeckel—32

NAYS—Senators—None

Absent—Senators—None

Absent with leave—Senators

Bentley	DePasco—2
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The President Pro Tem declared the bill passed.

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

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

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

SCS for SB 325, entitled:

SENATE COMMITTEE SUBSTITUTE FOR SENATE BILL NO. 325

An Act to repeal sections 327.011, 327.051, 327.075, 327.091, 327.111, 327.131, 327.141, 327.151, 327.161, 327.171, 327.181, 327.191, 327.201, 327.221, 327.231, 327.241, 327.251, 327.261, 327.272, 327.281, 327.291, 327.312, 327.313, 327.314, 327.321, 327.331, 327.341, 327.351, 327.361, 327.371, 327.381, 327.391, 327.411, 327.421, 327.441, 327.451 and 327.461, RSMo 1994, and sections 327.031, 327.041, 327.101, 327.401 and 431.180, RSMo Supp. 1998, relating to architects, professional engineers and professional land surveyors, and to enact in lieu thereof forty-three new sections relating to the same subject, with penalty provisions.

Was taken up by Senator Stoll.

On motion of Senator Stoll, SCS for SB 325 was read the 3rd time and passed by the following vote:

YEAS—Senators

Bland	Caskey	Childers	Clay
Ehlmann	Flotron	Goode	Graves
House	Howard	Jacob	Johnson
Kenney	Kinder	Klarich	Mathewson
Maxwell	Mueller	Quick	Rohrbach
Russell	Schneider	Scott	Sims
Singleton	Staples	Steelman	Stoll
Westfall	Wiggins	Yeckel—31	

NAYS—Senators—None

Absent—Senator Banks—1

Absent with leave—Senators

Bentley	DePasco—2
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The President Pro Tem declared the bill passed.

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

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

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

SB 148, introduced by Senator Childers,

entitled:

An Act to repeal section 174.500, RSMo 1994, relating to the West Plains Campus of Southwest Missouri State University, and to enact in lieu thereof one new section relating to the same subject.

Was called from the Consent Calendar and taken up.

On motion of Senator Childers, SB 148 was read the 3rd time and passed by the following vote:

YEAS—Senators

Banks	Bland	Caskey	Childers
Clay	Ehlmann	Flotron	Goode
Graves	House	Howard	Jacob
Johnson	Kenney	Kinder	Klarich
Mathewson	Maxwell	Mueller	Quick
Rohrbach	Russell	Schneider	Scott
Sims	Singleton	Staples	Steelman
Stoll	Westfall	Wiggins	Yeckel—32

NAYS—Senators—None

Absent—Senators—None

Absent with leave—Senators

Bentley	DePasco—2
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The President Pro Tem declared the bill passed.

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

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

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

Senator Staples assumed the Chair.

SB 460, introduced by Senator House, entitled:

An Act to repeal sections 33.103, 166.400, 166.410, 166.415, 166.420, 166.425, 166.430, 166.435 and 166.455, RSMo Supp. 1998, relating to Missouri higher education savings program, and to enact in lieu thereof nine new sections relating to the same subject.

Was called from the Consent Calendar and

taken up.

On motion of Senator House, **SB 460** was read the 3rd time and passed by the following vote:

YEAS—Senators			
Banks	Bland	Caskey	Childers
Clay	Ehlmann	Flotron	Goode
Graves	House	Howard	Jacob
Johnson	Kenney	Kinder	Klarich
Mathewson	Maxwell	Quick	Rohrbach
Russell	Schneider	Scott	Sims
Singleton	Staples	Steelman	Stoll
Westfall	Wiggins	Yeckel—31	

NAYS—Senators—None

Absent—Senator Mueller—1

Absent with leave—Senators

Bentley DePasco—2

The President declared the bill passed.

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

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

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

SB 201, with **SCA 1**, introduced by Senator Childers, entitled:

An Act to repeal section 91.030, RSMo 1994, relating to municipal owned utilities, and to enact in lieu thereof one new section relating to the same subject.

Was called from the Consent Calendar and taken up.

SCA 1 was taken up.

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

On motion of Senator Childers, **SB 201**, as amended, was read the 3rd time and passed by the following vote:

YEAS—Senators			
Banks	Bland	Caskey	Childers
Clay	Ehlmann	Goode	Graves
House	Howard	Jacob	Johnson

Kenney	Kinder	Klarich	Mathewson
Maxwell	Mueller	Quick	Rohrbach
Russell	Schneider	Scott	Sims
Staples	Steelman	Stoll	Westfall
Wiggins	Yeckel—30		

NAYS—Senators—None

Absent—Senators

Flotron Singleton—2

Absent with leave—Senators

Bentley DePasco—2

The President declared the bill passed.

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

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

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

SB 207, introduced by Senators Klarich and Wiggins, entitled:

An Act to repeal section 195.509, RSMo 1994, relating to public safety, and to enact in lieu thereof one new section relating to the same subject.

Was called from the Consent Calendar and taken up by Senator Klarich.

On motion of Senator Klarich, **SB 207** was read the 3rd time and passed by the following vote:

YEAS—Senators			
Banks	Bland	Caskey	Childers
Clay	Ehlmann	Goode	Graves
House	Howard	Jacob	Johnson
Kenney	Kinder	Klarich	Mathewson
Maxwell	Mueller	Quick	Rohrbach
Russell	Schneider	Scott	Sims
Staples	Steelman	Stoll	Westfall
Wiggins	Yeckel—30		

NAYS—Senators—None

Absent—Senators

Flotron Singleton—2

Absent with leave—Senators

Bentley DePasco—2

The President declared the bill passed.

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

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

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

SB 142, introduced by Senator Schneider, entitled:

An Act to repeal sections 476.681 and 476.682, RSMo 1994, relating to the retirement of judges, and to enact in lieu thereof two new sections relating to the same subject.

Was called from the Consent Calendar and taken up.

On motion of Senator Schneider, **SB 142** was read the 3rd time and passed by the following vote:

YEAS—Senators

Banks	Bland	Caskey	Childers
Clay	Ehlmann	Flotron	Goode
Graves	House	Howard	Jacob
Johnson	Kenney	Kinder	Klarich
Mathewson	Maxwell	Quick	Rohrbach
Russell	Schneider	Scott	Sims
Staples	Steelman	Stoll	Westfall
Wiggins	Yeckel—30		

NAYS—Senators—None

Absent—Senators

Mueller	Singleton—2
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Absent with leave—Senators

Bentley	DePasco—2
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The President declared the bill passed.

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

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

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

SB 436, with **SCS**, introduced by Senator Quick, entitled:

An Act to amend chapter 190, RSMo, by adding thereto one new section relating to political subdivisions operating as ambulance districts.

Was called from the Consent Calendar and taken up.

SCS for **SB 436**, entitled:

SENATE COMMITTEE SUBSTITUTE FOR SENATE BILL NO. 436

An Act to repeal section 190.044, RSMo Supp. 1998, relating to ambulance service, and to enact in lieu thereof one new section relating to the same subject.

Was taken up.

Senator Quick moved that **SCS** for **SB 436** be adopted, which motion prevailed.

On motion of Senator Quick, **SCS** for **SB 436** was read the 3rd time and passed by the following vote:

YEAS—Senators

Banks	Bland	Caskey	Childers
Clay	Ehlmann	Flotron	Goode
House	Howard	Jacob	Johnson
Kenney	Kinder	Klarich	Mathewson
Maxwell	Mueller	Quick	Rohrbach
Russell	Schneider	Scott	Sims
Staples	Steelman	Stoll	Westfall
Wiggins	Yeckel—30		

NAYS—Senator Graves—1

Absent—Senator Singleton—1

Absent with leave—Senators

Bentley	DePasco—2
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The President declared the bill passed.

