

Journal of the Senate

FIRST REGULAR SESSION

SIXTY-EIGHTH DAY—FRIDAY, MAY 7, 1999

The Senate met pursuant to adjournment.

President Pro Tem Quick in the Chair.

The Reverend Carl R. Gauck offered the following prayer:

Gracious God: We thank You for Your great Love of us in allowing us a taste of heaven here on earth within the love of family and friends You have provided us. So we seek to finish up what must be done today and leave it here until we return so that we may truly enjoy the gift of Love You have given to us. In Your Holy Name we pray. Amen.

The Pledge of Allegiance to the Flag was recited.

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

The Journal of the previous day was read and approved.

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	Staples
Steelman	Stoll	Westfall	Wiggins

Yeckel—33

Absent with leave—Senator Singleton—1

The Lieutenant Governor was present.

REMONSTRANCES

Senator Kenney offered the following remonstrance, which was referred to the Committee on Rules, Joint Rules and Resolutions:

REMONSTRANCE NO. 2

WHEREAS, the Division of Environmental Health and Epidemiology within the Department of Health has submitted a proposed rule to the Secretary of State that regulates the construction of on-site sewage treatment and disposal systems; and

WHEREAS, the proposed rule 19 CSR 20-3.060 would regulate only residential property; and

WHEREAS, the previous rule 19 CSR 20-3.060 was promulgated in 1995 and regulated both residential and commercial property; and

WHEREAS, the General Assembly enacted SB 446 in 1994 to establish in state law a framework for the regulation of on-site sewage treatment facilities; and

WHEREAS, the General Assembly clearly directed that the Department shall develop a state standard for the construction of on-site sewage disposal systems pursuant to 701.040.1(1) RSMo; and

WHEREAS, the General Assembly clearly directed that the Department shall promulgate rules to enforce the provisions of sections 701.025 to 701.059, pursuant to 701.040.1(1); and

WHEREAS, included in those sections that the Department shall enforce is section 701.025, which defines sewage as "human excreta and wastewater, including bath and toilet waste, residential laundry waste, residential kitchen waste and other similar waste from household or establishment appurtenances"; and

WHEREAS, businesses and commercial properties produce exactly such waste; and

WHEREAS, also included in those sections that the Department shall enforce is section 701.027, which states that the provisions of sections 701.025 to 701.059 shall apply to sewage treatment facilities with a maximum daily flow of three thousand gallons or less, and does not restrict the application based on the purposes of the property whether commercial or residential; and

WHEREAS, the first sentence of section 701.031 unequivocally states "Property owners of all buildings where people live, work or assemble shall provide for the sanitary disposal of all domestic sewage"; and

WHEREAS, the Department clearly has the power, and the required duty to enforce and regulate on-site sewage treatment facilities on both residential and commercial property that fall within the gallon flow limitations;

NOW, THEREFORE, BE IT RESOLVED by the Missouri Senate that the Senate herewith remonstrate against the Division of Environmental Health and Epidemiology within the Department of Health for its poor judgement, lack of planning and ignorance of or indifference to the direct wishes of the General Assembly as expressed in a duly passed statute that serves as the law the Department is required to enforce; and

BE IT FURTHER RESOLVED that the Secretary of the Senate be instructed to send a copy of this remonstrance to the Director of the Division of Environmental Health and Epidemiology within the Department of Health, and the Director of the Department of Health and that the Division of Environmental Health and Epidemiology within the Department of Health, and the Department of Health be apprised of the Senate's displeasure with the Department's bad faith and endangerment of the public health in repealing the required regulations over the construction of on-site sewage treatment facilities on commercial property.

RESOLUTIONS

Senator Wiggins offered the following resolution, which was adopted:

SENATE RESOLUTION NO. 813

WHEREAS, the members of the Missouri Senate have been deeply saddened to learn of the death of Jacqueline L. Marvin, of Kansas City; and

WHEREAS, Jackie Marvin was a native of Kansas City where she was born on November 9, 1966; and

WHEREAS, Jackie Marvin attended Calvary Lutheran School and graduated from Calvary Lutheran High School; and

WHEREAS, Ms. Marvin also attended Penn Valley Community College and the University of Missouri/Kansas City and continued throughout her life her love of music;

NOW, THEREFORE, BE IT RESOLVED, that the members of the Missouri Senate, pause in their deliberations to salute the memory of Jacqueline L. Marvin, and extend to her mother, Mrs. Patricia L. Marvin, her family and many friends, most sincere sympathy on her death; and

BE IT FURTHER RESOLVED that the Secretary of the Senate be instructed to prepare properly inscribed copies of this resolution for her mother, Patricia L. Marvin; her brothers, Clinton L. Marvin, Dr. Ronald L. Marvin; her sister, Tamara Saladino; her grandmother, Mildred Swisher; her grandfather, Charles Clark; her uncle, Raymond Chase; and her aunts, Florence Breen, Carolyn Theiss and Mildred Bickford.

Senator Yeckel offered Senate Resolution No. 814, regarding Carole R. Gateley, St. Louis, which was adopted.

Senator Yeckel offered Senate Resolution No. 815, regarding Jean B. Skarda, St. Louis, which

was adopted.

Senator Yeckel offered Senate Resolution No. 816, regarding Carole Ann Suter, St. Louis, which was adopted.

Senator Yeckel offered Senate Resolution No. 817, regarding Susan W. Burney, Town and Country, which was adopted.

Senator Yeckel offered Senate Resolution No. 818, regarding Curtis Larry Amen, St. Louis, which was adopted.

MESSAGES FROM THE HOUSE

The following message was received from the House of Representatives through its Chief Clerk:

Mr. President: I am instructed by the House of Representatives to inform the Senate that the House has taken up and passed **HS** for **HCS** for **SCS** for **SBs 308** and **314**, entitled:

An Act to repeal sections 104.040, 104.344, 104.380, and 104.610, RSMo 1994, and sections 104.010, 104.395, 104.401, 104.410, 104.415, 104.420, 104.612, 104.620, 287.815 and 476.520, RSMo Supp. 1998, relating to certain state retirement systems, and to enact in lieu thereof forty-five new sections relating to the same subject.

With House Amendments Nos. 1, 2, 4 and 7.

HOUSE AMENDMENT NO. 1

Amend House Substitute for House Committee Substitute for Senate Committee Substitute for Senate Bills Nos. 308 and 314, Page 100, Section 104.1084, Lines 2 and 3, by deleting the following: "**who was first elected on or after January 1, 1993,**" and inserting in lieu thereof the following: "**or eligible beneficiary**".

HOUSE AMENDMENT NO. 2

Amend House Substitute for House Committee Substitute for Senate Committee Substitute for Senate Bills Nos. 308 and 314, Page 1, In the Title, Line 4 of said page, by inserting after the number "104.420," the number "104.517,"; and

Further amend said bill, Page 1, In the Title, Line 8 of said page, by deleting the word "forty-five" and inserting in lieu thereof the word "forty-

six"; and

Further amend said bill, Page 1, Section A, Line 14 of said page, by inserting after the number "104.420," the number "104.517,"; and

Further amend said bill, Page 1, Section A, Line 15 of said page, by deleting the word "forty-five" and inserting in lieu thereof the word "forty-six"; and

Further amend said bill, Page 1, Section A, Line 17 of said page by inserting after the number "104.420," the number "104.517,"; and

Further amend said bill, Page 34, Section 104.420, line 24 of said page, by inserting after all of said line the following:

"104.517. 1. The board shall provide or contract, or both, for life insurance benefits for employees pursuant to sections 104.320 to 104.540, persons covered by sections 287.812 to 287.855, RSMo, and for employees who are members of the judicial retirement system as provided in section 476.590, RSMo, and at the election of the state highways and transportation commission shall include employees who are members of the state transportation department employees' and highway patrol retirement system as follows:

(1) Employees are entitled to fifteen thousand dollars of life insurance. **Such life insurance shall provide for triple indemnity in the event the cause of death is a proximate result of a personal injury or disease arising out of and in the course of actual performance of duty as an employee.** Coverage shall be effective on the first day of the month coinciding with or next following the employee's date of membership;

(2) Life insurance benefits shall cease on the date of termination of employment and a conversion of such life insurance benefits shall be available. However, a member eligible to receive a lump sum death benefit as provided in subsection 4 of section 104.515 shall be entitled to convert any amount of terminated life insurance benefit in excess of the benefit provided in said section.

2. (1) In addition to the life insurance authorized by the provisions of subsection 1 of this

section, any person for whom life insurance is provided or contracted for pursuant to such subsection may purchase, at the person's own expense and only if monthly voluntary payroll deductions are authorized, additional life insurance at a cost to be stipulated in a contract with a private insurance company or as may be required by the system if the board of trustees determines that the system should provide such insurance itself. The maximum amount of additional life insurance which may be so purchased on or after January 1, 1998, is that amount which equals six times the amount of the person's annual compensation, except that if such maximum amount is not evenly divisible by one thousand dollars, then the maximum amount of additional insurance which may be purchased is the next higher amount evenly divisible by one thousand dollars. The selection of a private insurance company to provide this life insurance shall be on the basis of competitive bidding.

(2) Any person defined in subdivision (1) of this subsection retiring on or after September 1, 1988, may retain an amount not to exceed ten thousand dollars of life insurance following the date of his or her retirement if such person makes written application for such life insurance at the same time such person's application is made to the board for retirement benefits. Any person, defined in subdivision (1) of this subsection, retiring on or after May 1, 1996, may retain an amount not to exceed sixty thousand dollars of life insurance following the date of the person's retirement if such person makes written application for such life insurance at the same time such person applies to the board for retirement benefits. Such life insurance shall only be provided if such person pays the entire cost of the insurance, as determined by the board, by allowing voluntary deductions from the member's monthly retirement benefits.

