

Journal of the Senate

FIRST REGULAR SESSION

FORTY-FIRST DAY—TUESDAY, MARCH 23, 1999

The Senate met pursuant to adjournment.

President Pro Tem Quick in the Chair.

The Reverend Carl R. Gauck offered the following prayer:

In Second Chronicles 31:21 we read: "And every work that he undertook...seeking his God, he did it with all his heart." Let us Pray.

Gracious Father: Help us to focus this day with all our attention on one thing at a time. Help us avoid jumping from one project to another and thereby miss the person among the people and bill among bills needing what we only can provide. Help us use the intelligence and creativity You have provided us to make a difference while we are here. This we ask in Your Holy Name. 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.

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

Present—Senators

Banks	Bentley	Bland	Caskey
Childers	Clay	DePasco	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—34		

Absent with leave—Senators—None

The Lieutenant Governor was present.

RESOLUTIONS

Senator Wiggins, joined by the entire membership of the Senate, offered the following resolution, which was read and adopted:

SENATE RESOLUTION NO. 442

WHEREAS, the members of the Missouri Senate were deeply saddened to learn of the untimely death of one of their beloved staff members, Nathalia June Marcum of Rich Fountain, Missouri, who was baptized into the Hope of Christ's Resurrection on March 12, 1999; and

WHEREAS, the fifty-six-year-old Nathalia Marcum was born on November 29, 1942, in Russellville, Missouri, to Edwin O. and Norma June Weaver Jungmeyer; and

WHEREAS, a 1960 graduate of Russellville High School, Nathalia Marcum married Lester S. Marcum during joyful ceremonies which were held later that same year on the 26th of October in California, Missouri; and

WHEREAS, Nathalia Marcum always strove to improve her many career skills, and down through the years she attended Lincoln University, Nichols Career Center, and the Missouri State Highway Patrol communications school and law enforcement dispatching academy; and

WHEREAS, Supervisor of Typesetting for the Missouri State Senate, Nathalia Marcum had previously established her impressive reputation as a diligent and meticulous worker while serving as secretary to former Governor Kit Bond and as an employee of the Division of Employment Security and the Jefferson City Police Department; and

WHEREAS, a valued member of Sacred Heart Catholic Church in Rich Fountain, Nathalia Marcum was preceded in death by a beloved son, Michael S. Marcum; and

WHEREAS, the passing of Nathalia Marcum is mourned by her many colleagues and friends, but her loss will be most acutely felt by her extended family which consists of her parents; her loving husband; her three brothers, Dennis Jungmeyer of Little Rock, Arkansas, and Steven Jungmeyer and Kevin Jungmeyer of Jefferson City; daughter, Tina E. Eisterhold of Rich Fountain; son, Edwin V.L. Marcum of Jefferson City; and five grandchildren:

NOW, THEREFORE, BE IT RESOLVED that we, the members of the Missouri Senate, Ninetieth General Assembly, join unanimously to express this legislative body's most heartfelt condolences to the family, friends, and colleagues of Nathalia Marcum during this time of intense sorrow; and

BE IT FURTHER RESOLVED that the Secretary of the Senate be instructed to prepare a properly inscribed copy of this resolution in memory of Nathalia June Marcum, as an expression of our esteem for her.

SENATE BILLS FOR PERFECTION

Senator Howard moved that **SB 338**, with **SCS** and **SS** for **SCS** (pending), be called from the Informal Calendar and again taken up for perfection, which motion prevailed.

SS for **SCS** for **SB 338** was again taken up.

Senator DePasco announced that photographers from Channel 8, the Associated Press and the Senate had been given permission to take pictures in the Senate Chamber today.

Senator Johnson assumed the Chair.

Senator Howard offered **SA 1**:

SENATE AMENDMENT NO. 1

Amend Senate Substitute for Senate Committee Substitute for Senate Bill No. 338, Page 10, Section 376.827, Lines 11-16 of said page, by striking all of said lines and inserting in lieu thereof the following:

"3. A health insurance policy shall be construed to be in compliance with this section if the policy is issued by a federally-qualified health maintenance organization and in the discretion of the director provides coverage for mental health services that are equivalent to or exceed those coverages required by sections 376.825 to 376.833."

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

Senator Sims offered **SA 2**:

SENATE AMENDMENT NO. 2

Amend Senate Substitute for Senate Committee Substitute for Senate Bill No. 338, Page 8, Section 376.826, Lines 9-12 of said page, by striking all of said lines; and further amend by renumbering the remaining subdivisions accordingly; and

Further amend said bill, Page 9, Section 376.826, Lines 7-15 of said page, by striking all of said lines and inserting in lieu thereof the following:

"(5) Mental illness", the following disorders contained in the International Classification of Diseases (ICD-9-CM):

(a) Schizophrenic disorders and paranoid states (295 and 297, except 297.3);

(b) Major depression, bipolar disorder, and other affective psychoses (296);

(c) Obsessive compulsive disorder, post-traumatic stress disorder and other major anxiety disorders (300.0, 300.21, 300.22, 300.23, 300.3 and 309.81);

(d) Early childhood psychoses, and other disorders first diagnosed in childhood or adolescence (299.8, 312.8, 313.81 and 314);

(e) Alcohol and drug abuse (291, 292, 303, 304, and 305, except 305.1); and

(f) Anorexia nervosa, bulimia and other severe eating disorders (307.1, 307.51, 307.52 and 307.53);"; and

Further amend said bill, Page 10, Section 376.826, Line 6 of said page, by striking all of said line and inserting in lieu thereof the following: **"and other drug abuse services shall be provided under this act only to persons who are diagnosed with both a mental illness and an alcohol and other drug dependency. For persons who are suspected of suffering from both a mental illness and an alcohol and other drug abuse dependency, such persons shall be eligible for coverage under this act for one detoxification session not to exceed four days. Persons who subsequently are duly diagnosed with both a mental illness and alcohol or other drug dependency shall have a limit of forty-five"**.