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

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

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

SB 396, with **SCS**, introduced by Senator Mathewson, entitled:

An Act to repeal section 320.230, RSMo 1994, relating to the state fire marshal, and to enact in lieu thereof one new section relating to the same subject.

Was called from the Consent Calendar and taken up.

SCS for **SB 396**, entitled:

**SENATE COMMITTEE SUBSTITUTE FOR
SENATE BILL NO. 396**

An Act to repeal section 320.230, RSMo 1994, relating to the state fire marshal, and to enact in lieu thereof one new section relating to the same subject.

Was taken up.

Senator Mathewson moved that **SCS** for **SB 396** be adopted, which motion prevailed.

On motion of Senator Mathewson, **SCS** for **SB 396** was read the 3rd time and passed by the following vote:

YEAS—Senators

Banks	Bland	Caskey	Childers
Clay	Ehlmann	Flotron	Goode
Graves	House	Jacob	Johnson
Kenney	Kinder	Klarich	Mathewson
Maxwell	Mueller	Rohrbach	Russell
Schneider	Sims	Staples	Steelman
Stoll	Westfall	Wiggins	Yeckel—28

NAYS—Senator Howard—1

Absent—Senators

Quick	Scott	Singleton—3
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Absent with leave—Senators

Bentley	DePasco—2
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The President declared the bill passed.

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

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

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

REPORTS OF STANDING COMMITTEES

Senator Johnson, Chairman of the Committee on Agriculture, Conservation, Parks and Tourism, submitted the following reports:

Mr. President: Your Committee on Agriculture, Conservation, Parks and Tourism, to which was referred **SB 424**, begs leave to report that it has considered the same and recommends that the bill do pass and be placed on the Consent Calendar.

Also,

Mr. President: Your Committee on Agriculture, Conservation, Parks and Tourism, to which was referred **SB 434**, begs leave to report that it has considered the same and recommends that the bill do pass, with Senate Committee Amendments Nos. 1 and 2, and be placed on the Consent Calendar.

SENATE COMMITTEE AMENDMENT NO. 1

Amend Senate Bill No. 434, Page 1, In the Title, Line 2, by striking the words "an easement" and inserting in lieu thereof the following: "easements"; and

Further amend said bill, page 1, Section 2, line 2, by inserting after all of said line the following:

"Section 3. 1. The director of the department of natural resources is hereby authorized and empowered to give, grant, bargain and convey to the City of Eureka, Missouri a 20-foot wide easement for the construction, reconstruction, use, operation, maintenance, removal, and inspection, of a forced main across a portion of Route 66 State Park. The easement to be conveyed to the City of Eureka, Missouri by the director, department of natural resources, is more particularly described as follows:

A 20 foot wide sewer easement across and upon the property described as parcel # 1 in general warranty deed as recorded in book 9283, pages 1010 through 1024, of the St. Louis County records, and being the same property as shown on survey of a tract of land being part of Times Beach and all of

Times Beach first and second additions and part of sections 31 and 32 and part of Williams Subdivision in U.S. Survey 2071, all located in township 44 north, range 4 east of the 5th principal meridian, St. Louis County, Missouri, executed by James B. Becker, Consulting Engineers, recorded in survey record book 1 pages 8A and 8B of the St. Louis County records and being more particularly described as follows:

Commencing at the southeast corner of said section 31; thence north 89 degrees 56 minutes 21 seconds west along the southerly line and westerly prolongation of the southerly line of said section 31 a distance of 325.97 feet to a point 150 feet perpendicular distance from the westerly line of Votaw Road (50 feet wide); thence north 22 degrees 55 minutes 14 seconds east along a line 150 feet perpendicular distance from the westerly line of Votaw Road 882.08 feet to the northerly line of Missouri Interstate 44; thence along the northerly line of said Interstate 44 the following courses and distances: north 78 degrees 31 minutes 31 seconds west 1416.48 feet; south 11 degrees 28 minutes 29 seconds west 5.00 feet; north 78 degrees 31 minutes 31 seconds west 277.84 feet to a point on the easterly line of the Burlington Northern Railroad right-of-way, said point being 150 feet radial distance from centerline of said Burlington Northern Railroad right-of-way; thence departing the northerly line of said Interstate 44 northeasterly along a curve to the left, said curve being 150 feet radial distance from centerline of said Burlington Northern Railroad right-of-way and having a radius point bearing north 51 degrees 52 minutes 38 seconds west 2605.70 feet, an arc distance of 64.52 feet to the true point of beginning of the tract herein described, said point being the centerline of the herein described 20 foot wide easement;

thence departing from the easterly line of said Burlington Northern Railroad right-of-way and along the centerline of said 20 foot wide easement the following courses and distances: south 79 degrees 57 minutes 55 seconds east a distance of 130.99 feet; north 55 degrees 02 minutes 05 seconds east a distance of 20.00 feet; north 10 degrees 02 minutes 05 seconds east a distance of 245.38 feet; north 02 degrees 56 minutes 33 seconds west a distance of 154.17 feet; north 21 degrees 54 minutes 53 seconds east a distance of 423.41 feet; north 32 degrees 34 minutes 06 seconds east a distance of 51.82 feet; north 13 degrees 43 minutes 59 seconds east a distance of 211.67 feet; north 11 degrees 20 minutes 28 seconds west a distance of 49.83 feet; north 11 degrees 09 minutes 32 seconds east a distance of 767.61 feet; north 14 degrees 48 minutes 41 seconds east a distance of 684.55 feet; north 17 degrees 39 minutes 19 seconds east a distance of 475.03 feet; north 15 degrees 36 minutes 17 seconds east a distance of 393.40 feet; north 05 degrees 48 minutes 39 seconds west a distance of 111.66 feet; north 16 degrees 41 minutes 21 seconds east a distance of 790.89 feet to the point of ending of the 20 foot wide easement, said point being on the northern line of aforesaid Times Beach second addition and being south 47 degrees 46 minutes 10 seconds east a distance of 20.19 feet from the northwest corner thereof.

2. Consideration for the conveyance shall be as negotiated by the parties.

3. The attorney general shall approve as to form the instrument of conveyance."

SENATE COMMITTEE AMENDMENT NO. 2

Amend Senate Bill No. 434, Page 1, In the Title, Line 3, by inserting after "County" the following: "and to authorize the annexation of state property into the City of Maryville"; and

Further amend said bill and page, Section 2,

line 2, by inserting after all of said line the following:

"Section 3. The governor is hereby authorized to approve the annexation of three tracts of land of the Northwest Missouri State University into the City of Maryville, Missouri. The property to be annexed is more particularly described as follows:

Tract 1

Commencing at the intersection of the West Line of Section 18, Township 64 North, Range 35 West, with the southerly right-of-way of the former Norfolk and Western Railroad Company railroad right-of-way; thence along Range Line, South to a point 132 feet North of the Southwest Corner of the Northwest Quarter of the Southwest Quarter of said Section 18; thence East 330 feet; thence North along a line 330 feet East and parallel to Range Line to the intersection of the southerly right-of-way of the former Norfolk and Western Railroad Company railroad right-of-way; thence westerly along said right-of-way to the point of beginning.

Tract 2

Commencing at the Northeast Corner of Section 18, Township 64 North, Range 35 West, Nodaway County, Missouri; thence South along the North/South Quarter Section Line of Section 18 to the intersection with the southerly right-of-way of the former Norfolk and Western Railroad; thence westerly along said right-of-way to the West Line of said Section 18; thence North along Range Line to a point 30 feet South of the Northwest Corner of said Section 18, said point being the southerly right-of-way of West Sixteenth Street; thence East along said right-of-way to the southerly extension of the East Line of Village "O" Estates Subdivision, a Subdivision of the Southwest Quarter of Section 7. Township 64 North, Range 35

West, Nodaway County; thence North along said extension to the intersection of the North Line of Section 18; thence East along Section Line to the Northeast corner of said Section 18 and the point of beginning.