(3) Effective January 1, 1998, in addition to the life insurance authorized in subsection 1 of this section, any person for whom life insurance is provided or contracted for pursuant to such subsection may purchase, at the person's own expense and only if monthly voluntary payroll deductions are authorized, life insurance covering

the person's children or the person's spouse or both the person's children and the person's spouse at coverage amounts to be determined by the board at a cost to be stipulated in a contract with a private insurance company or as may be required by the system if the board of trustees determines that the system should provide such insurance itself."; and

Further amend said bill, Page 93, Section 104.1072, Line 23 of said page, by inserting after the period "." after the word "insurance" the following: "**Such life insurance shall provide for triple indemnity in the event the cause of death is a proximate result of a personal injury or disease arising out of and in the course of actual performance of duty as an employee.**".

HOUSE AMENDMENT NO. 4

Amend House Substitute for House Committee Substitute for Senate Committee Substitute for Senate Bills Nos. 308 and 314, Page 1, In the Title, Line 8 of said page, by deleting the word "forty-five" and inserting in lieu thereof the word "forty-six"; and

Further amend said bill, Page 1, Section A, Line 15 of said page, by deleting the word "forty-five" and inserting in lieu thereof the word "forty-six"; and

Further amend said bill, Page 1, Section A, Line 16 of said page, by inserting after the number "104.344," the number "104.378,"; and

Further amend said bill, Page 17, Section 104.344, Line 11 of said page, by inserting after all of said line the following:

"104.378. Upon the death of a member who has not requested creditable prior service pursuant to subsection 4 of section 104.372, the survivor of such member who is or would be eligible to receive benefits pursuant to section 104.420 may apply to the board of trustees and shall be made, constituted, appointed and employed by the board as a special consultant on the problems of retirement, aging and other state matters for the remainder of the surviving spouse's life, and upon request of the board shall give opinions, and be available to give opinions in writing, or orally, in response to such requests. As compensation for such services, such survivor may elect to have the

member receive such creditable prior service. Upon making such election, all of the provisions of subsection 4 of section 104.372 shall apply. Any survivor benefits payable shall be calculated as if such creditable prior service had been received by such member on the date of the death of the member."

HOUSE AMENDMENT NO. 7

Amend House Substitute for House Committee Substitute for Senate Committee Substitute for Senate Bills Nos. 308 and 314, Page 102, Section 104.1084, Line 1 of said page, by adding after all of said line the following:

"9. A member of the general assembly who has purchased creditable service shall not be subject to the cap on benefits pursuant to subsection 2 of this section for that portion of the benefit attributable to the purchased service."

In which the concurrence of the Senate is respectfully requested.

REPORTS OF STANDING COMMITTEES

Senator Johnson, Chairman of the Committee on State Budget Control, submitted the following reports:

Mr. President: Your Committee on State Budget Control, to which were referred **HS** for **HCS** for **HB 852**, with **SCS**; **HCS** for **HB 889**; and **SCS** for **HCS** for **HB 343**, as amended, begs leave to report that it has considered the same and recommends that the bills do pass.

PRIVILEGED MOTIONS

Senator Caskey, on behalf of the conference committee appointed to act with a like committee from the House on **HCS** for **SB 219**, as amended, submitted the following conference committee report:

CONFERENCE COMMITTEE REPORT ON HOUSE COMMITTEE SUBSTITUTE FOR SENATE BILL NO. 219

Mr. President: Your Conference Committee, appointed to confer with a like committee of the House, on House Committee Substitute for Senate Bill No. 219, with House Amendments Nos. 1, 4,

5, as amended, 6, 7, 8, 9 and 11; begs leave to report that we, after free and fair discussion of the differences between the House and Senate, have agreed to recommend and do recommend to the respective bodies as follows:

1. That the House recede from its position on House Committee Substitute for Senate Bill No. 219, as amended;

2. That the Senate recede from its position on Senate Bill No. 219; and

3. That the attached Conference Committee Substitute for House Committee Substitute for Senate Bill No. 219, be truly agreed to and finally passed.

FOR THE SENATE:

/s/ Harold Caskey

/s/ John E. Scott

/s/ Jim Mathewson

/s/ David Klarich

/s/ Morris Westfall

FOR THE HOUSE:

/s/ Joan Bray

/s/ Tim VanZandt

/s/ Marsha Campbell

/s/ W. Todd Akin

/s/ David J. Hegeman

Senator Caskey moved that the above conference committee report be adopted, which motion prevailed by the following vote:

YEAS—Senators

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

NAYS—Senators—None

Absent—Senators

Banks Jacob Schneider—3

Absent with leave—Senator Singleton—1

Senator Johnson assumed the Chair.

On motion of Senator Caskey, **CCS** for **HCS** for **SB 219**, entitled:

CONFERENCE COMMITTEE SUBSTITUTE FOR HOUSE COMMITTEE SUBSTITUTE FOR

SENATE BILL NO. 219

An Act to repeal sections 137.100, 137.130, 137.720, 137.750, 138.430 and 138.431, RSMo 1994, relating to ad valorem taxation, and to enact in lieu thereof seventeen new sections relating to the same subject.

Was read the 3rd time and passed by the following vote:

YEAS—Senators

Bentley	Bland	Caskey	Childers
Clay	DePasco	Ehlmann	Flotron
Goode	Graves	House	Howard
Johnson	Kenney	Kinder	Klarich
Mathewson	Maxwell	Mueller	Quick
Rohrbach	Russell	Sims	Staples
Steelman	Stoll	Westfall	Wiggins
Yeckel—29			

NAYS—Senators—None

Absent—Senators

Banks Jacob Schneider Scott—4

Absent with leave—Senator Singleton—1

The President declared the bill passed.

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

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

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

REPORTS OF STANDING COMMITTEES

Senator Quick, Chairman of the Committee on Gubernatorial Appointments, submitted the following report:

Mr. President: Your Committee on Gubernatorial Appointments, to which was referred the appointment of Keith Arnold Wenzel, as Director of the Department of Insurance, begs leave to report that it has considered the same and recommends that the Senate do give its advice and consent to said appointment.

Senator Rohrbach moved that the committee report be adopted and the Senate do give its advice

and consent to the above appointment, which motion prevailed.

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

PRIVILEGED MOTIONS

Senator Howard, on behalf of the conference committee appointed to act with a like committee from the House on **HCS** for **SCS** for **SBs 31 and 285**, as amended, submitted the following conference committee report:

CONFERENCE COMMITTEE REPORT ON HOUSE COMMITTEE SUBSTITUTE FOR SENATE COMMITTEE SUBSTITUTE FOR SENATE BILLS NOS. 31 and 285

Mr. President: Your Conference Committee, appointed to confer with a like committee of the House, on House Committee Substitute for Senate Committee Substitute for Senate Bills Nos. 31 and 285, with House Amendments Nos. 1, 2, 3, 4, 5, 6, 7, 8, 10 and 11; begs leave to report that we, after free and fair discussion of the differences between the House and Senate, have agreed to recommend and do recommend to the respective bodies as follows:

1. That the House recede from its position on House Committee Substitute for Senate Committee Substitute for Senate Bills Nos. 31 and 285, as amended;
2. That the Senate recede from its position on Senate Committee Substitute for Senate Bills Nos. 31 and 285; and
3. That the attached Conference Committee Substitute for House Committee Substitute for Senate Committee Substitute for Senate Bills Nos. 31 and 285 be truly agreed to and finally passed.

FOR THE SENATE: FOR THE HOUSE:

- | | |
|---------------------|----------------------|
| /s/ Jerry T. Howard | /s/ Jim Seigfreid |
| /s/ Harold Caskey | /s/ Rita Days |
| /s/ Joe Maxwell | /s/ Gracia Backer |
| /s/ Franc Flotron | /s/ Beth Long |
| /s/ Larry Rohrbach | /s/ Carl Hendrickson |

Senator Staples assumed the Chair.

Senator Howard moved that the above conference committee report be adopted, which motion prevailed by the following vote:

YEAS—Senators

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

NAYS—Senators

Goode	Kinder—2
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Absent—Senators

Quick	Schneider	Scott—3
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Absent with leave—Senator Singleton—1

Senator Mathewson assumed the Chair.

On motion of Senator Howard, **CCS** for **HCS** for **SCS** for **SBs 31 and 285**, entitled:

CONFERENCE COMMITTEE SUBSTITUTE FOR HOUSE COMMITTEE SUBSTITUTE FOR SENATE COMMITTEE SUBSTITUTE FOR SENATE BILLS NOS. 31 and 285

An Act to repeal sections 105.473, 105.955, 105.963, 130.031, 130.036, 130.046, 130.050, 130.056, 130.057 and 130.110, RSMo Supp. 1998, and both versions of section 130.041, as they appear in RSMo Supp. 1998, relating to certain procedures of public entities responsible for campaign finance administration, and to enact in lieu thereof fifteen new sections relating to the same subject, with an emergency clause for a certain section.

Was read the 3rd time and passed by the following vote:

YEAS—Senators

Banks	Bentley	Bland	Caskey
Childers	Clay	DePasco	Ehlmann
Flotron	Graves	House	Howard
Jacob	Johnson	Kenney	Kinder
Klarich	Mathewson	Maxwell	Mueller
Rohrbach	Russell	Sims	Staples
Steelman	Stoll	Westfall	Wiggins
Yeckel—29			

NAYS—Senator Goode—1

Absent—Senators

Quick Schneider Scott—3

Absent with leave—Senator Singleton—1

The President declared the bill passed.