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

Senator Sims offered **SA 3**:

SENATE AMENDMENT NO. 3

Amend Senate Substitute for Senate

Committee Substitute for Senate Bill No. 338, Page 11, Section 376.828, Line 11 of said page, by inserting at the end of said line the following: "**An insurer may contract for benefits provided in sections 376.825 to 376.835 with a managing entity or group of providers for the management and delivery of services for benefits governed by sections 376.825 to 376.835.**".

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

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

SENATE AMENDMENT NO. 4

Amend Senate Substitute for Senate Committee Substitute for Senate Bill No. 338, Page 7, Section 376.811, Line 21 of said page, by inserting after the word "same" on said line the following: "**rates, terms, conditions,**".

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

Senator Staples assumed the Chair.

Senator Wiggins assumed the Chair.

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

SENATE AMENDMENT NO. 5

Amend Senate Substitute for Senate Committee Substitute for Senate Bill No. 338, Page 12, Section 376.829, Lines 3-4 of said page, by striking the words "a financial hardship" and inserting in lieu thereof the following: "a two percent increase in premium costs".

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

Senator Howard moved that **SS** for **SCS** for **SB 338**, as amended, be adopted, which motion prevailed.

On motion of Senator Howard, **SS** for **SCS** for **SB 338**, as amended, was declared perfected and ordered printed.

HOUSE BILLS ON SECOND READING

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

HCS for **HB 267**—Pensions and General Laws.

HB 570—Judiciary.

HB 453—Financial and Governmental Organization.

HB 473—Local Government and Economic Development.

HB 257—Civil and Criminal Jurisprudence.

HB 326—Elections, Veterans' Affairs and Corrections.

HB 290—Transportation.

HB 724—Civil and Criminal Jurisprudence.

HS for **HB 516**—Ways and Means.

HCS for **HB 621**—Education.

HCS for **HBs 316, 660** and **203**—Aging, Families and Mental Health.

HCS for **HBs 788, 428** and **106**—Civil and Criminal Jurisprudence.

HS for **HCS** for **HBs 427, 40, 196** and **404**—Public Health and Welfare.

HB 201—Local Government and Economic Development.

HCS for **HB 343**—Local Government and Economic Development.

HB 487—Civil and Criminal Jurisprudence.

HB 568—Financial and Governmental Organization.

HB 145—Commerce and Environment.

HB 589—Elections, Veterans' Affairs and Corrections.

HB 708—Agriculture, Conservation, Parks and Tourism.

HB 409—Aging, Families and Mental Health.

HB 607—Public Health and Welfare.

HB 893—Public Health and Welfare.

HB 866—Insurance and Housing.

HB 867—Pensions and General Laws.

HB 861—Financial and Governmental Organization.

HB 528—Elections, Veterans' Affairs and

Corrections.

HCS for HB 490—Aging, Families and Mental Health.

HS for HCS for HBs 246 and 405—Financial and Governmental Organization.

HB 261—Transportation.

HB 741—Civil and Criminal Jurisprudence.

HB 920—Education.

HB 834—Agriculture, Conservation, Parks and Tourism.

HB 352—Local Government and Economic Development.

HB 791—Agriculture, Conservation, Parks and Tourism.

HB 402—Local Government and Economic Development.

HB 721—Public Health and Welfare.

HB 779—Local Government and Economic Development.

HB 795—Local Government and Economic Development.

HB 853—Local Government and Economic Development.

HB 796—Local Government and Economic Development.

HB 778—Education.

HB 776—Local Government and Economic Development.

HB 476—Elections, Veterans' Affairs and Corrections.

HB 800—Agriculture, Conservation, Parks and Tourism.

REPORTS OF STANDING COMMITTEES

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

Mr. President: Your Committee on Rules, Joint Rules and Resolutions, after examination of **SB 500**, respectfully requests that it be removed

from the Senate Consent Calendar in accordance with the provisions of Senate Rule 45.

Also,

Mr. President: Your Committee on Rules, Joint Rules and Resolutions, after examination of **SB 481**, with **SCS**, respectfully requests that it be removed from the Senate Consent Calendar in accordance with the provisions of Senate Rule 45.

Also,

Mr. President: Your Committee on Rules, Joint Rules and Resolutions, after examination of **SJR 29**, respectfully requests that it be removed from the Senate Consent Calendar in accordance with the provisions of Senate Rule 45.

Also,

Mr. President: Your Committee on Rules, Joint Rules and Resolutions, after examination of **SB 474**, respectfully requests that it be removed from the Senate Consent Calendar in accordance with the provisions of Senate Rule 45.

RESOLUTIONS

Senator Childers offered Senate Resolution No. 443, regarding Peggy Emerson, Reeds Spring, which was adopted.

On motion of Senator DePasco, the Senate recessed until 3:30 p.m.