Tract 3

All of the Northeast Quarter (NE1/4) of Section Thirteen (13), Township Sixty-four (64), Range Thirty-six (36), lying North of the right-of-way of the former Norfolk and Western Railroad, except the West 470 feet thereof."

Also,

Mr. President: Your Committee on Agriculture, Conservation, Parks and Tourism, to which was referred **SB 435**, begs leave to report that it has considered the same and recommends that the bill do pass and be placed on the Consent Calendar.

On behalf of Senator Staples, Chairman of the Committee on Transportation, Senator Howard submitted the following reports:

Mr. President: Your Committee on Transportation, to which was referred **SB 352**, begs leave to report that it has considered the same and recommends that the bill do pass, with Senate Committee Amendment No. 1, and be placed on the Consent Calendar.

SENATE COMMITTEE AMENDMENT NO. 1

Amend Senate Bill No. 352, Page 1, Section 301.466, Line 19, by striking the following: "and shall bear six letter or numbers".

Also,

Mr. President: Your Committee on Transportation, to which was referred **SB 270**, begs leave to report that it has considered the same and recommends that the bill do pass and be placed on the Consent Calendar.

Also,

Mr. President: Your Committee on Transportation, to which was referred **SB 438**, begs leave to report that it has considered the same and recommends that the Senate Committee Substitute,

hereto attached, do pass and be placed on the Consent Calendar.

Senator Maxwell, Chairman of the Committee on Commerce and Environment, submitted the following reports:

Mr. President: Your Committee on Commerce and Environment, to which was referred **SB 334**, begs leave to report that it has considered the same and recommends that the Senate Committee Substitute, hereto attached, do pass and be placed on the Consent Calendar.

Also,

Mr. President: Your Committee on Commerce and Environment, to which was referred **SB 479**, begs leave to report that it has considered the same and recommends that the bill do pass and be placed on the Consent Calendar.

RESOLUTIONS

Senator Steelman offered Senate Resolution No. 361, regarding St. James Winery, Hermann, which was adopted.

On motion of Senator Jacob, the Senate recessed until 3:00 p.m.

RECESS

The time of recess having expired, the Senate was called to order by President Pro Tem Quick.

RESOLUTIONS

Senator House offered Senate Resolution No. 362, regarding the Francis Howell R-III School District, St. Charles County, which was adopted.

Senator House offered Senate Resolution No. 363, regarding the Fiftieth Anniversary of KWRE seven-thirty AM, Warrenton, which was adopted.

Senator House offered Senate Resolution No. 364, regarding Richard W. Hischke, St. Charles, which was adopted.

Senator Kenney offered Senate Resolution No. 365, regarding Sue Gentry, Independence, which was adopted.

Senator Kenney offered Senate Resolution No. 366, regarding Corey Crandall, Buckner, which was adopted.

Senator Kenney offered Senate Resolution No. 367, regarding Justin Blake "Lucchi" Holder, Lee's Summit, which was adopted.

Senator Kenney offered Senate Resolution No. 368, regarding Daniel J. Harvey, Independence, which was adopted.

Senator Wiggins offered the following resolution, which was adopted:

SENATE RESOLUTION NO. 369

WHEREAS, the members of the Missouri Senate have been pleased to learn that on January 10, 1999, Dr. and Mrs. John J. Turley, celebrated their 50th Wedding Anniversary; and

WHEREAS, John and June Turley celebrated this significant wedding anniversary in Kansas City, with a memorable dinner at Stephenson's Apple Orchard Restaurant joined by their four children and eleven grandchildren; and

WHEREAS, Dr. Turley has practiced Optometry in Waldo since 1954, where he has been an active member of the Waldo Business Association, and Dr. and Mrs. Turley have remained residents of Waldo; and

WHEREAS, Dr. and Mrs. Turley, have four children, Steven J. Turley, Dr. John W. Turley, Karen M. Turley, and Howard J. Turley, all of whom are graduates of Bingham Junior High School and Southeast High School; and

WHEREAS, Dr. and Mrs. Turley are members of the Country Club Christian Church where they are Chancel Choir members and Dr. Turley is a life elder; and

WHEREAS, Dr. John J. Turley and his son, Dr. John W. Turley, have been active members of the Missouri State Optometric Association, and Dr. John J. Turley, has served as Missouri State President of the Association;

NOW, THEREFORE, BE IT RESOLVED, that the members of the Missouri Senate pause in their deliberations to salute Dr. and Mrs. John J. Turley on the occasion of their 50th Wedding Anniversary, congratulate them on their wonderful family and their numerous contributions to Waldo, Kansas City, and to Missouri, and extend to Dr. and Mrs. Turley and their entire family very best wishes for many long years continued good health, success and happiness; and

BE IT FURTHER RESOLVED that the Secretary of the Senate be instructed to prepare properly inscribed copies of this resolution for Dr. and Mrs. John J. Turley, Dr. John W. Turley, Steven J. Turley, Karen M. Turley and Howard J. Turley.

Senator Wiggins offered the following resolution, which was adopted:

SENATE RESOLUTION NO. 370

WHEREAS, the members of the Missouri Senate have been deeply saddened to learn of the death of Donald J. Clarkson, of Kansas City; and

WHEREAS, Mr. Clarkson, who was born in Manhattan, Kansas, but lived his entire life in Kansas City, was a widely known, highly respected contractor, having for 30 years been associated with and Vice President of Clarkson Construction Company, headed

by his father, William E. Clarkson, Sr.; and

WHEREAS, Mr. Clarkson was a graduate of Rockhurst High School, received a B.S. in Engineering from Notre Dame University, and received a M.S. in engineering from the University of Missouri; and

WHEREAS, Mr. Clarkson was a member of St. Thomas More Catholic Church, a member of the Board of United Missouri Bank, Notre Dame de Sion School and was past president of Indian Hills Country Club; and

WHEREAS, Mr. Clarkson was a board member of the Missouri Transit Coalition, a member, director and past president of the Associated General Contractors of Missouri, was a member and corporate secretary of Health Midwest Board of Directors, was a past chairman of the Research Medical Center Board of Directors, a member of the Engineers Club of Kansas City, and a Board member of the Chamber of Commerce of Kansas City; and

WHEREAS, Mr. Clarkson was most of all a devoted husband and father in whose heart and love his family always came first;

NOW, THEREFORE, BE IT RESOLVED, that the members of the Missouri Senate, pause in their deliberations to salute the memory of a distinguished Kansas Citian, Donald J. Clarkson, express their appreciation for his lifetime of good citizenship, and his contributions to Kansas City and to Missouri, and extend to his wife, Mrs. Julie B. Clarkson, family and many friends most sincere sympathy on his death; and

BE IT FURTHER RESOLVED that the Secretary of the Senate be instructed to prepare properly inscribed copies of this resolution for his wife, Mrs. Julie B. Clarkson, children, Donald Edwin Clarkson, Christopher George Clarkson, Kelly Anne Clarkson, Audrey Christine Clarkson; his parents, Mr. and Mrs. William E. Clarkson, Sr.; brothers, William E. Clarkson, Jr. and Stephen Clarkson; sisters, Sharon Anne Lapping, Linda L. Clarkson Vanauken, Kathy Brodie, Mary Lee Tilson, Jean Anne Schrader, Jan Elizabeth Krugh, Amy Marie Clarkson; Rockhurst High School; Clarkson Construction Co.; Heavy Contractors Association of Greater Kansas City; and Heavy Contractors Association of Missouri.