The emergency clause was adopted by the following vote:

YEAS—Senators

Bentley	Bland	Caskey	Childers
Clay	DePasco	Ehlmann	Flotron
Goode	Graves	House	Howard
Jacob	Johnson	Kenney	Klarich
Mathewson	Maxwell	Mueller	Quick
Rohrbach	Russell	Sims	Staples
Stoll	Westfall	Wiggins	Yeckel—28

NAYS—Senators

Kinder Steelman—2

Absent—Senators

Banks Schneider Scott—3

Absent with leave—Senator Singleton—1

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

Senator Howard moved that the Senate conferees be allowed to exceed the differences on **HS** for **HCS** for **SS** for **SCS** for **SB 338**, as amended, which motion prevailed.

Senator Maxwell, on behalf of the conference committee appointed to act with a like committee from the House on **HS** for **SB 310**, as amended, submitted the following conference committee report:

CONFERENCE COMMITTEE REPORT ON
HOUSE SUBSTITUTE FOR
SENATE BILL NO. 310

Mr. President: Your Conference Committee, appointed to confer with a like committee of the House, on House Substitute for Senate Bill No. 310, with House Amendments Nos. 1, 2, 3, 4, 5, 6, 7 and 8; begs leave to report that we, after free and

fair discussion of the differences between the House and Senate, have agreed to recommend and do recommend to the respective bodies as follows:

1. That the House recede from its position on House Substitute for Senate Bill No. 310, as amended;

2. That the Senate recede from its position on Senate Bill No. 310; and

3. That the attached Conference Committee Substitute for House Substitute for Senate Bill No. 310, be truly agreed to and finally passed.

FOR THE SENATE:

/s/ Joe Maxwell

/s/ Sidney Johnson

/s/ Danny Staples

/s/ Sarah H. Steelman

/s/ Morris Westfall

FOR THE HOUSE:

/s/ Sam Leake

/s/ Marilyn Williams

/s/ Gary Wiggins

/s/ David Klindt

/s/ Daniel J. Hegeman

Senator Maxwell moved that the above conference committee report be adopted, which motion prevailed by the following vote:

YEAS—Senators

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	Staples	Stelman	Stoll
Westfall	Wiggins	Yeckel—31	

NAYS—Senators—None

Absent—Senators

Banks Howard—2

Absent with leave—Senator Singleton—1

On motion of Senator Maxwell, **CCS** for **HS** for **SB 310**, entitled:

CONFERENCE COMMITTEE SUBSTITUTE
FOR HOUSE SUBSTITUTE FOR
SENATE BILL NO. 310

An Act to repeal sections 142.029 and 267.610, RSMo 1994, and sections 261.105 and 276.401, RSMo Supp. 1998, and section 267.610, as it appeared in RSMo 1986, relating to the

department of agriculture, and to enact in lieu thereof eighteen new sections relating to the same subject, with penalty provisions and an expiration date for certain sections.

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
Rohrbach	Russell	Schneider	Scott
Sims	Staples	Steelman	Stoll
Westfall	Wiggins	Yeckel—31	

NAYS—Senators—None

Absent—Senators

Howard Quick—2

Absent with leave—Senator Singleton—1

The President declared the bill passed.

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

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

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

HOUSE BILLS ON THIRD READING

Senator Staples moved that **HB 468**, with **SCS**, be called from the Informal Calendar and again taken up for 3rd reading and final passage, which motion prevailed.

SCS for **HB 468** was again taken up.

Senator Staples moved that **SCS** for **HB 468** be adopted.

Senator Kenney offered **SA 1**:

SENATE AMENDMENT NO. 1

Amend Senate Committee Substitute for House Bill No. 468, Page 5, Section 226.930, Line 1, by striking "two-year pilot program" and inserting in lieu thereof the following: "**study to determine whether project labor agreements are feasible**";

and further amend lines 2-3, by striking all of said lines and inserting in lieu thereof the following: "**department of transportation.**"; and

Further amend said bill and section, page 6, line 16, by striking "establish and implement" and insert in lieu thereof the following: "**conduct a study regarding the establishment and implementation of**"; and further amend line 18, by inserting immediately after "4." the following: "**During the course of the study,**"; and further amend line 32, by inserting immediately after "5." the following: "**The study shall assume that**"; and further amend line 38, by inserting immediately after "union." the following: "**The study shall assume that**"; and further amend lines 48-49, by striking all of said lines; and further amend said section by renumbering the remaining subsections accordingly; and further amend line 50, by striking "As a pilot program to" and inserting in lieu thereof the following: "**The study shall**"; and further amend line 51, by striking "projects run through"; and further amend said line, by striking ", the department shall conduct" and inserting in lieu thereof the following: "**on**"; and

Further amend said bill and section, page 7, line 56, by striking "All projects"; and further amend lines 57-60, by striking all of said lines and inserting in lieu thereof the following:

"7. The study shall assume compliance"; and further amend line 62, by inserting immediately after "9." the following: "**The study shall assume that**"; and further amend line 69, by striking all of said line and inserting in lieu thereof the following: "**contractor and labor organizations**"; and further amend line 73, by inserting immediately after "10." the following: "**The study shall assume that**"; and further amend line 79, by inserting immediately after "of a" the following: "**study conducted on the feasibility of a**"; and further amend line 83, by inserting immediately after "agreement" the following: "**study**".

Senator Kenny moved that the above amendment be adopted.

President Wilson assumed the Chair.

Senator Kenney offered **SSA 1** for **SA 1**,

which was read:

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

Amend Senate Committee Substitute for House Bill No. 468, Pages 5-7, Section 226.930, by deleting all of said section; and

Further amend the title and enacting clause accordingly.

Senator Kenney moved that the above substitute amendment be adopted.

Senator Flotron raised the point of order that **SCS** for **HB 468** is out of order in that it goes beyond the scope and purpose of the original bill.

The point of order was referred to the President Pro Tem, who took it under advisement, which placed the bill, with **SCS**, **SA 1** and **SSA 1** for **SA 1** (pending), on the Informal Calendar.

Senator House moved that **HCS** for **HB 162** be called from the Informal Calendar and again taken up for 3rd reading and final passage, which motion prevailed.

Senator Howard offered **SA 1**:

SENATE AMENDMENT NO. 1

Amend House Substitute for House Bill No. 162, Page 8, Section 288.040, Line 164, by inserting after all of said line the following:

"288.041. Individuals whose services are not defined as employment pursuant to subsection 8 of section 288.034 or whose services are excluded from the term "employment" in subdivision (1) or (2) of subsection 9 of section 288.034 shall be provided a written notice by the employing unit that wages earned by the individual for services performed for this employing unit will not be used to determine insured worker status for unemployment benefits. Such notice shall be provided to each individual:

(1) At the time of initial employment, for all initial employments occurring on or after August 28, 1999;

(2) Upon the change in status of the employing unit's liability pursuant to this chapter;

(3) For all individuals employed by such employing unit as of August 28, 1999, within thirty days of August 28, 1999."; and

Further amend the title and enacting clause accordingly.

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

On motion of Senator House, **HS** for **HB 162**, as amended, 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
Howard	Jacob	Johnson	Kenney
Kinder	Klarich	Mathewson	Maxwell
Mueller	Quick	Rohrbach	Russell
Schneider	Scott	Sims	Staples
Steelman	Stoll	Westfall	Wiggins
Yeckel—33			

NAYS—Senators—None

Absent—Senators—None

Absent with leave—Senator Singleton—1

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

HS for **HB 450**, with **SCS**, introduced by Representative Relford, et al, entitled:

An Act to repeal section 644.509, RSMo Supp. 1998, relating to authorization of additional state bonds, and to enact in lieu thereof four new sections relating to the same subject.

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

SCS for **HS** for **HB 450**, entitled:

SENATE COMMITTEE SUBSTITUTE FOR
HOUSE SUBSTITUTE FOR
HOUSE BILL NO. 450

An Act to repeal sections 249.645, 386.025, 393.295, 393.705, 393.710, 393.715, 393.725, 393.730, 393.760 and 393.770, RSMo 1994, and sections 247.030, 247.040, 644.031 and 644.509, RSMo Supp. 1998, and to enact in lieu thereof nineteen new sections relating to water and sewer services, with an emergency clause for certain sections.

Was taken up.

Senator Maxwell moved that **SCS** for **HS** for **HB 450** be adopted.

At the request of Senator Maxwell, **HS** for **HB 450**, with **SCS** (pending), was placed on the Informal Calendar.

Senator Maxwell moved that **HS** for **HCS** for **HB 618**, with **SCS** and **SA 6** (pending), be called from the Informal Calendar and again taken up for 3rd reading and final passage, which motion prevailed.

SA 6 was again taken up.

At the request of Senator Jacob, the above amendment was withdrawn.

At the request of Senator Maxwell, **SS** for **SCS** for **HS** for **HCS** for **HB 618** was withdrawn.

Senator Maxwell offered **SS No. 2** for **SCS** for **HS** for **HCS** for **HB 618**, entitled:

SENATE SUBSTITUTE NO. 2 FOR
SENATE COMMITTEE SUBSTITUTE FOR
HOUSE SUBSTITUTE FOR
HOUSE COMMITTEE SUBSTITUTE FOR
HOUSE BILL NO. 618

An Act to repeal section 198.070, RSMo 1994, relating to the health care needs of the elderly, and to enact in lieu thereof eight new sections relating to the same subject.