RECESS

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

THIRD READING OF SENATE BILLS

SCS for SB 405, entitled:

SENATE COMMITTEE SUBSTITUTE FOR
SENATE BILL NO. 405

An Act to repeal section 67.750, RSMo 1994, and sections 67.792, 67.793, 67.794, 67.795, 67.796, 67.797 and 67.799, RSMo Supp. 1998, relating to recreational systems of political subdivisions, and to enact in lieu thereof ten new sections relating to the same subject.

Was taken up by Senator Scott.

On motion of Senator Scott, **SCS** for **SB 405** was read the 3rd time and passed by the following vote:

YEAS—Senators

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

NAYS—Senator Graves—1

Absent—Senators

Russell Schneider—2

Absent with leave—Senators—None

The President Pro Tem declared the bill passed.

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

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

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

Senator Wiggins assumed the Chair.

SB 205, introduced by Senators Westfall and Staples, entitled:

An Act to repeal sections 226.510, 226.520, 226.525 and 226.540, RSMo 1994, and section 226.550, RSMo Supp. 1998, relating to highway beautification, and to enact in lieu thereof six new sections relating to the same subject.

Was taken up by Senator Westfall.

On motion of Senator Westfall, **SB 205** was read the 3rd time and passed by the following vote:

YEAS—Senators

Banks	Bentley	Bland	Caskey
Childers	Clay	DePasco	Ehlmann
Flotron	Goode	Graves	House
Jacob	Johnson	Kenney	Kinder
Klarich	Mathewson	Maxwell	Mueller
Quick	Rohrbach	Russell	Schneider
Scott	Sims	Singleton	Staples

Steelman Stoll Westfall Wiggins
Yeckel—33

NAYS—Senator Howard—1

Absent—Senators—None

Absent with leave—Senators—None

The President declared the bill passed.

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

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

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

SENATE BILLS FOR PERFECTION

At the request of Senator Schneider, **SB 70**, with **SCS**, was placed on the Informal Calendar.

Senator Quick moved that **SB 394**, with **SCS**, be taken up for perfection, which motion prevailed.

SCS for **SB 394**, entitled:

**SENATE COMMITTEE SUBSTITUTE FOR
SENATE BILL NO. 394**

An Act to repeal sections 140.110, 242.580, 243.370, 245.210 and 442.380, RSMo 1994, relating to ownership of property, and to enact in lieu thereof five new sections relating to the same subject.

Was taken up.

Senator Quick moved that **SCS** for **SB 394** be adopted.

Senator Quick offered **SA 1**:

SENATE AMENDMENT NO. 1

Amend Senate Committee Substitute for Senate Bill No. 394, Page 1, Section 140.110, Lines 8-10, by striking all of said lines; and inserting in lieu thereof the following:

"2. All personal property taxes and taxes on each individual parcel of real estate on back tax books shall be paid before a county collector accepts any payment for all or any part of real or personal property taxes due and assessed on

the current tax books."; and

Further amend said bill, page 3, Section 442.380, lines 1 to 6, by striking all of said section and inserting in lieu thereof the following:

"408.620. Financial institutions, as defined in section 381.410, RSMo, which are mortgage servicers, shall pay property tax obligations which they service from escrow accounts, as defined in Title 24 Part 3500 Section 17, Code of Federal Regulations, in one annual payment before the first day of January of the year following the year for which the tax is levied. Escrow accounts established between such financial institutions and borrowers are contractually binding and may disallow the payment of property taxes more than once a year as such payments are authorized in section 50.1500, RSMo."; and

Further amend the title and enacting clause accordingly.

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

Senator Kinder offered SA 2:

SENATE AMENDMENT NO. 2

Amend Senate Committee Substitute for Senate Bill No. 394, Page 2, Section 243.370, Line 12, by striking the opening "[" and closing "]" brackets around the word "one" and the word "two" and further amend lines 14-15, by striking all of line 14 after the word "paid" and line 15 through the word "year"; and

Further amend said bill, page 1, section 242.580, line 3, by striking the opening "[" and closing "]" brackets and the word "two" and further amend said section, lines 4-6, by striking all of the bold face language on said lines after the word "paid" and inserting in lieu thereof a period "."; and

Further amend said bill, section 245.210, line 3, by striking the opening "[" and closing "]" brackets and the word "two" and further amend said section, lines 4-6, by striking all of the bold faced language on said lines after the word "paid" and inserting in lieu thereof a period ".".

Senator Kinder moved that the above

amendment be adopted, which motion prevailed.

Senator Ehlmann offered SA 3:

SENATE AMENDMENT NO. 3

Amend Senate Committee Substitute for Senate Bill No. 394, Page 3, Section 442.380, Line 6, by inserting immediately after said line the following:

"137.016. 1. As used in section 4(b) of article X of the Missouri Constitution, the following terms mean:

(1) "Residential property", all real property improved by a structure which is used or intended to be used for residential living by human occupants, vacant land in connection with an airport, land used as a golf course, [and] manufactured home parks[, but] **and floating docks, including floating docks that are jointly owned. For the purposes of this section, a floating dock that is not owned by an electrical or gas corporation but which is attached to real property owned by an electrical or gas corporation shall be treated as residential property of the owner or owners of the floating dock and not as residential property of the electrical or gas corporation.** Residential property shall not include other similar facilities used primarily for transient housing. For the purposes of this section, transient housing means all rooms available for rent or lease for which the receipts from the rent or lease of such rooms are subject to state sales tax pursuant to section 144.020.1(6), RSMo;

(2) "Agricultural and horticultural property", all real property used for agricultural purposes and devoted primarily to the raising and harvesting of crops; to the feeding, breeding and management of livestock which shall include breeding and boarding of horses; to dairying, or to any other combination thereof; and buildings and structures customarily associated with farming, agricultural, and horticultural uses. Agricultural and horticultural property shall also include land devoted to and qualifying for payments or other compensation under a soil conservation or agricultural assistance program under an agreement with an agency of the federal government.