THIRD READING OF SENATE BILLS

SB 391, with **SCS**, introduced by Senator Schneider, et al, entitled:

An Act to repeal section 311.190, RSMo 1994, relating to wine manufacturers license, and to enact in lieu thereof one new section relating to the same subject.

Was called from the Consent Calendar and taken up by Senator Schneider.

SCS for SB 391, entitled:

SENATE COMMITTEE SUBSTITUTE FOR
SENATE BILL NO. 391

An Act to repeal section 311.190, RSMo 1994,

relating to wine manufacturers license, and to enact in lieu thereof one new section relating to the same subject.

Was taken up.

Senator Schneider moved that **SCS** for **SB 391** be adopted, which motion prevailed.

On motion of Senator Schneider, **SCS** for **SB 391** was read the 3rd time and passed by the following vote:

YEAS—Senators			
Banks	Bland	Clay	Flotron
Goode	Graves	House	Howard
Jacob	Johnson	Kinder	Klarich
Mathewson	Maxwell	Mueller	Quick
Rohrbach	Schneider	Scott	Sims
Singleton	Staples	Steelman	Wiggins
Yeckel—25			

NAYS—Senators			
Caskey	Childers	Kenney	Westfall—4

Absent—Senators			
Ehlmann	Russell	Stoll—3	

Absent with leave—Senators			
Bentley	DePasco—2		

The President Pro Tem declared the bill passed.

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

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

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

SB 348, introduced by Senator Wiggins, entitled:

An Act to repeal section 92.031, RSMo 1994, relating to debt service taxation in charter cities with a population of no less than three hundred thousand and no more than seven hundred thousand residents, and to enact in lieu thereof one new section relating to the same subject.

Was called from the Consent Calendar and taken up.

On motion of Senator Wiggins, **SB 348** was read the 3rd time and passed by the following vote:

YEAS—Senators

Bland	Caskey	Childers	Clay
Ehlmann	Flotron	Goode	House
Howard	Jacob	Johnson	Kenney
Kinder	Klarich	Mathewson	Maxwell
Mueller	Quick	Rohrbach	Schneider
Scott	Sims	Singleton	Staples
Steelman	Stoll	Westfall	Wiggins

Yeckel—29

NAYS—Senator Graves—1

Absent—Senators

Banks Russell—2

Absent with leave—Senators

Bentley DePasco—2

The President Pro Tem declared the bill passed.

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

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

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

SENATE BILLS FOR PERFECTION

Senator Goode moved that **SB 19**, with **SCS**, be taken up for perfection, which motion prevailed.

SCS for SB 19, entitled:

**SENATE COMMITTEE SUBSTITUTE FOR
SENATE BILL NO. 19**

An Act to repeal sections 303.041, 303.042 and 303.043, RSMo 1994, and sections 302.302, 303.024, 303.025 and 303.026, RSMo Supp. 1998, relating to financial responsibility for motor vehicles, and to enact in lieu thereof ten new sections relating to the same subject, with penalty provisions, and an effective date for certain sections.

Was taken up.

Senator Goode moved that **SCS for SB 19** be adopted.

Senator Goode offered **SS** for **SCS** for **SB 19**, entitled:

**SENATE SUBSTITUTE FOR
SENATE COMMITTEE SUBSTITUTE FOR
SENATE BILL NO. 19**

An Act to repeal sections 303.041, 303.042, 303.043, 307.353, 307.355, 307.360, 307.365, 307.390 and 643.315, RSMo 1994, and sections 32.080, 301.025, 301.140, 302.302, 303.024, 303.025, 303.026, 307.350, 307.366, 307.375 and 643.310, RSMo Supp. 1998, relating to the registration and inspection of motor vehicles, and to enact in lieu thereof twenty-five new sections relating to the same subject, with penalty provisions and an effective date for certain sections.

Senator Goode moved that **SS** for **SCS** for **SB 19** be adopted.

Senator Goode offered **SA 1**:

SENATE AMENDMENT NO. 1

Amend Senate Substitute for Senate Committee Substitute for Senate Bill No. 19, Page 5, Section 32.080, Line 4 of said page, by inserting immediately after said line the following:

"136.055. 1. Any person who is selected or appointed by the state director of revenue to act as an agent of the department of revenue, whose duties shall be the sale of motor vehicle licenses and the collection of motor vehicle sales and use taxes under the provisions of section 144.440, RSMo, and who receives no salary from the department of revenue, shall be authorized to collect from the party requiring such services additional fees as compensation in full and for all services rendered on the following basis:

(1) For each motor vehicle or trailer license sold, renewed or transferred--two dollars from August 28, 1997, until January 1, 1998; and two dollars and fifty cents beginning January 1, 1998; **and three dollars beginning July 1, 2000, for those licenses biennially renewed pursuant to section 301.147, RSMo;**

(2) For each application or transfer of title--two dollars from August 28, 1997, until

January 1, 1998; and two dollars and fifty cents beginning January 1, 1998;

(3) For each chauffeur's, operator's or driver's license--two dollars until January 1, 1998; and two dollars and fifty cents beginning January 1, 1998;

(4) No notary fee or other fee or additional charge shall be paid or collected except for electronic telephone transmission reception--two dollars.

2. This section shall not apply to agents appointed by the state director of revenue in any city, other than a city not within a county, where the department of revenue maintains an office. All fees charged shall not exceed those in this section.

3. Any person acting as agent of the department of revenue for the sale and issuance of licenses and other documents related to motor vehicles shall have an insurable interest in all license plates, licenses, tabs, forms and other documents held on behalf of the department.

4. The fee increases authorized by this section and approved by the general assembly were requested by the fee agents. All fee agent offices shall display a three foot by four foot sign with black letters of at least three inches in height on a white background which states:

The increased fees approved by the Missouri Legislature and charged by this fee office were requested by the fee agents."; and

Further amend said substitute, page 69, Section B, line 13 of said page, by inserting after "32.080" the following: "136.055"; and

Further amend the title and enacting clause accordingly.

Senator Goode moved that the above amendment be adopted.

Senator Johnson assumed the Chair.

Senator Klarich requested a roll call vote be taken on the adoption of SA 1 and was joined in his request by Senators Rohrbach, Howard, Childers and Graves.

SA 1 was adopted by the following vote:

YEAS—Senators

Caskey	Childers	Clay	Flotron
Goode	House	Howard	Jacob
Johnson	Mathewson	Schneider	Scott
Staples	Stoll	Westfall	Wiggins
Yeckel—17			

NAYS—Senators

Bland	Ehlmann	Graves	Kenney
Kinder	Klarich	Maxwell	Mueller
Quick	Rohrbach	Russell	Sims
Singleton	Stelman—14		

Absent—Senator Banks—1

Absent with leave—Senators

Bentley	DePasco—2
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Senator Goode offered SA 2, which was read:

SENATE AMENDMENT NO. 2

Amend Senate Substitute for Senate Committee Substitute for Senate Bill No. 19, Page 22, Section 303.025, Line 9 of said page, by inserting after the word "misdemeanor" the following: **"However, no person shall be found guilty of violating this section if the operator demonstrates to the court that he or she met the financial responsibility requirements of section 303.025 at the time the peace officer, commercial vehicle enforcement officer or commercial vehicle inspector wrote the citation."**

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

Senator Clay offered SA 3:

SENATE AMENDMENT NO. 3

Amend Senate Substitute for Senate Committee Substitute for Senate Bill No. 19, Page 69, Section B, Line 13, by inserting immediately before said line the following:

"Section 1. 1. No insurer shall deny, fail to renew or terminate a contract or account with an agent or broker for the sale of insurance coverage on a motor vehicle, property or casualty risk because of the geographic location of the risk."