Senator Maxwell moved that **SS No. 2** for **SCS** for **HS** for **HCS** for **HB 618** be adopted.

Senator Mueller offered **SA 1**:

SENATE AMENDMENT NO. 1

Amend Senate Substitute No. 2 for Senate Committee Substitute for House Substitute for House Committee Substitute for House Bill No. 618, Page 15, Section 7, Line 5, by inserting immediately after said line the following:

"Section 8. The provisions of sections 197.300 to 197.366, RSMo, shall not apply to a skilled nursing facility that is owned or operated by a not-for-profit corporation which was created by a special act of the Missouri general assembly, is exempt from federal income tax as an organization described in section 501(c)(3) of the Internal Revenue Code of 1986, is owned by a religious organization and is to be operated as part of a continuing care retirement community offering independent living, residential care and skilled care."; and

Further amend the title and enacting clause accordingly.

Senator Mueller moved that the above amendment be adopted.

Senator Mathewson assumed the Chair.

At the request of Senator Maxwell, **HS** for **HCS** for **HB 618**, with **SCS**, **SS No. 2** for **SCS** and **SA 1** (pending), was placed on the Informal Calendar.

HB 779, with **SCS**, introduced by Representative Skaggs, et al, entitled:

An Act to repeal section 71.270, RSMo 1994, relating to vacation of certain streets and easements, and to enact in lieu thereof one new section relating to the same subject.

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

SCS for **HB 779**, entitled:

SENATE COMMITTEE SUBSTITUTE FOR
HOUSE BILL NO. 779

An Act to repeal section 71.270, RSMo 1994, relating to vacation of certain streets and easements, and to enact in lieu thereof one new section relating to the same subject.

Was taken up.

Senator Quick moved that **SCS** for **HB 779** be adopted.

Senator Klarich offered **SA 1**:

SENATE AMENDMENT NO. 1

Amend Senate Committee Substitute for House Bill No. 779, Page 1, Section In the Title,

Lines 2-3, by striking the words "vacation of certain streets and easements" and inserting in lieu thereof the words "boundaries of property"; and

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

"71.012. 1. Notwithstanding the provisions of sections 71.015 and 71.860 to 71.920, the governing body of any city, town[,] or village may annex unincorporated areas which are contiguous and compact to the existing corporate limits of the city, town[,] or village [as provided in] **pursuant to this section.** The term "contiguous and compact" does not include a situation whereby the unincorporated area proposed to be annexed is contiguous to the annexing city, town or village only by a railroad line, trail, pipeline or other strip of real property less than one-quarter mile in width within the city, town or village so that the boundaries of the city, town or village after annexation would leave unincorporated areas between the annexed area and the prior boundaries of the city, town or village connected only by such railroad line, trail, pipeline or other such strip of real property. The term "contiguous and compact" does not prohibit voluntary annexations [under] **pursuant to** this section merely because such voluntary annexation would create an island of unincorporated area [with] **within** the city, town or village, so long as the owners of the unincorporated island were also given the opportunity to voluntarily annex into the city, town or village. Notwithstanding the provisions of this section, the governing body of any city, town[,] or village in any county of the third classification which borders a county of the fourth classification, a county of the second classification and Mississippi River may annex areas along a road or highway up to two miles from existing boundaries of the city, town or village **or the governing body in any city, town or village in any county of the third classification without a township form of government with a population of least twenty-four thousand inhabitants but not more than thirty thousand inhabitants and such county contains a state correctional center may voluntarily annex such correctional center pursuant to the provisions of this section if the**

correctional center is along a road or highway within two miles from the existing boundaries of the city, town or village.

2. (1) When a verified petition, requesting annexation and signed by the owners of all fee interests of record in all tracts of real property located within the area proposed to be annexed, **or a request for annexation signed under the authority of the governing body of any common interest community and approved by a majority vote of unit owners located within the area proposed to be annexed** is presented to the governing body of the city, town[,] or village, the governing body shall hold a public hearing concerning the matter not less than fourteen nor more than sixty days after the petition is received, and the hearing shall be held not less than seven days after notice of the hearing is published in [newspapers of general circulation qualified to publish legal matters] **a newspaper of general circulation qualified to publish legal matters and located within the boundary of the petitioned city, town or village.** If no such newspaper exists within the boundary of such city, town or village, then the notice shall be published in the qualified newspaper nearest the petitioned city, town or village.

For the purposes of this subdivision, the term "common interest community" shall mean a condominium as said term is used in chapter 448, RSMo, or a common interest community, a cooperative, or a planned community.

(a) A "common interest community" shall be defined as real property with respect to which a person, by virtue of such person's ownership of a unit, is obliged to pay for real property taxes, insurance premiums, maintenance or improvement of other real property described in a declaration. "Ownership of a unit" does not include a leasehold interest of less than twenty years in a unit, including renewal options;

(b) A "cooperative" shall be defined as a common interest community in which the real property is owned by an association, each of whose members is entitled by virtue of such member's ownership interest in the association

to exclusive possession of a unit;

(c) A "planned community" a common interest community that is not a condominium or a cooperative. A condominium or cooperative may be part of a planned community.

(2) At the public hearing any interested person, corporation or political subdivision may present evidence regarding the proposed annexation. If, after holding the hearing, the governing body of the city, town[,] or village determines that the annexation is reasonable and necessary to the proper development of the city, town[,] or village, and the city, town[,] or village has the ability to furnish normal municipal services to the area to be annexed within a reasonable time, it may, subject to the provisions of subdivision (3) of this subsection, annex the territory by ordinance without further action.

(3) If a written objection to the proposed annexation is filed with the governing body of the city, town[,] or village not later than fourteen days after the public hearing by at least two percent of the qualified voters of the city, town[,] or village, or two qualified voters of the area sought to be annexed if the same contains two qualified voters, the provisions of sections 71.015 and 71.860 to 71.920, shall be followed.

3. If no objection is filed, the city, town[,] or village shall extend its limits by ordinance to include such territory, specifying with accuracy the new boundary lines to which the city's, town's[,] or village's limits are extended. Upon duly enacting such annexation ordinance, the city, town[,] or village shall cause three certified copies of the same to be filed with the clerk of the county wherein the city, town[,] or village is located, and one certified copy to be filed with the election authority, if different from the clerk of the county which has jurisdiction over the area being annexed, whereupon the annexation shall be complete and final and thereafter all courts of this state shall take judicial notice of the limits of that city, town[,] or village as so extended.

71.015. 1. Should any city, town, or village, not located in any county of the first classification which has adopted a constitutional charter for its

own local government, seek to annex an area to which objection is made, the following shall be satisfied:

(1) Before the governing body of any city, town, or village has adopted a resolution to annex any unincorporated area of and, such city, town, or village shall first as a condition precedent determine that the land to be annexed is contiguous to the existing city, town, or village limits and that the length of the contiguous boundary common to the existing city, town, or village limit and the proposed area to be annexed is at least fifteen percent of the length of the perimeter of the area proposed for annexation.

(2) The governing body of any city, town, or village shall propose an ordinance setting forth the following:

(a) The area to be annexed and affirmatively stating that the boundaries comply with the condition precedent referred to in subdivision (1) above;

(b) That such annexation is reasonable and necessary to the proper development of the city, town, or village;

(c) That the city has developed a "plan of intent" to provide services to the area proposed for annexation;

(d) That a public hearing shall be held prior to the adoption of the ordinance;

(e) When the annexation is proposed to be effective, the effective date being up to thirty-six months from the date of any election held in conjunction thereto.

(3) The city, town, or village shall fix a date for a public hearing on the ordinance and make a good faith effort to notify all fee owners of record within the area proposed to be annexed by certified mail, not less than thirty nor more than sixty days before the hearing, and notify all residents of the area by publication of notice in a newspaper of general circulation qualified to publish legal matters in the county or counties where the proposed area is located, at least once a week for three consecutive weeks prior to the hearing, with at least one such notice being not more than twenty

days and not less than ten days before the hearing.

(4) At the hearing referred to in subdivision (3), the city, town, or village shall present the "plan of intent" and evidence in support thereof to include:

(a) A list of major services presently provided by the city, town, or village including, but not limited to, police and fire protection, water and sewer systems, street maintenance, parks and recreation, refuse collection, etc.;

(b) A proposed time schedule whereby the city, town, or village plans to provide such services to the residents of the proposed area to be annexed within three years from the date the annexation is to become effective;

(c) The level at which the city, town, or village assesses property and the rate at which it taxes that property;

(d) How the city, town, or village proposes to zone the area to be annexed;

(e) When the proposed annexation shall become effective.

(5) Following the hearing, **and either before or after the election held in subdivision (6) of this subsection**, should the governing body of the city, town, or village vote favorably by ordinance to annex the area, [then before proceeding as otherwise authorized by law or charter for annexation of unincorporated areas,] **the governing body of the city, town or village shall** file an action in the circuit court of the county in which such unincorporated area is situated, under the provisions of chapter 527, RSMo, praying for a declaratory judgment authorizing such annexation. The petition in such action shall state facts showing:

(a) The area to be annexed and its conformity with the condition precedent referred to in subdivision (1) of this subsection;

(b) That such annexation is reasonable and necessary to the proper development of the city, town, or village; and

(c) The ability of the city, town, or village to furnish normal municipal services of the city, town, or village to the unincorporated area within a

reasonable time not to exceed three years after the annexation is to become effective. Such action shall be a class action against the inhabitants of such unincorporated area under the provisions of section 507.070, RSMo.