Agricultural and horticultural property shall further include land and improvements, exclusive of structures, on privately owned airports that qualify as reliever airports under the Nation Plan of Integrated Airports System, to receive federal airport improvement project funds through the Federal Aviation Administration. Real property classified as forest croplands shall not be agricultural or horticultural property so long as it is classified as forest croplands and shall be taxed in accordance with the laws enacted to implement section 7 of article X of the Missouri Constitution;

(3) "Utility, industrial, commercial, railroad and other real property", all real property used directly or indirectly, for any commercial, mining, industrial, manufacturing, trade, professional, business, or similar purpose, including all property centrally assessed by the state tax commission [but shall not include floating docks, portions of which are separately owned and the remainder of which is designated for common ownership and in which no one person or business entity owns more than five individual units]. All other real property not included in the property listed in subclasses (1) and (2) of section 4(b) of article X of the Missouri Constitution, as such property is defined in this section, shall be deemed to be included in the term "utility, industrial, commercial, railroad and other real property".

2. Pursuant to article X of the state constitution, any taxing district may adjust its operating levy to recoup any loss of property tax revenue, except revenues from the surtax imposed pursuant to article X, section 6.2 of the constitution, as the result of changing the classification of structures intended to be used for residential living by human occupants which contain five or more dwelling units if such adjustment of the levy does not exceed the highest tax rate in effect subsequent to the 1980 tax year. For purposes of this section, loss in revenue shall include the difference between the revenue that would have been collected on such property under its classification prior to enactment of this section and the amount to be collected under its classification under this section. The county assessor of each county or city not within a county shall provide information to each taxing district within its boundaries regarding the difference in

assessed valuation of such property as the result of such change in classification.

3. All reclassification of property as the result of changing the classification of structures intended to be used for residential living by human occupants which contain five or more dwelling units shall apply to assessments made after December 31, 1994.

4. Where real property is used or held for use for more than one purpose and such uses result in different classifications, the county assessor shall allocate to each classification the percentage of the true value in money of the property devoted to each use; except that, where agricultural and horticultural property, as defined in this section, also contains a dwelling unit or units, the farm dwelling, appurtenant residential-related structures and up to five acres immediately surrounding such farm dwelling shall be residential property, as defined in this section.

5. All real property which is vacant, unused, or held for future use; which is used for a private club, a not for profit or other nonexempt lodge, club, business, trade, service organization, or similar entity; or for which a determination as to its classification cannot be made under the definitions set out in subsection 1 of this section, shall be classified according to its immediate most suitable economic use, which use shall be determined after consideration of:

(1) Immediate prior use, if any, of such property;

(2) Location of such property;

(3) Zoning classification of such property; except that, such zoning classification shall not be considered conclusive if, upon consideration of all factors, it is determined that such zoning classification does not reflect the immediate most suitable economic use of the property;

(4) Other legal restrictions on the use of such property;

(5) Availability of water, electricity, gas, sewers, street lighting, and other public services for such property;

(6) Size of such property;

(7) Access of such property to public thoroughfares; and

(8) Any other factors relevant to a determination of the immediate most suitable economic use of such property.

6. All lands classified as forest croplands shall not, for taxation purposes, be classified as subclass (1), subclass (2), or subclass (3) real property, as such classes are prescribed in section 4(b) of article X of the Missouri Constitution and defined in this section, but shall be taxed in accordance with the laws enacted to implement section 7 of article X of the Missouri Constitution.

138.430. 1. Every owner of real property or tangible personal property, **and the city assessor or county assessor for the area involved, when the appeal involves a question of law**, shall have the right to appeal from the local boards of equalization to the state tax commission under rules prescribed by the state tax commission, within the time prescribed in this chapter or thirty days following the final action of the local board of equalization, whichever date later occurs, concerning all questions and disputes involving the assessment against such property, the correct valuation to be placed on such property, the method or formula used in determining the valuation of such property, or the assignment of a discriminatory assessment to such property. The commission shall investigate all such appeals and shall correct any assessment or valuation which is shown to be unlawful, unfair, improper, arbitrary or capricious. Any person aggrieved by the decision of the commission may seek review as provided in chapter 536, RSMo.

2. In order to investigate such appeals, the commission may inquire of the owner of the property or of any other party to the appeal regarding any matter or issue relevant to the valuation, subclassification or assessment of the property. The commission may make its decision regarding the assessment or valuation of the property based solely upon its inquiry and any evidence presented by the parties to the commission, or based solely upon evidence presented by the parties to the commission.

3. Every owner of real property or tangible

personal property shall have the right to appeal to the circuit court of the county in which the collector maintains his office, from the decision of the local board of equalization not later than thirty days after the final decision of the board of equalization concerning all questions and disputes involving the exclusion or exemption of such property from assessment or from the tax rolls pursuant to the Constitution of the United States or the constitution or laws of this state, or of the taxable situs of such property. The appeal shall be as a trial de novo in the manner prescribed for nonjury civil proceedings.