2. Any violation of this section shall be deemed an unfair trade practice in the business of insurance and a violation of section 375.934, RSMo.; and

Further amend the title and enacting clause accordingly.

Senator Clay moved that the above amendment be adopted and requested a roll call vote be taken. He was joined in his request by Senators Goode, House, Kenney and Klarich.

SA 3 failed of adoption by the following vote:

YEAS—Senators

Bland	Caskey	Clay	Goode
House	Howard	Jacob	Johnson
Maxwell	Steelman	Stoll	Wiggins—12

NAYS—Senators

Childers	Ehlmann	Graves	Kenney
Kinder	Klarich	Mathewson	Mueller
Rohrbach	Russell	Sims	Singleton
Westfall	Yeckel—14		

Absent—Senators

Banks	Flotron	Quick	Schneider
Scott	Staples—6		

Absent with leave—Senators

Bentley	DePasco—2
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Senator Goode offered **SA 4**:

SENATE AMENDMENT NO. 4

Amend Senate Substitute for Senate Committee Substitute for Senate Bill No. 19, Page 59, Section 643.310, Line 18 of said page, by inserting immediately after said line the following:

"2. No later than the effective date of this section, the department of natural resources and the Missouri highway patrol shall enter into an interagency agreement covering all aspects of the administration and enforcement of section 307.366, RSMo, and sections 643.300 to 643.355.;" and

Further amend said substitute, page 59, section 643.310, lines 19 to 25 of said page, by striking all of said lines; and

Further amend said substitute, page 60, section

643.310, lines 1 and 2 of said page, by striking all of said lines and inserting in lieu thereof the following:

"[2.] 3. (1) The department [shall contract with one or more persons to provide any motor vehicle emissions inspection program established under sections 643.300 to 643.355.] with the cooperation and approval of the commissioner of administration, shall select a person or persons to operate an inspection facility or inspection program pursuant to sections 643.300 to 643.355, under a bid procedure or under a negotiated process or a combination thereof based on criteria and expectations established by the department. This process may use either a licensing arrangement or contractual arrangement with the selected party or parties. The selection of persons to operate inspection facilities or inspection programs shall be exempt from the provisions of all site procurement laws. The number of locations shall be no less than the number needed to provide adequate service to customers and establish an emissions inspection program which satisfies the requirements of this section. Each person who is authorized to operate a station pursuant to this section shall be capable of providing adequate and cost-effective service to customers.

(2) Service management, coordination and data processing may be provided by the department or by another person, including a contractor or licensee, based upon the most cost-effective proposal for service.

(3) A license or contract shall be for a period of up to seven years, consistent with the provisions of article IV, section 28 of the Missouri Constitution, and licenses or contracts shall be annually reviewed. A license or contract may be suspended or revoked if the licensee or contractor is not meeting the conditions of sections 643.300 to 643.355, all applicable rules, the license agreement or contract as determined by the department. A licensee or contractor found to have violated sections 643.300 to 643.355, applicable rules or the conditions of the license agreement or contract shall be in violation of section 643.151 and subject to the

penalties provided thereunder."; and further amend said section by renumbering the remaining subsections; and

Further amend said substitute, page 67, section 643.315, line 13 of said page, by striking ";" and inserting in lieu thereof the following: "."; and

Further amend said substitute, section 643.315, page 67, line 19, by striking ";" and inserting in lieu thereof the following: ". **A vehicle sold pursuant to this subdivision by a licensed motor vehicle dealer shall be inspected and approved within the one hundred and twenty days immediately preceding the date of sale, and, for the purpose of registration of such vehicle, such inspection shall be considered timely.**"; and

Further amend said substitute, page 68, section 643.315, lines 4 to 14 of said section, by striking all of said lines and inserting in lieu thereof the following: "within five working days. If the dealer chooses"; and further amend lines 23 to 25 of said page, by striking all of said line and inserting in lieu thereof the following: "established by the commission,"; and

Further amend said substitute, page 69, section 643.315, lines 1 to 5 of said page, by striking all of said line and inserting in lieu thereof the following "or"; and

Further amend said substitute, page 69, section 643.315, line 12 of said page, by inserting after all of said line the following:

"643.335. 1. The commission shall establish, by rule, a waiver amount which may be lower for older model vehicles and which, prior to January 1, 2001, shall be no greater than seventy-five dollars for model year vehicles prior to 1981, no greater than two hundred dollars for model year vehicles of 1981 to 1996 and no greater than four hundred and fifty dollars for model year vehicles of 1997 and all subsequent model years. On and after January 1, 2001, the commission may, by rule, set the waiver amount, except that the waiver amount shall not exceed the waiver amount provided in the federal Clean Air Act, as amended, 42 U.S.C. 7401 et seq., and the regulations promulgated thereunder for the enhanced motor vehicle emissions inspection.

2. The commission shall establish, by rule, a

form and a procedure for verifying that repair and adjustment was performed on a failing vehicle prior to the granting of a waiver and approval.

3. The waiver form established [under] **pursuant to** subsection 2 of this section shall be an affidavit requiring:

(1) A statement signed by the repairer that the specified work was done and stating the itemized charges for the work; and

(2) A statement signed by the emissions inspection contractor that an inspection of the vehicle verified, to the extent practical, that the specified work was done.

4. A vehicle which fails upon reinspection to meet the emissions standards specified by the commission shall have the emissions standards waived and receive approval only if the owner furnishes a complete, signed affidavit satisfying the requirements of subsection 3 of this section and the cost of the [repair] **parts, repairs** and adjustment work performed is equal to or greater than the waiver amount established by the commission. **Costs for repair work may only be included toward reaching the waiver amount if the repairs are performed by a recognized repair technician as defined by rule.**

5. No cost for parts, repairs or adjustments shall be included toward reaching the waiver amount if such costs are covered by an emission control performance warranty provided by the manufacturer at no additional cost to the vehicle owner unless the vehicle owner provides, with the affidavit, a written denial of warranty remedy from the motor vehicle manufacturer, dealer or other person providing the warranty.

6. No cost for parts, repairs or adjustments shall be included toward reaching the waiver amount if such costs are required to correct the effects of tampering with emissions systems or air pollution control devices.

643.350. 1. A fee, not to exceed twenty-four dollars, may be charged for an emissions inspection conducted under the emissions inspection program established pursuant to sections 643.300 to 643.355, except that on days of operation, other than the last three days of operation in each

calendar month, the fee shall be reduced by:

(1) Five dollars for any person who is required to wait more than fifteen minutes before the inspection begins; **and**

(2) Ten dollars for any person who is required to wait more than thirty minutes before the inspection begins; and

(3) Twenty dollars for any person who is required to wait more than sixty minutes before the inspection begins].

The waiting time shall begin at the time when the customer's vehicle is on the premises of the inspection station and available for inspection.

2. The commission shall establish, by rule, a time-stamping system to ensure that the time of arrival and the time inspection begins is accurately recorded for each vehicle at each emissions inspection facility.

3. The fee shall be conspicuously posted on the premises of each emissions inspection station.

4. The commission shall establish, by rule, the portion of the fee amount to be remitted by the contractor to the director of revenue and the number of days allowed for remitting fees.

5. The contractor shall remit the portion of fees collected, as established by the commission [under] **pursuant to** this section, to the director of revenue within the time period established by the commission. The director of revenue shall deposit the fees received in the state treasury to the credit of the "Missouri Air Emission Reduction Fund", which is hereby created. Moneys in the fund shall, subject to appropriation, be expended for the administration and enforcement of sections 643.300 to 643.355 **by the department of natural resources, the Missouri highway patrol, and other appropriate agencies.** Any balance in the fund at the end of the biennium shall remain in the fund and shall not be subject to the provisions of section 33.080, RSMo. All interest earned by moneys in the fund shall accrue to the fund.