(6) Except as provided in subsection 3 of this section, if the court authorizes the city, town, or village to make an annexation, the legislative body of such city, town, or village shall not have the power to extend the limits of the city, town, or village by such annexation until an election is held at which the proposition for annexation is approved by a majority of the total votes cast in the city, town, or village and by a separate majority of the total votes cast in the unincorporated territory sought to be annexed. However, should less than a majority of the total votes cast in the area proposed to be annexed vote in favor of the proposal, but at least a majority of the total votes cast in the city, town, or village vote in favor of the proposal, then the proposal shall again be voted upon in not more than one hundred twenty days by both the registered voters of the city, town, or village and the registered voters of the area proposed to be annexed. If at least two-thirds of the qualified electors voting thereon are in favor of the annexation, then the city, town, or village may proceed to annex the territory. If the proposal fails to receive the necessary majority, no part of the area sought to be annexed may be the subject of another proposal to annex for a period of two years from the date of the election, except that, during the two-year period, the owners of all fee interests of record in the area or any portion of the area may petition the city, town, or village for the annexation of the land owned by them pursuant to the procedures in section 71.012. The elections shall if authorized be held, except as herein otherwise provided, in accordance with the general state law governing special elections, and the entire cost of the election or elections shall be paid by the city, town, or village proposing to annex the territory.

(7) Failure to comply in providing services to the said area or to zone in compliance with the "plan of intent" within three years after the effective date of the annexation, unless compliance is made unreasonable by an act of God, shall give rise to a cause of action for deannexation which

may be filed in the circuit court by any resident of the area who was residing in the area at the time the annexation became effective.

(8) No city, town, or village which has filed an action under this section as this section read prior to May 13, 1980, which action is part of an annexation proceeding pending on May 13, 1980, shall be required to comply with subdivision (5) of this subsection in regard to such annexation proceeding.

(9) If the area proposed for annexation includes a public road or highway but does not include all of the land adjoining such road or highway, then such fee owners of record, of the lands adjoining said highway shall be permitted to intervene in the declaratory judgment action described in subdivision (5) of this subsection.

2. Notwithstanding any provision of subsection 1 of this section, for any annexation by any city with a population of three hundred fifty thousand or more inhabitants which is located in more than one county that becomes effective after August 28, 1994, if such city has not provided water and sewer service to such annexed area within three years of the effective date of the annexation, a cause of action shall lie for deannexation, unless the failure to provide such water and sewer service to the annexed area is made unreasonable by an act of God. The cause of action for deannexation may be filed in the circuit court by any resident of the annexed area who is presently residing in the area at the time of the filing of the suit and was a resident of the annexed area at the time the annexation became effective. If the suit for deannexation is successful, the city shall be liable for all court costs and attorney fees.

3. Notwithstanding the provisions of subdivision (6) of subsection 1 of this section, all cities, towns, and villages located in any county of the first classification with a charter form of government with a population of two hundred thousand or more inhabitants which adjoins a county with a population of nine hundred thousand or more inhabitants shall comply with the provisions of this subsection. If the court authorizes any city, town, or village subject to this subsection to make an annexation, the legislative body of such

city, town or village shall not have the power to extend the limits of such city, town, or village by such annexation until an election is held at which the proposition for annexation is approved by a majority of the total votes cast in such city, town, or village and by a separate majority of the total votes cast in the unincorporated territory sought to be annexed; except that:

(1) In the case of a proposed annexation in any area which is contiguous to the existing city, town or village and which is within an area designated as flood plain by the Federal Emergency Management Agency and which is inhabited by no more than thirty registered voters and for which a final declaratory judgment has been granted prior to January 1, 1993, approving such annexation and where notarized affidavits expressing approval of the proposed annexation are obtained from a majority of the registered voters residing in the area to be annexed, the area may be annexed by an ordinance duly enacted by the governing body and no elections shall be required; and

(2) In the case of a proposed annexation of unincorporated territory in which no qualified electors reside, if at least a majority of the qualified electors voting on the proposition are in favor of the annexation, the city, town or village may proceed to annex the territory and no subsequent election shall be required. If the proposal fails to receive the necessary separate majorities, no part of the area sought to be annexed may be the subject of any other proposal to annex for a period of two years from the date of such election, except that, during the two-year period, the owners of all fee interests of record in the area or any portion of the area may petition the city, town, or village for the annexation of the land owned by them pursuant to the procedures in section 71.012. The election shall, if authorized, be held, except as otherwise provided in this section, in accordance with the general state laws governing special elections, and the entire cost of the election or elections shall be paid by the city, town, or village proposing to annex the territory. Failure of the city, town or village to comply in providing services to the area or to zone in compliance with the "plan of intent" within three years after the effective date of the annexation, unless compliance is made

unreasonable by an act of God, shall give rise to a cause of action for deannexation which may be filed in the circuit court by any resident of the area who was residing in such area at the time the annexation became effective or by any nonresident owner of real property in such area."; and

Further amend said bill, Page 2, Section 71.270, Line 29, by inserting after all of said line the following:

"72.400. As used in sections 72.400 to [72.418] **72.422 and section 1 of this act**, the following terms mean:

(1) "Boundary adjustment", an adjustment of a boundary between two municipalities or a municipality and the unincorporated area of the county involving [two] **all or part of one or more residential parcels [in common ownership or portions of a single residential parcel]** in common ownership or an adjustment between two municipalities or a municipality and the unincorporated area of the county involving only public property or public rights-of-way;

(2) "Boundary change", any annexation, consolidation, incorporation, transfer of jurisdiction between municipalities or between a municipality and the county, or combination thereof, which, if approved, would result in a municipality composed of contiguous territory;

(3) "Commission", a boundary commission established pursuant to this section;

(4) "Contiguousness", territory proposed for annexation in which at least fifteen percent of its boundary is adjacent to the municipality which is proposing the annexation **or territory proposed for addition to an established unincorporated area in which at least fifteen percent of its boundary is adjacent to the established unincorporated area;**

(5) "**Established unincorporated area**", an area in the unincorporated area of the county which has been approved by the voters pursuant to section 72.422 to remain unincorporated and not subject to any boundary change except as otherwise provided;

[(5)] (6) "Proposing agent", the governing body

of any municipality which by ordinance has adopted a boundary change proposal or the governing body of the county which by ordinance has adopted a boundary change proposal, **or the chief elected official of the county who has authorized the filing of an unincorporated area proposal**, or a person presenting petitions **for incorporation** signed by a number of registered voters equal to not less than fifteen percent of the number of votes cast for governor in the last gubernatorial election in the total combined area affected by the boundary change proposal. Petitions submitted by proposing agents may be submitted with exclusions for the signatures collected in areas originally included in the proposal but subsequently annexed or incorporated separately as a municipality, although the commission shall be satisfied as to the sufficiency of the signatures for the final proposed area;

[(6) "Simplified boundary change", an annexation initiated by a verified petition signed by seventy-five percent of the residential property owners of all fee interests of record of the area proposed for annexation and filed by the annexing municipality and which the commission determines and finds should be approved without voter approval;]

(7) "Voting jurisdiction", a city, town or village, or areas of unincorporated territory with boundaries established by the commission for purposes of holding a boundary change election.

72.401. 1. If a commission has been established pursuant to section 72.400 **in any county with a charter form of government where fifty or more cities, towns and villages have been established**, any boundary change within the county shall proceed solely and exclusively in the manner provided for by sections 72.400 to [72.420] **72.422 and section 1 of this act**, notwithstanding any statutory provisions to the contrary concerning such boundary changes.

2. In any county with a charter form of government where fifty or more cities, towns and villages have been established, there shall be no incorporation of any new city, town, or village wholly or partially in such county, nor any annexation or consolidation of any area wholly or

partially in such county for one hundred twenty days after [June 2, 1995] **the effective date of this act**, except [for the following]:

(1) As provided in subsection 3 of this section; or

(2) where the governing body of the county specifically adopts an ordinance stating that a boundary commission shall not be established in the county, such incorporation, annexation or consolidation may resume after the effective date of the ordinance. Immediately after the expiration of such moratorium, if the governing body of such county has by ordinance established a boundary commission, as provided in sections 72.400 to [72.420] **72.422 and section 1 of this act**, then [annexation, incorporation and consolidation] **boundary changes** in such county shall proceed only as provided in sections 72.400 to [72.420] **72.422 and section 1 of this act**. [The procedures established in section 72.420 shall remain applicable to counties of the first classification where fifty or more cities, towns and villages have been established. The provisions of sections 72.400 to 72.420 shall expire on December 31, 2002, unless the general assembly reauthorizes such provisions prior to December 31, 2002.]

3. Notwithstanding any provisions of law to the contrary, any boundary changes approved by voters, simplified boundary changes approved by one hundred percent of the property owners and the governing body of the annexing city, and exchanges of land agreed to by the governing bodies of the jurisdictions involved in the exchange, which have been approved or agreed to prior to June 2, 1995, and which have not yet taken effect at the time of the first meeting of the boundary commission shall not be subject to commission approval.

4. Any proposal for incorporation by petition of at least six thousand registered voters which has been submitted to the governing body of the county under section 72.080 by June 30, 1995, shall not be subject to commission approval, and such boundary changes shall become effective on the date determined by the jurisdictions involved or by court order. Notice of such boundary changes shall be provided to the commission.