4. Upon the timely filing of an appeal as provided in this section, the state tax commission or the clerk of the circuit court, as applicable, shall send to the county collector to whom the taxes on the property involved would be due, a notice that an appeal has been filed, which notice shall contain the name and address of the taxpayer filing the appeal.

5. If the circuit court, after review of the appeal, finds that the appeal is not a proper subject for the appeal to the circuit court as provided in subsection 3 of this section, it shall transfer the appeal to the state tax commission for consideration."; and

Further amend the title and enacting clause accordingly.

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

Senator Singleton offered SA 4:

SENATE AMENDMENT NO. 4

Amend Senate Committee Substitute for Senate Bill No. 394, Page 4, Section 442.380, Line 6, by inserting after said line the following:

"516.010. **1.** No action for the recovery of any lands, tenements or hereditaments, or for the recovery of the possession thereof, shall be commenced, had or maintained by any person, whether citizen, denizen, alien, resident or nonresident of this state, unless it appear that the plaintiff, his ancestor, predecessor, grantor or other person under whom he claims was seized or possessed of the premises in question, within ten

years before the commencement of such action.

2. The provisions of this section and chapter 272, RSMo, notwithstanding, an action pursuant to this section shall not lie if the record owner of the real property in issue has continuously fulfilled all obligations related to ownership of the property including, but not limited to, timely remittance of all taxes due thereon."; and

Further amend the title and enacting clause accordingly.

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

Senator Quick moved that **SCS** for **SB 394**, as amended, be adopted, which motion prevailed.

On motion of Senator Quick, **SCS** for **SB 394**, as amended, was declared perfected and ordered printed.

Senator Johnson assumed the Chair.

Senator Stoll moved that **SB 235** be taken up for perfection, which motion prevailed.

Senator Stoll offered **SS** for **SB 235**, entitled:

SENATE SUBSTITUTE FOR
SENATE BILL NO. 235

An Act to repeal section 572.010, RSMo 1994, for the sole purpose of defining amusement devices, and to enact in lieu thereof one new section relating to the same subject.

Senator Stoll moved that **SS** for **SB 235** be adopted.

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

SENATE AMENDMENT NO. 1

Amend Senate Substitute for Senate Bill No. 235, Page 3, Section 572.010, Line 18 of said page, by inserting after "consideration." the following: "**An amusement device shall not be identical in purpose to casino games which have the purpose of cash payout.**"; and

Further amend said bill and section, page 4, line 12, of said page, by inserting after "consideration" the following: "**. An amusement device shall not be identical in purpose to casino games which have the purpose of cash payout**".

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

Senator Flotron offered **SA 2**:

SENATE AMENDMENT NO. 2

Amend Senate Substitute for Senate Bill No. 235, Page 6, Section 572.010, Line 14 of said page, by inserting immediately after said line the following:

"Section 1. 1. There is hereby established within the department of economic development the "Missouri Amusement Device Commission". It shall be the responsibility of the commission to ensure the economic viability and integrity of the amusement device economy in the state, which shall include but not be limited to ensuring that amusement devices are not used for illegal gambling purposes nor promote gambling by minors.

2. The commission shall be composed of eleven members, who shall be appointed by the governor, with the advice and consent of the senate, for a four-year term; except that initial appointments to the commission shall consist of two members to serve four-year terms, two members to serve three-year terms, and one member to serve a two-year term. Three of the members shall be representative of the amusement device manufacturing industry, three members shall be retail businessmen or businesswomen where such amusement devices are located and in use, one member shall be from the general public, one member shall be from the Missouri highway patrol, one member shall be the director of liquor control, one member shall be from local law enforcement, and one member shall be representative of anti-gambling associations or interests in the state. Not more than six members shall be from the same political party.

3. Vacancies shall be filled by appointment made in the same manner as the original appointments. Members of the commission shall not be compensated for their services, but shall be reimbursed from funds appropriated therefor for actual and necessary expenses incurred in the performance of their duties. Associations who have tax-exempt status as

defined by the internal revenue service who represent equipment manufacturers or operators may submit to the governor a list of possible members for consideration.

4. The commission shall organize by electing one member as chairman and another as vice chairman. Such officers shall serve for a term of two years. The commission shall meet no fewer than four times per calendar year, at the call of the chairman, and at times and places established by the chairman by written notice.

5. The commission shall aid and assist the amusement device manufacturers and retail users in all matters relating to the manufacture, oversight, use and all related questions involving the legality of such machines pursuant to the laws of Missouri. In addition to any other duties imposed by this section, the commission shall:

(1) License and bond all manufacturers and distributors of amusement device machines, and certify any amusement devices as being devices which are not used or cannot be used in illegal gambling activity;

(2) Discipline all license-holders for violations of the gambling laws of the state of Missouri;

(3) Prosecute, through local law enforcement and local prosecuting attorneys all claims listed in subdivision (2) of this subsection to conclusion;

(4) Cooperate with the Missouri gaming commission, the Missouri attorney general, the highway patrol of Missouri and all federal and state offices legally concerned with and interested in the enforcement of the gambling laws of this state.