6. In addition to funds from the Missouri air emission reduction fund, costs of capital or operations may be supplemented, upon appropriation, from the general revenue fund, the

state highway department fund, federal funds or other funds available for that purpose.

643.355. 1. Any person who knowingly misrepresents himself **or herself** as an official emissions inspection station [shall be] **or an inspector or a recognized repair technician is** guilty of a class C misdemeanor for the first offense and a class B misdemeanor for any subsequent offense. Any person who is found guilty or who has pleaded guilty to a violation of this subsection shall be considered to have committed an offense for the purposes of this subsection.

2. Any person who knowingly manufactures, conveys or possesses any counterfeit or illegally obtained emissions inspection certificate or a counterfeit or illegally obtained emissions inspection sticker [shall be] **is** guilty of a class C misdemeanor for the first offense and a class B misdemeanor for any subsequent offense. Any person who is found guilty or who has pleaded guilty to a violation of this subsection shall be considered to have committed an offense for the purposes of this subsection.

3. Any person who knowingly displays or permits to be displayed, on any motor vehicle owned by such person, any counterfeit or illegally obtained emissions inspection sticker [shall be] **is** guilty of an infraction.

4. Any person who knowingly uses any counterfeit or illegally obtained emissions inspection certificate for the purpose of obtaining any motor vehicle registration [shall be] **is** guilty of an infraction for the first offense, a class C misdemeanor for the second offense and a class B misdemeanor for any subsequent offense.

5. Any person who knowingly operates a motor vehicle required to be inspected and approved [under] **pursuant to** sections 643.300 to 643.355 without displaying a valid emissions inspection sticker as required [under] **pursuant to** section 643.315 [shall be] **is** guilty of an infraction for the first offense, a class C misdemeanor for the second offense and a class B misdemeanor for any subsequent offense.

6. Except as otherwise provided in this

section, any person who violates a requirement of sections 643.300 to 643.355 or a rule promulgated to enforce sections 643.300 to 643.355 [shall be] is guilty of an infraction.

7. The superintendent of the highway patrol may seize documents which the superintendent suspects are counterfeit or illegally obtained in violation of this section for the purpose of enforcing this section. Any person who violates any procedural requirement of sections 643.300 to 643.355 [shall be] is subject to a fine, and such fine shall be not less than five times the amount of the fee charged pursuant to section 643.350 or one hundred dollars, whichever is greater, if the violation is intentional or one involving gross negligence."; and

Further amend the title and enacting clause accordingly.

Senator Goode moved that the above amendment be adopted.

Senator Klarich raised the point of order that **SS** for **SCS** for **SB 19** is out of order as the substitute bill goes beyond the scope and purpose of the underlying legislation.

The point of order was referred to the President Pro Tem, who took it under advisement which places the bill on the Informal Calendar.

Senator Maxwell assumed the Chair.

Senator Quick moved that **SB 417**, with **SCA 1**, be called from the Informal Calendar and taken up for perfection, which motion prevailed.

SCA 1 was taken up.

Senator Quick requested unanimous consent of the Senate to correct **SCA 1**, by deleting the words "Section 2" and inserting in lieu thereof the words "Section 4", which request was granted.

Senator Quick moved that **SCA 1** be adopted, which motion prevailed.

Senator Quick offered **SS** for **SB 417**, entitled:

SENATE SUBSTITUTE FOR
SENATE BILL NO. 417

An Act relating to escrow accounts for tobacco product manufacturers, with penalty provisions and

an emergency clause.

Senator Quick moved that **SS** for **SB 417** be adopted.

Senator Johnson assumed the Chair.

Senator Flotron offered **SA 1**:

SENATE AMENDMENT NO. 1

Amend Senate Substitute for Senate Bill No. 417, Page 1, In the Title, Line 2, by inserting immediately after the word "to" the following: "the tobacco settlement agreement and"; and

Further amend said bill, Page 9, Section 3, Line 18 of said page, by inserting immediately after said line the following:

"Section 2. 1. In the event a court of this state through a final ruling declares senate bill no. 417 of the ninetieth general assembly, first regular session, or a portion thereof invalid, a cause of action shall be filed by the attorney general on behalf of the state of Missouri and other appropriate parties, if applicable, in a state or federal court of appropriate jurisdiction testing the constitutionality of the master settlement agreement, entered into by the attorney general on behalf of the state.

2. The attorney general shall request injunctive relief for any monetary penalties provided for in the master settlement agreement which Missouri is or might be subject to as specified in the master settlement agreement as a result of the court's ruling, and shall specifically ask the court for an order commanding continued compliance with senate bill no. 417 of the ninetieth general assembly, first regular session, during the pendency of the suit. Such action shall allege, including but not limited to, that the provisions of the master settlement agreement are unconstitutional under either state and/or federal law.

3. In the event a "participating manufacturer" as defined in the master settlement agreement initiates, assists, or in any way contributes to any cause of action that leads to a court's ruling senate bill no. 417 of the ninetieth general assembly, first regular session, or any portion thereof is unconstitutional, then

that "participating manufacturer" will have consented to have voluntarily withdrawn their participation from the master settlement agreement, and shall be subject to the full force and effect of the laws of the state of Missouri. In the event that this subsection is applicable, then the attorney general shall institute litigation regarding the "participating manufacturer's" sale, distribution, production, or any related behavior thereof, of the "participating manufacturers" tobacco products sold to the citizens of this state.

4. In the event a "participating manufacturer" as defined in the master settlement agreement initiates, assists, or in any way contributes to any cause of action that leads to a court's ruling senate bill no. 417 of the ninetieth general assembly, first regular session, or any portion thereof is unconstitutional, then the state of Missouri shall be released from any restrictions as are contained in the master settlement agreement, and any "participating manufacturers" shall be subject to the full force and effect of the laws of the state of Missouri. In the event that this subsection is applicable, then the attorney general shall institute litigation regarding any "participating manufacturer's" sale, distribution, production, or any related behavior thereof, of any "participating manufacturers" tobacco products sold to the citizens of this state.

5. In the event a "non-participating manufacturer" as defined in the master settlement agreement initiates, assists, or in any way contributes to any cause of action that leads to a court's ruling senate bill no. 417 of the ninetieth general assembly, first regular session, or any portion thereof is unconstitutional, then that "non-participating manufacturer" will have consented to have voluntarily withdrawn their participation from the master settlement agreement, or from the application of senate bill no. 417 of the ninetieth general assembly, first regular session, and shall be subject to the full force and effect of the laws of the state of Missouri. In the event that this subsection is applicable, then the attorney general shall institute litigation regarding the

"non-participating manufacturer's" sale, distribution, production, or any related behavior thereof, of the "non-participating manufacturers" tobacco products sold to the citizens of this state. In the event of the applicability of this subsection, any revenue placed into an applicable escrow fund as called for in senate bill no. 417 of the ninetieth general assembly, first regular session, shall be forfeited to the state and deposited to the credit of the school trust fund.

6. In the event a "non-participating manufacturer" as defined in the master settlement agreement initiates, assists, or in any way contributes to any cause of action that leads to a court's ruling senate bill no. 417 of the ninetieth general assembly, first regular session, or any portion thereof is unconstitutional, then the state of Missouri shall be released from any restrictions as are contained in the master settlement agreement, and any "non-participating manufacturers" shall be subject to the full force and effect of the laws of the state of Missouri. In the event that this subsection is applicable, then the attorney general shall institute litigation regarding any "non-participating manufacturer's" sale, distribution, production, or any related behavior thereof, of any "non-participating manufacturers" tobacco products sold to the citizens of this state.

Section 3. 1. Sections 3 to 7 of this act shall be known and may be cited as the "Tobacco Manufacturers Medicaid Responsibility Act".