5.] **3. The commission, if any, which exists on the effective date of this act is abolished.** The commission shall be composed of eleven members as provided in this subsection. No member [or], employee **or contractor** of the commission shall be an elective official, employee or contractor **of the county or** of any political subdivision **within the county** or of any organization representing political subdivisions or officers or employees of political subdivisions. Each of the appointing authorities described in subdivisions (1) to [(5)] **(3)** of this subsection shall appoint persons who shall be residents of their respective locality so described. The appointing authority making the appointments shall be:

(1) The chief elected officials of all municipalities wholly within the county which have a population of more than twenty thousand persons, who shall name [the number of] **two** members to the commission as prescribed in this subsection **each of whom is a resident of a municipality within the county of more than twenty thousand persons;**

(2) The chief elected officials of all municipalities wholly within the county which have a population of twenty thousand or less but more than ten thousand persons, who shall name [the number of members] **one member** to the commission as prescribed in this subsection **who is a resident of a municipality within the county with a population of twenty thousand or less but more than ten thousand persons;**

(3) The chief elected officials of all municipalities wholly within the county which have a population of ten thousand persons or less, who shall name [the number of members] **one member** to the commission as prescribed in this subsection **who is a resident of a municipality within the county with a population of ten thousand persons or less;**

(4) [Each member of the county council of the three county council districts with the largest number of residents residing within the unincorporated area of the county, who shall each be allowed to nominate one member of the commission in the manner prescribed in this subdivision. Each such county council member

shall submit a list of two residents of the unincorporated area of such member's district to the county executive, and the county executive shall select one person from each list so submitted to be a member of the commission. If a list is not submitted to the county executive by the times prescribed in subsection 6 of this section, the county executive shall name a person to be a member of the commission] **An appointive body consisting of the director of the county department of planning, the president of the municipal league of the county, one additional person designated by the county executive, and one additional person named by the board of the municipal league of the county, which appointive body, acting by a majority of all of its members, shall name three members of the commission who are residents of the county; and**

(5) The county executive of the county, who shall name [two of the] **four** members of the commission, **three of whom shall be** from the unincorporated area of the county **and one of whom shall be from the incorporated area of the county.**

The seat of a commissioner shall be automatically vacated when the commissioner [ceases to be a resident member of the appointing group. The vacancy shall be filled according to subsection 7 of this section. Each appointing authority described in subdivisions (1) to (3) of this subsection shall appoint a member for every sixteen and two-thirds percent, rounded up or down to the nearest sixteen and two-thirds percent, of the population of the county which resides in the municipalities described in such subdivisions. In the event that rounding would result in more than six members from the three municipal appointing authorities, then rounding up shall not apply to the appointing authority farthest from the next higher sixteen and two-thirds percent. Percentages and populations shall be calculated according to the last federal decennial census. They shall be calculated as of June 30, 1995] **changes his or her residence so as to no longer conform to the terms of the requirements of the commissioner's appointment. The commission shall promptly notify the appointing authority of such change of residence.**

[6.] **4.** Upon the passage of an ordinance by the governing body of the county establishing a boundary commission, the governing body of the county shall, within ten days, send by United States mail written notice of the passage of the ordinance to the chief elected official of each municipality wholly or partly in the county.

5. Each of the appointing authorities described in subdivisions (1) to [(3)] **(4)** of subsection [5] **3** of this section shall meet within thirty days of the passage of the ordinance establishing the commission to compile its list of appointees. Each list shall be delivered to the county executive within forty-one days of the passage of such ordinance. The county executive shall appoint members [representing the unincorporated areas of the county] within forty-five days of the passage of the ordinance. If a list is not submitted by the time specified, the county executive shall appoint the members using the criteria of subsection [5] **3** of this section before the sixtieth day from the passage of the ordinance. [On the sixty-first day from the passage of such ordinance, the commission shall begin to exercise the powers and duties assigned to it by sections 72.400 to 72.418.] At the first meeting of the commission **appointed after the effective date of the ordinance**, the commissioners shall choose by lot the length of their terms. Three shall serve for one year, two for two years, two for three years, two for four years, and two for five years. All succeeding commissioners shall serve for five years. Terms shall end on December thirty-first of the respective year. No commissioner shall serve more than two consecutive full terms. Full terms shall include any term longer than two years.

[7.] **6.** When a member's term expires, or if a member is for any reason unable to complete his term, the respective appointing authority shall appoint such member's successor. [The appointee shall be determined by the appointing authority from whose list the outgoing member was appointed.] Each appointing authority shall act to ensure that each appointee is secured accurately and in a timely manner, when a member's term expires or as soon as possible when a member is unable to complete his term. A member whose term has expired shall continue to serve until his

successor is appointed and qualified.

[8.] **7.** The commission, its employees and subcontractors shall be subject to the regulation of conflicts of interest as defined in sections 105.450 to 105.498, RSMo, and to the requirements for open meetings and records under chapter 610, RSMo.

[9.] **8.** Notwithstanding any provisions of law to the contrary, any boundary adjustment approved by the residential property owners and the governing bodies of the affected municipalities or the county, if involved, shall not be subject to commission review. **Such a boundary adjustment is not prohibited by the existence of an established unincorporated area.**

72.402. The commission shall enact and adopt all rules, regulations and procedures that are reasonably necessary to achieve the objectives of sections 72.400 to [72.420] **72.422 and section 1 of this act** no sooner than twenty-seven calendar days after notifying all municipalities and the county of the proposed rule, regulation or procedure enactment or change. Notice may be given by ordinary mail or by publishing in at least one newspaper of general circulation qualified to publish legal notices. No new or amended rule, regulation or procedure shall apply retroactively to any boundary change **or unincorporated area proposal** pending before the commission.

72.403. 1. The commission shall review all proposed boundary changes of any area wholly or partially within the county. [Such review] **After the effective date of this act, no boundary change or unincorporated area proposal shall be submitted to or considered by the commission until April 15, 2001, except for consolidations. Any boundary change or unincorporated area proposal pending before the commission on the effective date of this act shall be suspended on the effective date of this act and shall be further considered after April 15, 2001, only if such proposal is reflected in a map plan submitted to the commission pursuant to section 1 of this act. Review** shall begin no later than thirty days after the plan of intent for the boundary change has been submitted to the commission by the proposing agent or thirty days

after [the commission is established] **April 15, 2001**, for [those] boundary changes **or unincorporated area proposals** which are pending on the **effective** date [on which the commission is established] **of this act**. The plan of intent shall address the criteria set forth in subsection 3 of this section. For the purposes of this subsection, the term "pending" means any proposal submitted to the commission which has not yet been [voted on by] **approved by the commission as a simplified annexation or approved for submission to** the qualified voters of the voting jurisdictions. No simplified boundary change involving territory already described in an annexation resolution or incorporation petition filed with the commission shall occur unless the annexation or incorporation proposal has been disapproved by the commission or defeated by voters. If more than one proposed change is received from the same proposing agency, the review of each additional proposed change shall begin not later than thirty days after the date that review was commenced for the next preceding proposed change or thirty days after receipt of the proposed changes were received by the commission; except that, if more than one proposed change is received by the commission from the same proposing agency on the same date, the commission may establish the order of review.

2. When a boundary change proposal has been submitted to the commission, the commission shall, within twenty-one days of receipt of such proposal, publish notice of such proposal and the date of the public hearing thereon in at least one newspaper of general circulation qualified to publish legal notices. Within twenty-one days of receipt of such proposal, the commission shall also mail written notification of such proposal and public hearing date to the county clerk, and to the city or village clerk of each municipality or village, and to any other political subdivision which, in the opinion of the commission, is materially affected by the proposal. The costs of publication and notification shall be borne by the proposing agent. The commission shall hold such public hearing concerning the proposal not less than fourteen nor more than sixty days after such publication and notification are complete. At such public hearing,

the county, the proposing agent and affected municipalities shall be parties, and any other interested person, corporation, or political subdivision may also present evidence regarding the proposed boundary change. A boundary change proposal which has been disapproved by the commission and which is resubmitted with changes to the commission shall be subject to the public hearing requirement of this section, unless the commission determines that a public hearing on the resubmitted proposal is not necessary to achieve the objectives of sections 72.400 to [72.420] 72.422 and section 1 of this act.

3. In reviewing any proposed boundary change, the commission shall approve such proposal if it finds that the boundary change will be in the best interest of the municipality or municipalities and unincorporated territories affected by the proposal and the areas of the county next to such proposed boundary. In making its determination, the commission shall consider the following factors:

(1) The impact, including but not limited to the impact on the tax base or on the ability to raise revenue, of such proposal on:

(a) The area subject to the proposed boundary change and its residents;

(b) The existing municipality or municipalities, if any, proposing the boundary change and the residents thereof;

(c) Adjoining areas not involved in the boundary change and the residents thereof; and

(d) The entire geographic area of the county and its residents;

(2) A legal description of the area to be annexed, incorporated, consolidated, [disincorporated,] or subject to the transfer of jurisdiction;

(3) The [ability to accommodate the orderly incorporation] **creation of logical and reasonable municipal boundaries** in the county, [including its] **and for such purpose the commission shall have the ability to make additions, deletions and modifications which address legal boundaries, technical or service delivery problems or boundaries which overlap those of other proposals;**

however, such additions, deletions and modifications shall not make [substantive] **substantial** changes to any proposed boundary petition;

(4) The present level of major services provided by the municipality or other provider, provided to the unincorporated area by the county, and proposed to be provided by the annexing municipality or municipality to be incorporated or consolidated, including, but not limited to, police protection, fire protection, water and sewer systems, street maintenance, utility agreements, parks, recreation, and refuse collections;

(5) A proposed time schedule whereby the municipality or proposed municipality plans to provide such services to the residents of the area to be annexed, incorporated or consolidated within three years from the date the municipal boundary change is to become effective;

(6) The current tax rates of the areas subject to the proposal;

(7) What sources of revenue other than property tax are collected or are proposed to be collected by the municipality or proposed municipality;

(8) The extraordinary effect the boundary change will have on the distribution of tax resources in the county;

(9) How the municipality or proposed municipality proposes to zone any area not presently incorporated;

(10) The compactness of the area subject to such proposal;

(11) When the proposed boundary change shall become effective.