(5) Secure, through a request to the Missouri attorney general, an opinion from the attorney general as to whether an amusement device meets the definition of such pursuant to Missouri law; and

(6) Promulgate, pursuant to chapter 536, RSMo, rules and regulations governing the scope of the commission, which shall include but not be limited to:

(a) Determining the amount of bond required by manufacturers, suppliers or operators of amusement devices;

(b) Determining the per machine fee for certification payable by manufacturers, suppliers or operators of amusement devices;

(c) Determining the amount of an on-site fee for retail users of amusement devices;

(d) Providing for licensing criteria which shall include, at a minimum, that the entity or person so licensed is of good repute;

(e) Provide for the ability to, through seal or other fashion, make amusement devices used in the state tamper-proof and subject to verification of said method by inspection;

(f) Determining when, as a result of a machine found to be not licensed or not in compliance with the rules and regulations of the commission, grounds for immediate seizure of any amusement device;

(g) Determining the amount of civil penalty for improper operation of any amusement device in the state; and

(h) Determining that the amount of any fee or cost specified by the commission only covers the cost of the activity for which it is charged. Any additional revenue held by the commission at the end of the fiscal year shall revert to general revenue.

6. The commission may consider any complaints filed with the commission alleging the improper use of any amusement device in the state, and shall refer complaints to the local law enforcement for investigation, or in the alternative, refer complaints to the Missouri highway patrol for investigation.

7. Any amusement device found to be operating not licensed or in violation with the rules and regulations of the commission and this act may be licensed after seizure; however, at a minimum there shall be a charge of one thousand dollars per machine for such licensure, in addition to the requirement that all other rules and regulations regarding grounds for licensing have been met.

8. No amusement device operating in this state shall allow the wholesale value of any prize to exceed the amount of the value of play of the amusement device or two dollars, whichever is greater, or the cumulative value of play of the amusement device or two hundred and fifty dollars, whichever is greater.

9. No retail establishment licensed by the commission shall allow the operation of any gambling games of skill or video representations which are specifically enumerated in subdivision (12) of subsection 1 of section 313.800, RSMo.; and

Further amend the title and enacting clause accordingly.

Senator Flotron moved that the above amendment be adopted.

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

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

Amend Senate Substitute for Senate Bill No. 235, Page 3, Section 572.010, Lines 10-18, by inserting on line 10 after "replay" a "."; and deleting all words in bold type after the inserted period on line 10 through line 18; and

Further amend said bill, page 4, line 5, by inserting on line 51, after "replay" a "."; and deleting all words in bold type after the inserted period on line 5 through line 12.

Senator Caskey moved that the above substitute amendment be adopted.

Senator Jacob raised the point of order that **SSA 1** for **SA 2** is out of order in that it is not a true substitute amendment.

Senator Mathewson assumed the Chair.

At the request of Senator Caskey, **SSA 1** for **SA 2** was withdrawn, rendering the point of order moot.

At the request of Senator Stoll, **SB 235**, with **SS** and **SA 2** (pending), was placed on the Informal Calendar.

Senator Quick moved that **SB 288**, with **SS**, **SA 1** and points of order pending, be called from the Informal Calendar and again taken up for

perfection, which motion prevailed.

President Pro Tem Quick ruled the point of order raised by Senator Mathewson on **SA 1** well taken.

President Pro Tem Quick ruled the point of order raised by Senator Ehlmann on **SS** for **SB 288** not well taken.

At the request of Senator Quick, **SS** for **SB 288** was withdrawn.

Senator Quick offered **SS No. 2** for **SB 288**, entitled:

SENATE SUBSTITUTE NO. 2 FOR
SENATE BILL NO. 288

An Act relating to the establishment of the Missouri settlement trust fund.

Senator Quick moved that **SS No. 2** for **SB 288** be adopted.

Senator Klarich raised the point of order that he had the floor when the point of order on **SA 1** was raised and maintains the floor when the point of order is disposed of.

The point of order was referred to the President Pro Tem, who ruled it not well taken.

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

SENATE AMENDMENT NO. 1

Amend Senate Substitute No. 2 for Senate Bill No. 288, Page 2, Section 1, Line 12, by inserting at the end of said line the following:

"8. Any attorneys acting on behalf of the state of Missouri in a dispute between this state and any company which manufactures, sells or promotes tobacco or tobacco products shall receive compensation solely pursuant to lawful appropriation by the general assembly."

Senator Kinder moved that the above amendment be adopted.

Senator Staples assumed the Chair.

Senator Johnson assumed the Chair.

Senator Mathewson assumed the Chair.

Senator Kinder moved that **SA 1** be adopted.

Senator Klarich requested that a roll call vote be taken on the adoption of **SA 1** and was joined in

his request by Senators Childers, Kinder, Ehlmann and Mueller.

SA 1 was adopted by the following vote:

YEAS—Senators

Bentley	Caskey	Childers	Clay
Ehlmann	Flotron	Graves	Kenney
Kinder	Klarich	Mueller	Rohrbach
Russell	Sims	Singleton	Steelman
Westfall	Yeckel—18		

NAYS—Senators

Banks	Bland	DePasco	Goode
House	Howard	Jacob	Johnson
Mathewson	Maxwell	Quick	Schneider
Scott	Stoll	Wiggins—15	

Absent—Senator Staples—1

Absent with leave—Senators—None

Senator Klarich offered **SA 2**:

SENATE AMENDMENT NO. 2

Amend Senate Substitute for Senate Bill No. 288, Page 2, Section 1.5, Lines 1-5, by deleting said subsection and replace in lieu thereof, the following:

"5. The deposit of any money received by the state which are the proceeds of any award or settlement resulting from a dispute between this state and any company which manufactures, sells, or promotes tobacco or tobacco products into the Missouri Settlement Trust Fund, created herein, shall be deemed total state revenue unless the citizens of the state of Missouri have approved or rejected, at an election which shall be held and conducted on Tuesday next following the first Monday in November, 2000, pursuant to the applicable laws and constitutional provisions of this state for the submission of referendum measures by the general assembly, ballots of submission containing the following language:

"Shall all funds received by the state of Missouri as a result of any legal settlement or award related to public health or health-related issues of smoking be considered excess revenues and refunded pursuant to Article X, Section 18 of the Missouri Constitution?"