2. For purposes of sections 3 to 7 of this act, the following terms shall mean:

(1) "Tobacco manufacturer", any person engaged in the process of designing, fabricating, assembling, producing, constructing or otherwise preparing tobacco products, including packaging or labeling of such products, with the intended purpose of selling the product for gain or profit. Tobacco manufacturer does not include persons whose activity is limited to growing natural leaf tobacco or selling tobacco products at wholesale or retail to customers;

(2) "Tobacco product", any product containing or derived from tobacco leaf that is designed or commonly used for smoking or chewing.

Section 4. 1. To the extent that the department of social services provides, has provided, or is likely to provide, any medical assistance pursuant to this chapter for any injury, disease or disability arising from or connected with the use of any tobacco product, the state shall be entitled to full recovery from any tobacco manufacturer for the full amount paid, or likely to be paid in the future, for such medical assistance and for any other relief, including punitive damages, legal and administrative fees and expenses.

2. An action may be brought to obtain such recovery either in the name of the attorney general, the state or the department of social services, and may be brought in any county of the state where any such medical services have been provided.

3. The right of the department, the state or the attorney general to bring such an action against a tobacco manufacturer pursuant to this section shall be independent of and not construed to affect any rights or causes of action by the individual recipient to recover damages as a result of a tobacco-related health condition.

4. Existing common law and statutory actions available to the attorney general, the state or the department to recover Medicaid expenditures from a tobacco manufacturer, including direct actions or actions in subrogation to the rights of the Medicaid recipient, are expressly preserved. Any action brought pursuant to sections 3 to 7 of this act may be brought in addition to any existing common law or statutory action, or both, and shall not preempt or extinguish such actions.

Section 5. 1. In any action brought pursuant to sections 3 to 7 of this act:

(1) Principles of common law and equity regarding assignment, lien, subrogation, comparative negligence, assumption of risk and other affirmative defenses normally available to

a defendant are abrogated to the extent necessary to ensure full recovery;

(2) Joint and several liability applies to any judgment obtained against more than one tobacco manufacturer;

(3) The state, the department or the attorney general shall be permitted to proceed under a market share theory, provided that the tobacco products involved are substantially interchangeable among brands, and substantially similar factual and legal issues would be involved in seeking recovery against each individual tobacco manufacturer. In the event the state elects to proceed under a market share theory, the concept of joint and several liability shall not apply;

(4) The state, the department or the attorney general may bring an action to recover amounts paid for medical services rendered to any one Medicaid recipient or, where such an action may involve common questions of law or fact, for any identifiable class of Medicaid recipients. Where recovery is sought for services rendered to a class of Medicaid recipients, the identity of each individual recipient for which payment has been made shall not be required to be disclosed and recovery shall be based on the total of payments made on behalf of the entire class as such;

(5) The rules of evidence shall be liberally construed and applied regarding the issues of causation and damages and, notwithstanding any substantive or procedural rule of law to the contrary, the issues of causation and damages in any such action may be proved by the use of statistical analysis alone;

(6) No defendant tobacco manufacturer shall be entitled to any offset against the state's damages in the amount of any tax revenue from the sale of cigarettes that the state may have received, nor shall any defendant tobacco manufacturer be entitled to any offset against the state's damages in the amount of the cost of the medical services that the state might have had to provide with respect to any single Medicaid recipient or class of Medicaid

recipients had such recipient or recipients not been killed by, or in part because of, the tobacco manufacturer's tobacco products.

2. The state, the department or the attorney general may bring an action pursuant to sections 3 to 7 of this act within the later of five years after the first medical service for a tobacco-related illness, injury or disability is provided to the Medicaid recipient, or five years after the death of such recipient. Where the action is to recover for medical services rendered to a class of Medicaid recipients, the action is timely if brought within the later of five years after the first provision of services to any member of the class or five years after the death of the last surviving member of the class.

Section 6. If any provision of sections 3 to 7 of this act is ruled void or unenforceable for any reason, the courts shall be authorized to fashion the minimally necessary remedy to render the provision enforceable and shall give full effect to all other provisions of sections 3 to 7 of this act.

Section 7. It is the intent of the legislature that sections 3 to 7 of this act be deemed applicable to any action by the state, the attorney general or the department against any tobacco manufacturer that is filed after or pending at the time sections 3 to 7 of this act become effective.

Section 8. Sections 3 to 7 of this act shall become effective upon notice to the revisor of statutes by the attorney general that he has initiated a cause of action pursuant to section 2 of this act."; and

Further amend the title and enacting clause accordingly.

Senator Flotron moved that the above amendment be adopted.

President Wilson assumed the Chair.

Senator Johnson assumed the Chair.

Senator Wiggins assumed the Chair.

Senator Maxwell requested a roll call vote be taken on the adoption of SA 1 and was joined in his request by Senators Quick, Mathewson, Singleton

and Jacob.

SA 1 failed of adoption by the following vote:

YEAS—Senators

Childers	Clay	Ehlmann	Flotron
Graves	Kenney	Kinder	Klarich
Rohrbach	Russell	Sims	Singleton
Steelman	Yeckel—14		

NAYS—Senators

Bland	Caskey	Goode	House
Howard	Jacob	Johnson	Mathewson
Maxwell	Quick	Schneider	Scott
Staples	Stoll	Wiggins—15	

Absent—Senators

Banks	Mueller	Westfall—3	
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Absent with leave—Senators

Bentley	DePasco—2		
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President Wilson assumed the Chair.

Senator Ehlmann offered SA 2, which was read:

SENATE AMENDMENT NO. 2

Amend Senate Substitute for Senate Bill No. 417, Page 1, Section 1, Lines 1-8, by deleting said lines.

Senator Ehlmann moved that the above amendment be adopted and requested a roll call vote be taken. He was joined in his request by Senators Childers, Jacob, Kenney and Yeckel.

SA 2 failed of adoption by the following vote:

YEAS—Senators

Childers	Ehlmann	Flotron	Graves
Kenney	Kinder	Klarich	Rohrbach
Russell	Sims	Singleton	Steelman
Yeckel—13			

NAYS—Senators

Bland	Caskey	Clay	Goode
House	Howard	Jacob	Johnson
Mathewson	Maxwell	Quick	Scott
Staples	Stoll	Wiggins—15	

Absent—Senators

Banks	Mueller	Schneider	Westfall—4
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Absent with leave—Senators

Bentley DePasco—2

At the request of Senator Quick, **SB 417**, with **SS** (pending), was placed on the Informal Calendar.

REPORTS OF STANDING COMMITTEES

On behalf of Senator Banks, Chairman of the Committee on Public Health and Welfare, Senator Wiggins submitted the following report:

Mr. President: Your Committee on Public Health and Welfare, to which was referred **SB 261**, begs leave to report that it has considered the same and recommends that the Senate Committee Substitute, hereto attached, do pass and be placed on the Consent Calendar.

On behalf of Senator DePasco, Chairman of the Committee on Rules, Joint Rules and Resolutions, Senator Quick submitted the following report:

Mr. President: Your Committee on Rules, Joint Rules and Resolutions, to which was referred **SS** for **SB 289**, begs leave to report that it has examined the same and finds that the bill has been truly perfected and that the printed copies furnished the Senators are correct.

RESOLUTIONS

Senator Ehlmann offered Senate Resolution No. 371, regarding Janet Lynn Silverstein Woodburn, St. Charles County, which was adopted.

Senator Sims offered Senate Resolution No. 372, regarding David A. Winton, St. Louis, which was adopted.

Senator Sims offered Senate Resolution No. 373, regarding Mr. and Mrs. Charles Deutsch, St. Louis, which was adopted.