4. The provisions of section 71.910, RSMo, shall not apply to a proposing agent proceeding before the commission.

5. Nothing in sections 72.400 to [72.420] **72.422 and section 1 of this act** shall be construed to prevent the boundary commission or its staff from advising proposing agents on issues related to proposals. The commission may meet informally, subject to the requirements of chapter 610, RSMo,

with the representatives of municipalities, other government entities or county residents with regard to future boundary changes.

72.405. 1. For any proposed boundary change submitted after August 28, 1995, the commission shall issue a finding approving or disapproving such proposals within nine months after such submittal, **except that final action may be deferred on part or all of a boundary change proposal when necessary to accommodate an overlapping boundary change or unincorporated area proposal as more particularly provided in subsection 10 of this section.** If the commission finds in favor of a proposed boundary change, it shall submit the question to the voters residing within the areas subject to the proposed boundary change, except as provided in subsection 6 of this section.

2. If a boundary change is proposed by a municipality or the county and if the commission finds against the proposed boundary change submitted by a municipality or the county, it shall disapprove the boundary change proposal. In disapproving any boundary change proposal, the commission shall issue a document indicating the reasons such proposal was disapproved. No election shall be held on any such proposal not approved by the commission.

3. If the boundary change is **an incorporation** proposed pursuant to a petition, the commission may make such changes in the proposal as it finds would result in an acceptable proposal, such changes to include but not be limited to additions, deletions or the modification of a proposal which contains boundaries which overlap those boundaries contained in any other proposal. After submittal, the commission may allow the proposing agent to make minor additions, deletions or modifications which do not substantially alter the proposal. When reviewing more than one boundary change proposal made by petition, the commission may consolidate two or more unincorporated areas into one proposed boundary change. Any changes made by the commission shall meet the criteria established in section 72.403.

4. Where a proposal submitted by a municipality, the county or by a petition, contains

more than two voting jurisdictions, the commission may provide for approval of a boundary change comprising only those municipalities **and unincorporated area** where a majority of voters approve the boundary change [and unincorporated area] if the resulting municipality would meet the criteria established in section 72.403.

5. If a boundary change is proposed by a municipality or the county and the commission determines that there is a minor error or discrepancy in the legal descriptions of the areas subject to the proposal as submitted by the municipality or county, then the commission with the concurrence of the proposing agent may make such changes to the proposal as are necessary to rectify the error in the legal description.

6. A simplified boundary change may be proposed by:

(1) A verified petition signed by seventy-five percent of the registered voters within the area proposed to be annexed **which is predominately residential in character and has an average residential density of not less than one dwelling per three acres** which is filed by the annexing municipality; or

(2) [A proposal] **Two municipalities** for a transfer of jurisdiction between [municipalities or] **them or a municipality and the county for a transfer of jurisdiction** between a municipality and the county. Within twenty-one days of receipt of a proposal under this subsection, the commission shall publish notice of such proposal and the date of the public hearing thereon in at least one newspaper of general circulation qualified to publish legal notices. The commission shall, within twenty-one days of receipt of such proposal, mail written notification of such proposal and the date of the public hearing thereon to the county clerk, and to the city or village clerk of each municipality or village, and to any other political subdivision which, in the opinion of the commission, is materially affected by such proposal. The commission shall hold a public hearing concerning the matter not less than fourteen nor more than sixty days after such publication and notification is complete. At the public hearing any interested person, corporation or political subdivision may

present evidence regarding the proposed boundary change. Within four months of receipt of the proposal, the commission shall determine whether to disapprove the proposal, or to approve the proposal and allow it to proceed as an approved boundary change to be adopted or rejected by the voters pursuant to section 72.407 [or 72.410], or to approve the proposal as a simplified boundary change, for which no vote shall be required, **except that final action may be deferred on part or all of a simplified boundary change proposal when necessary to accommodate an overlapping boundary change or unincorporated area proposal as more particularly provided in subsection 10 of this section.** In making its determination, the commission shall consider the factors set forth in subsection 3 of section 72.403. If the commission determines that the proposal should be approved as a simplified boundary change, such proposal shall become effective upon the date set forth in the commission's written report of approval.

7. A municipality which wishes to propose a boundary change containing two or more unincorporated areas that are noncontiguous to each other shall submit separate proposals for the unincorporated areas that are noncontiguous to each other, in which case there shall be a separate vote for each proposal approved by the commission. The municipality may:

(1) Adopt and submit separate ordinances for each such separate proposal; or

(2) Adopt and submit one ordinance containing said separate proposals, which ordinance shall clearly state that the municipality is making multiple, separate proposals, and is desirous of separate votes for each separate proposal. The ordinance shall also clearly identify each separate proposal that the municipality is making.

8. The commission shall not approve any boundary change proposal in which more than fifty percent of the combined land subject to the proposal is unincorporated territory or territories unless the area subject to the proposal has a population of more than ten thousand persons.

9. A proposing agent may modify its proposal

and submit additional information during the review period.

10. The commission may defer final action on part or all of a boundary change proposal or proposal for an established unincorporated area beyond the periods provided for their consideration in order to allow an election with respect to an overlapping boundary change or unincorporated area proposal in order to maximize the ability of voters to determine their own status. Such deferral may be ordered only when the proposal granted such priority is filed with the commission no later than sixty days after the proposal on which action will be deferred and only when the commission determines that the population of the overlapping area is a greater proportion of the proposal given priority than of the proposal on which action is deferred. The commission shall take final action on the deferred proposal within forty-five days of the election at which the proposal granted priority is decided. The proposing agent may modify the proposal in accordance with the results of the election.

72.407. 1. Boundary changes may be adopted by the voters in the following manner:

(1) If the commission approves a proposed boundary change containing more than one municipality and no unincorporated areas, such proposal shall be adopted if a separate majority of the votes cast on the question in each municipality are in favor of the boundary change, except as provided in subsection 4 of section 72.405;

(2) If the commission approves a proposed boundary change containing one or more municipalities and at least one unincorporated area, such proposal shall be adopted if a separate majority of the votes cast on the question in each municipality and a separate majority of votes cast in each voting jurisdiction comprising unincorporated areas of the county are in favor of the boundary change, except as provided in subsection 4 of section 72.405. If a voting jurisdiction comprising unincorporated areas of the county has no residents or if no votes are cast for or against the boundary change, such boundary change shall become effective if a majority of the

votes cast in all other voting jurisdictions and municipalities are in favor of the boundary change. [On or after January 1, 1996,] If the commission approves a proposed boundary change containing one or more municipalities and at least one unincorporated area which is classified as an unincorporated pocket, such proposal shall be adopted if a separate majority of the votes cast on the question in each municipality and a majority of votes cast in the whole municipality which would result from the boundary change are in favor of the boundary change, except as provided in subsection 4 of section 72.405. As used in this subdivision, the term "unincorporated pocket" means an unincorporated territory with an average residential density in excess of one dwelling per three acres, [and] which has a population of no more than [two thousand] five hundred [and], which is accessible by public or private roadway only from incorporated jurisdictions and/or another county, **and which the commission has determined presents practical difficulties for service by the county by reason of its isolation.**

2. Any election held pursuant to sections 72.400 to [72.420] **72.422 and section 1 of this act** shall be held on a date established by the commission in accordance with the provisions of chapter 115, RSMo. If the proposing agent is a petitioner or the governing body of the county, all costs of the election shall be paid by the county. If the proposing agent is the governing body of any municipality, the cost of such election in each municipality shall be paid by each municipality and if the proposal contains any unincorporated territory the cost of the election in the unincorporated territory shall be paid by the county.

3. Questions concerning the annexation of an area covered by sections 72.400 to [72.418] **72.422 and section 1 of this act** and the incorporation of the same area shall not be put to the voters at the same election. Any such election where the questions of annexation and incorporation have been put to the voters shall be void in the area covered by both propositions. This subsection shall not affect the results of that election in areas where both questions were not put to the voters at the same time. When boundary change proposals for

annexation and for incorporation cover the same area, the proposal for annexation shall be put to the voters first.

72.408. 1. If a boundary change is disapproved by the voters, no boundary change which contains more than sixty percent of the area of the disapproved boundary change shall be submitted to or processed by the commission any sooner than two years after the date of the disapproved boundary change.

2. Every petition shall be presented to the commission within two hundred eighty days following the date on which the first signature was affixed to the petition, or any part thereof, **except that the period of time from the effective date of this act to April 15, 2001, shall be excluded.** Failure to present a petition within the foregoing time period shall render the petition absolutely void.

72.409. 1. If a proposed boundary change is approved by the voters, such proposal shall be effective six months following the date of the election or the date specified in such proposal, whichever date is later. Immediately following the certification of the election, the commission shall establish a committee to determine the details of the transition. The governing body of each affected municipality shall select two members and the governing body of the county in which each unincorporated territory is situated shall select two members from the affected unincorporated territory to meet with similar members appointed from other affected municipalities and the unincorporated territory. The committee shall disband no later than the date the boundary change becomes effective. The governing body of the county may delay declaring a newly incorporated municipality for a period not to exceed six months at the request of the boundary commission to provide for an orderly transition from unincorporated to incorporated status.