AND

"Shall all funds received by the State of Missouri as a result of any legal settlement or award related to public health or health-related issues of smoking not be considered as excess revenues under Article X, Section 18 of the Missouri Constitution, but remain subject to appropriation?"

Senator Klarich moved that the above amendment be adopted.

At the request of Senator Quick, **SB 288**, with **SS No. 2** and **SA 2** (pending), was placed on the Informal Calendar.

REPORTS OF STANDING COMMITTEES

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

Mr. President: Your Committee on Public Health and Welfare, to which was referred **SB 345**, begs leave to report that it has considered the same and recommends that the bill do pass, with Senate Committee Amendment No. 1.

SENATE COMMITTEE AMENDMENT NO. 1

Amend Senate Bill No. 345, Page 2, Section 188.015, Line 20, by striking the word "irrespective of the duration of pregnancy" and inserting in lieu thereof the following: "**post-viability**"; and

Further amend said bill, Page 2, Section 565.300, Line 2, by inserting after the word "child" as it appears the first time on said line the following: ", **post-viability**,"; and further amend said line by inserting after the word "child" as it appears the second time on said line the following: ", **post-viability**,".

Senator Wiggins, Chairman of the Committee on Ways and Means, submitted the following reports:

Mr. President: Your Committee on Ways and Means, to which was referred **SB 506**, begs leave to report that it has considered the same and recommends that the bill do pass.

Also,

Mr. President: Your Committee on Ways and Means, to which was referred **SJR 17**, begs leave

to report that it has considered the same and recommends that the joint resolution do pass.

RESOLUTIONS

Senator Staples offered Senate Resolution No. 444, regarding the Sixty-fifth Birthday of Lena Gann LaRose Kalicak, Lee's Summit, which was adopted.

Senator Schneider offered Senate Resolution No. 445, regarding Marilyn and Howard Barteau, Mineola, which was adopted.

Senator Howard offered Senate Resolution No. 446, regarding Park Ranger Henry "Bud" Snyder, Jr., Piedmont, which was adopted.

COMMUNICATIONS

President Pro Tem Quick submitted the following:

March 22, 1999

The Honorable J. B. "Jet" Banks
Missouri Senate
State Capitol, Room 319
Jefferson City, MO 65101

Dear Senator Banks:

It is my pleasure to reappoint you to serve on the **Missouri Children's Services Commission** authorized under provisions of Section 210.101, RSMo 1994. You will be serving on this Commission along with Senators J.T. Howard, Roseann Bentley, Betty Sims, Speaker Steve Gaw, Representatives Vicky Riback Wilson, Mary Kasten and Emmy McClelland.

If you have any questions or concerns, please do not hesitate to contact me.

Sincerely,
/s/ Ed Quick
Edward E. Quick
President Pro Tem
Missouri Senate

Also,

March 22, 1999

The Honorable Roseann Bentley
Missouri Senate
State Capitol, Room 421
Jefferson City, MO 65101

Dear Senator Bentley:

It is my pleasure to reappoint you to serve on the **Missouri Children's Services Commission** authorized under provisions of

Section 210.101, RSMo 1994. You will be serving on this Commission along with Senators J.B. "Jet" Banks, J.T. Howard, Betty Sims, Speaker Steve Gaw, Representatives Vicky Riback Wilson, Mary Kasten and Emmy McClelland.

If you have any questions or concerns, please do not hesitate to contact me.

Sincerely,
/s/ Ed Quick
Edward E. Quick
President Pro Tem
Missouri Senate

Also,

March 22, 1999

The Honorable J. T. Howard
Missouri Senate
State Capitol, Room 331A
Jefferson City, MO 65101

Dear Senator Howard:

It is my pleasure to appoint you to serve on the **Missouri Children's Services Commission** authorized under provisions of Section 210.101, RSMo 1994. You will be serving on this Commission along with Senators Jet Banks, Roseann Bentley, Betty Sims, Speaker Steve Gaw, Representatives Vicky Riback Wilson, Mary Kasten and Emmy McClelland.

If you have any questions or concerns, please do not hesitate to contact me.

Sincerely,
/s/ Ed Quick
Edward E. Quick
President Pro Tem
Missouri Senate

Also,

March 22, 1999

The Honorable Betty Sims
Missouri Senate
State Capitol, Room 226
Jefferson City, MO 65101

Dear Senator Sims:

It is my pleasure to reappoint you to serve on the **Missouri Children's Services Commission** authorized under provisions of Section 210.101, RSMo 1994. You will be serving on this Commission along with Senators J.B. "Jet" Banks, J.T. Howard, Roseann Bentley, Speaker Steve Gaw, Representatives Vicky Riback Wilson, Mary Kasten and Emmy McClelland.

If you have any questions or concerns, please do not hesitate to contact me.