Senator Howard offered Senate Resolution No. 374, regarding Carl R. Richardson, Sr., Malden, which was adopted.

Senator Howard offered Senate Resolution No. 375, regarding the late Richard Lee Toney, Piedmont, which was adopted.

Senator Mathewson offered Senate Resolution No. 376, regarding the Fiftieth Wedding

Anniversary of Mr. and Mrs. Talmadge E. "Tom" Thomas, Otterville, which was adopted.

INTRODUCTIONS OF GUESTS

Senator Wiggins introduced to the Senate, Annette Waugh, Doris Collins-Moore, Joan Vaughn Nelle and Mary P. Jones, Kansas City.

Senator Yeckel introduced to the Senate, Betty Summa and 45 tenth grade students from Lindbergh High School, St. Louis; and Lindsey Oliver, Zach Foerstel, Jake Pressler and Andrea Rois were made honorary pages.

Senator Kenney introduced to the Senate, Preston, Justin and Jonathan Smith, Blue Springs; and Jonathan and Justin were made honorary pages.

Senator Steelman introduced to the Senate, Cassie Lane, Amanda Howe, Mandy Alcorn, Sarah Gray, Kristal Burkit, Kristal Sheperd and Sarah Callen, 4th grade students from Newburg.

Senator Stoll introduced to the Senate, Amy Woods, Festus.

Senator Russell introduced to the Senate, Craig Curry and Jan Delcour, Lebanon.

Senator Childers introduced to the Senate, Koni Turner, West Plains.

Senator Wiggins introduced to the Senate, Laura Taylor and her children, Hannah, Sarah and Joshua, Shirley Cosbohn and Margie Mordig, Kansas City; and Hannah, Sarah and Joshua were made honorary pages.

The President introduced to the Senate, Betsey Cronkite.

Senator Rohrbach introduced to the Senate, Ellen Twyman and forty-two fourth grade students from Tipton Elementary School.

Senator Quick introduced to the Senate, Mike and Terri Abel and their children, Kaitlyn and Michael Cole, Kansas City; and Michael Cole was made an honorary page.

Senator Wiggins introduced to the Senate, Amy M. McCloud and Joyce Counce, Kansas City.

Senator Childers introduced to the Senate, Kendra E. Fredrickson and Carla Klein, Stone

County.

On behalf of Senator House and himself, Senator Ehlmann introduced to the Senate, Monica Hundt, Mat Boerner, Paul Lancia, Toby M. Kahr and Tom Schrautemeier, St. Charles; and Yvette Hubbman, St. Louis; student Senate members and advisors from St. Charles County Community College, St. Peters.

Senator Wiggins introduced to the Senate, John Zondra and Charlie Gotschall, Kansas City.

Senator Ehlmann introduced to the Senate, George Dames, O'Fallon.

Senator Graves introduced to the Senate, Marge Nipmeyer, Sue Judas, Rhonda McKenzie and Amy Murrain; and fourth grade students from Brookfield.

Senator Steelman introduced to the Senate, eighth grade students from Raymondville.

Senator Staples introduced to the Senate, Carmen Jackson, Rodney Ogden and sixteen students from Naylor R-II, Naylor, which was adopted.

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

SENATE CALENDAR

THIRTY-SEVENTH DAY—WEDNESDAY, MARCH 10, 1999

FORMAL CALENDAR

HOUSE BILLS ON SECOND READING

HCS for HB 267
HB 570-Rizzo
HB 453-Gross
HB 473-Legan

HB 257-Seigfreid
HB 326-Parker
HB 290-Champion
HB 724-Crump

THIRD READING OF SENATE BILLS

1. SCS for SB 282-Clay, et al
(In Budget Control)
2. SB 95-Maxwell
(In Budget Control)
3. SJR 25-Rohrbach and Goode
(In Budget Control)
4. SS for SCS for SBs 14,
60 & 69-Mathewson
(In Budget Control)

5. SS for SB 22-Flotron
(In Budget Control)
6. SB 33-Johnson
(In Budget Control)
7. SCS for SBs 322, 150
& 151-Sims and Goode
(In Budget Control)
8. SCS for SB 346-Stoll
(In Budget Control)

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| <p>9. SS for SCS for SB 335-
Caskey (In Budget Control)</p> <p>10. SCS for SBs 295 & 46-Schneider, et al
(In Budget Control)</p> | <p>11. SS for SB 289-Goode, et al</p> |
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SENATE BILLS FOR PERFECTION

- | | |
|---|---|
| <p>1. SB 339-Howard and
Sims, with SCS</p> <p>2. SB 405-Scott, et al, with SCS</p> <p>3. SB 249-Maxwell, with SCS</p> <p>4. SB 338-Howard and
Sims, with SCS</p> <p>5. SJR 23-Mathewson, et al</p> <p>6. SBs 1, 92, 111, 129 &
222-Schneider, with SCS</p> <p>7. SB 205-Westfall and
Staples, with SCA 1</p> <p>8. SB 70-Schneider, with SCS</p> <p>9. SB 394-Quick, with SCS</p> | <p>10. SB 235-Stoll</p> <p>11. SB 209-Goode, et al,
with SCA 1</p> <p>12. SB 179-Goode, with SCA 1</p> <p>13. SB 37-Rohrbach, with SCS</p> <p>14. SB 425-Stoll, et al, with SCS</p> <p>15. SB 215-Mathewson</p> <p>16. SB 386-Clay, with SCS</p> <p>17. SB 233-Sims, with SCS</p> <p>18. SBs 347, 40, 241 &
301-House, with SCS</p> <p>19. SB 467-Caskey, with SCS</p> <p>20. SB 336-Caskey</p> |
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INFORMAL CALENDAR

THIRD READING OF SENATE BILLS

SB 196-DePasco

SB 197-DePasco

SENATE BILLS FOR PERFECTION

- | | |
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| <p>SB 5-Wiggins</p> <p>SB 19-Goode, with SCS, SS
for SCS, SA 4 & point of order (pending)</p> <p>SB 78-Russell, with SA 4 (pending)</p> <p>SB 203-Wiggins</p> <p>SB 288-Quick, et al, with SS,
SA 1 & points of order (pending)</p> | <p>SB 309-Maxwell, with SA 2
(pending)</p> <p>SB 318-Jacob, et al, with
SCS & SS for SCS (pending)</p> <p>SB 373-DePasco and Jacob,
with SS (pending)</p> <p>SB 417-Quick, with SS (pending)</p> |
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CONSENT CALENDAR

Senate Bills

Reported 2/2

SB 353-Goode, with SCA 1
(In Budget Control)

SB 403-Rohrbach and Goode

Reported 3/1

SB 177-DePasco
SBs 320 & 445-Caskey,
with SCS
(In Budget Control)

SB 426-Howard
(In Budget Control)
SB 399-Maxwell
(In Budget Control)

Reported 3/8

SB 176-Rohrbach, with SCS
SB 364-Ehlmann

SB 466-Caskey, with SCA 1
SB 326-Goode

Reported 3/9

SB 424-Westfall
SB 434-Klarich, with SCAs 1 & 2
SB 435-Staples
SB 352-Staples, with SCA 1
SB 270-Ehlmann

SB 438-Russell, et al, with SCS
SB 334-Mathewson, with SCS
SB 479-Singleton
SB 261-Howard, with SCS

BILLS IN CONFERENCE AND BILLS
CARRYING REQUEST MESSAGES

In Conference

HCS for HB 14, with SCS (Goode)

Requests to Recede or Grant Conference

HCS for HCRs 6 & 7 (Staples),
with SA 1, as amended & SA 2
(Senate refuses to recede and
requests House grant conference)

RESOLUTIONS

SR 359-Ehlmann

SCR 9-Mueller

Unofficial

Reported from Committee

SCR 14-Quick

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