Sincerely,
/s/ Ed Quick
Edward E. Quick
President Pro Tem
Missouri Senate

INTRODUCTIONS OF GUESTS

Senator Westfall introduced to the Senate, Linda Rice and Annie Ankrom, Bolivar.

Senator Mathewson introduced to the Senate, Amy Jones, Odessa.

Senator Westfall introduced to the Senate, Linda Eggerman, Lockwood; and Ashley Overstreet, Lamar; and Ashley was made an honorary page.

Senator Graves introduced to the Senate, Sara Faubion and Connie Hoffman, Trenton; and Allison Spidle and Kathy Robertson, Gallatin.

Senator Maxwell introduced to the Senate, Ekaterina Pesheva, Shannon Donald, Sherri Shooks, Joan Hunsaker, David Seabaugh and Ryan McWilliams, Kirksville; Matthew Groves, Maplewood; Ashley Davison, Brashear; and Kae Dee Rinderknecht, Downing.

Senator Childers introduced to the Senate, Kyli Oaks, Melissa Soper, Racheal McGee and Bruce Burnett, Reeds Spring.

Senator Graves introduced to the Senate, members of the Bethany and Albany Chambers of Commerce.

Senator Graves introduced to the Senate, members of the Chillicothe Chamber of Commerce.

Senator House introduced to the Senate, Catherine Elsea and John Hutchison, St. Charles.

On behalf of Senators Johnson and Russell, the President introduced to the Senate, Lyndi Hicks,

Bolckow; April Sonnet, Fillmore; Jared Creach, Macks Creek; and Donna Kothe, King City.

Senator Caskey introduced to the Senate, Larry DesCombes and thirty-four eighth grade students from Leeton.

Senator Schneider introduced to the Senate, sixty-five fourth grade students from Griffith Elementary School, Ferguson; and Tinisha Donegan, Charlie Stark, Verdal Harvey and Sharon Lo were made honorary pages.

Senator Staples introduced to the Senate, Roger Kootz and students from Alton Elementary School, Alton.

Senator Kinder introduced to the Senate, Helen Steffens, Cape Girardeau.

Senator Wiggins introduced to the Senate, Mr. and Mrs. Bruce Barrett, their son, Paul and daughter, Esther, Homeschoolers from Grandview.

Senator Yeckel introduced to the Senate, Karen Papin and sixty-six fourth grade students from Crestwood Elementary School, St. Louis.

Senator Wiggins introduced to the Senate, former State Representative Jan Martinette, Aileen Beard, Shera McDowell and Jean Andrews, Grandview.

Senator Clay introduced to the Senate, Ray Brodzinski, and his daughters, Lily and Claudia, St. Louis; and Lily and Claudia were made honorary pages.

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

SENATE CALENDAR

FORTY-SECOND DAY—WEDNESDAY, MARCH 24, 1999

FORMAL CALENDAR**THIRD READING OF SENATE BILLS**

1. SCS for SB 282-Clay, et al
(In Budget Control)

2. SB 95-Maxwell
(In Budget Control)

3. SS for SCS for SBs 14, 60 & 69-Mathewson
(In Budget Control)
4. SS for SB 22-Flotron
(In Budget Control)
5. SB 33-Johnson
(In Budget Control)
6. SCS for SBs 322, 150 & 151-Sims and Goode
(In Budget Control)
7. SCS for SB 346-Stoll
(In Budget Control)
8. SCS for SBs 295 & 46-Schneider, et al
(In Budget Control)

SENATE BILLS FOR PERFECTION

1. SB 209-Goode, et al, with SCA 1
2. SB 179-Goode, with SCA 1
3. SB 37-Rohrbach, with SCS
4. SB 425-Stoll, et al,
with SCS
5. SB 215-Mathewson
6. SB 386-Clay, with SCS
7. SB 233-Sims, with SCS
8. SBs 347, 40, 241 & 301-House, with SCS
9. SB 467-Caskey, with SCS
10. SB 336-Caskey
11. SB 345-Johnson, with SCA 1
12. SB 506-Wiggins
13. SJR 17-Mueller

INFORMAL CALENDAR

SENATE BILLS FOR PERFECTION

- | | |
|---|--|
| SBs 1, 92, 111, 129 & 222-Schneider, with SCS & SA 2
(pending) | SB 318-Jacob, et al, with SCS & SS for SCS
(pending) |
| SB 5-Wiggins | SB 339-Howard and Sims, with SCS, SS for SCS, SA 1 & SSA 1 for SA 1
(pending) |
| SB 70-Schneider, with SCS | SB 373-DePasco and Jacob, with SS (pending) |
| SB 78-Russell, with SA 4
(pending) | SB 417-Quick, with SS
(pending) |
| SB 203-Wiggins | |
| SB 235-Stoll, with SS & SA 2 (pending) | |
| SB 288-Quick, et al, with SS#2 & SA 2 (pending) | |

CONSENT CALENDAR

Senate Bills

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

Reported 3/10

SB 518-Staples
SB 498-Wiggins, with SCS
SB 477-Ehlmann, with SCS

SB 412-Goode, with SCS
SB 423-Westfall, with SCS

Reported 3/11

SB 443-Jacob
SB 461-House

SB 192-Wiggins
SB 287-Maxwell

BILLS IN CONFERENCE AND BILLS
CARRYING REQUEST MESSAGES

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

Reported from Committee

SCR 12-Steelman

SCR 15-Maxwell, with SCS