2. If a conflict shall exist between the provisions of sections 72.400 to [72.420] **72.422 and section 1 of this act** and the orders, ordinances or charters of any statutory or charter cities affected by sections 72.400 to [72.420] **72.422 and section 1 of this act**, the provisions of sections [72.405 to

72.409] **72.400 to 72.422** shall prevail.

3. If a boundary change involves an annexation, failure of the proposing agent to provide services to the area being annexed or to zone in compliance with the "Plan of Intent" required of the proposing agent within three years of the boundary change becoming effective, unless compliance is made unreasonable, shall give rise to a cause of action for deannexation which may be filed in the circuit court by any resident who was residing in the area at the time the boundary change became effective.

[72.410. If a boundary change is proposed by petition of seventy-five percent of the residential property owners of all fee interests of record in all tracts of real property located within the area proposed, then any election ordered pursuant to subdivision (2) of subsection 6 of section 72.405 shall be conducted in the petitioning area and the receiving municipality.]

72.412. 1. The commission, once established, shall not be a county commission but shall act as an independent commission. The commission may hire such staff and acquire such facilities as it finds necessary to carry out its duties.

2. The commission shall submit a budget requesting the funds necessary to carry out its duties pursuant to sections 72.400 to [72.418] **72.422 and section 1 of this act**. The county shall appropriate and provide a reasonable and necessary level of funding for the commission to carry out its statutory duties. In addition, the county shall upon request provide petitioners with such available information as may be necessary to develop a plan of intent. Funding must provide for at least one professional staff person, one attorney or the equivalent funds for legal services, and clerical support for the professional staff and attorney. All salary levels shall be based upon the personnel system in use for county employees.

3. The commission shall [report annually upon proposals for legislation dealing with joint service arrangements, contracting for services, revenue sharing, and other issues affecting local

government in the county. The commission shall make such report available to the municipalities in the county, to the county government, and to all other interested persons] **provide by rule for an application fee for municipal annexations in the amount of one dollar per resident of the proposed annexation area to defray the commission's cost of processing and reviewing proposals.**

72.416. **The county, an interested municipality, or any other interested party may bring an appropriate civil action against the commission regarding a proposed boundary change, unincorporated area proposal, or other commission action or failure to act.** In any civil action brought against the commission regarding a proposed boundary change, if the commission prevails in the action, the court may require the party who initiated the action to pay to the commission the reasonable costs incurred by the commission in opposing such action, including attorney's fees.

72.418. 1. Notwithstanding any other provision of law to the contrary, no new city created pursuant to sections 72.400 to 72.418 shall establish a municipal fire department to provide fire protection services, including emergency medical services, if such city formerly consisted of unincorporated areas in the county or municipalities in the county, or both, which are provided fire protection services and emergency medical services by one or more fire protection districts. Such fire protection districts shall continue to provide services to the area comprising the new city and may levy and collect taxes the same as such districts had prior to the creation of such new city.

2. Fire protection districts serving the area included within any annexation by a city having a fire department, including simplified boundary changes, shall continue to provide fire protection services, including emergency medical services to such area. The annexing city shall pay annually to the fire protection district an amount equal to that which the fire protection district would have levied on all taxable property within the annexed area. Such annexed area shall not be subject to taxation

for any purpose thereafter by the fire protection district except for bonded indebtedness by the fire protection district which existed prior to the annexation. The amount to be paid annually by the municipality to the fire protection district pursuant hereto shall be a sum equal to the annual assessed value multiplied by the annual tax rate as certified by the fire protection district to the municipality, including any portion of the tax created for emergency medical service provided by the district, per one hundred dollars of assessed value in such area. The tax rate so computed shall include any tax on bonded indebtedness incurred subsequent to such annexation, but shall not include any portion of the tax rate for bonded indebtedness incurred prior to such annexation. Notwithstanding any other provision of law to the contrary, the residents of an area annexed on or after May 26, 1994, may vote in all fire protection district elections and may be elected to the fire protection district board of directors.

3. The fire protection district may approve or reject any proposal for the provision of fire protection and emergency medical services by a city.

[4. Notwithstanding the provisions of section 72.401 to the contrary, this section shall not expire on December 31, 2002.]

72.422. 1. Notwithstanding any other provision of sections 72.400 to 72.420, residents of an unincorporated area of a county may remain unincorporated and not subject to any boundary change as provided by sections 72.400 to 72.420 if the following are satisfied:

(1) [A person presents to] **The county petitions** the boundary commission [a petition signed by a number of registered voters equal to not less than fifteen percent of the number of votes cast for governor in the last gubernatorial election in the unincorporated area];

(2) A legal description of the unincorporated area accompanies the petition. If there is a minor error or discrepancy in the legal description of the unincorporated area, the commission, with the concurrence of the [proponents of the petition] **county**, may make such changes to the proposal as

are necessary to rectify the error in the legal description;

(3) The unincorporated area **either** contains a population of not less than two thousand five hundred[; and

(4) Within thirty days of the filing of the petition, the commission shall make a determination whether the area described in the petition can be reasonably served.

2. Not later than thirty days after the receipt of the items set forth in subdivisions (1) to (4) of subsection 1 of this section, the commission upon finding that the proposal satisfies the criteria of subdivisions (1) to (4) of subsection 1 of this section shall submit the proposal to the voters within the described unincorporated area for voter approval or disapproval.] **or is contiguous with an existing established unincorporated area;**

(4) **A plan of intent accompanies the petition addressing the issues to be considered by the commission.**

2. When an unincorporated area proposal has been submitted to the commission, the commission shall, within twenty-one days of receipt of such proposal, publish notice of such proposal and the date of the public hearing thereon in at least one newspaper of general circulation qualified to publish legal notices. Within twenty-one days of receipt of such proposal, the commission shall also mail written notification of such proposal and public hearing date to the county clerk, and to the city or village clerk of each neighboring municipality or village, and to any other political subdivision which, in the opinion of the commission, is materially affected by the proposal. The costs of publication and notification shall be borne by the county. The commission shall hold such public hearing concerning the proposal not less than fourteen nor more than sixty days after such publication and notification are complete. At such public hearing, the county and any municipality with an overlapping map plan shall be parties, and any other interested person, corporation, or political subdivision may also present evidence regarding the

unincorporated area proposal. An unincorporated area proposal which has been disapproved by the commission and which is resubmitted with changes to the commission shall be subject to the public hearing requirement of this section, unless the commission determines that a public hearing on the resubmitted proposal is not necessary to achieve the objectives of this section. The commission shall issue findings approving or disapproving such proposal within nine months after submittal, except that final action may be deferred on part or all of an unincorporated proposal when necessary to accommodate an overlapping boundary change proposal as more particularly provided in subsection 10 of section 72.405. The proposal shall be submitted at the next general or special election in accordance with the provisions of chapter 115, RSMo. The cost of the election shall be paid by the county. If the proposal is approved by the voters then the area shall be an established unincorporated area and shall remain unincorporated territory for a period of five years from the date of the vote and shall not be subject to any boundary change provided for in sections 72.400 to 72.420.

3. [A petition submitted pursuant to this section and in accordance with the provisions of chapter 115, RSMo, shall take precedence over any other boundary change proposal which includes any territory within the unincorporated area described in the petition submitted pursuant to this section. No boundary change proposal which includes any territory within an unincorporated area described in a petition submitted pursuant to this section shall be approved or submitted to the voters until the unincorporated proposal is voted upon] **In reviewing any proposed unincorporated area proposal, the commission shall approve such proposal if it finds that continued provision of local services to the area by the county will not impose an unreasonable burden on county government and that such designation is in the best interest of the unincorporated territories affected by the proposal and the areas of the county next to such area. In making its determination, the commission shall consider the following factors:**

(1) The impact, including but not limited to the impact on the tax base or on the ability to raise revenue, of such proposal on:

(a) The area subject to the proposed established unincorporated area and its residents;

(b) Adjoining areas not involved in the proposed established area and the residents thereof; and

(c) The entire geographic area of the county and its residents;

(2) A legal description of the unincorporated area;

(3) The creation of logical and reasonable municipal boundaries in the county, and for such purpose the commission shall have the ability to make additions, deletions and modifications which address legal boundaries, technical or service delivery problems or boundaries which overlap those of other proposals; however, such additions, deletions and modifications shall not make substantial changes to any proposed unincorporated area proposal;

(4) Whether approval of the unincorporated area proposal will result in unreasonable difficulty in provision of services by the county;

(5) The effect approval of the established unincorporated area will have on the distribution of tax resources in the county;

(6) The compactness of the area subject to such proposal.

4. [If the commission fails to comply with the provisions of this section, the proponents of the petition may file a mandamus action or other appropriate action to compel compliance with the ministerial duties set out in this section] **After approval by the voters of an unincorporated area proposal, no boundary change affecting any part of such area shall be proposed to the commission until expiration of the area's status as an established unincorporated area, but map plans affecting the area may be filed during the planning period pursuant to section 1 of this act.**

If no map plan of a boundary change proposal with respect to an established unincorporated area has been submitted during the most recent planning period pursuant to section 1 of this act, the commission shall commence review of the circumstances of such established unincorporated area six months prior to its expiration, and shall submit reauthorization of such unincorporated area to the voters if the commission determines that its circumstances have not materially changed since it was approved.

321.322. 1. If any property located within the boundaries of a fire protection district shall be included within a city having a population of at least two thousand five hundred but not more than [forty] **fifty** thousand which is not wholly within the fire protection district and which maintains a city fire department, then upon the date of actual inclusion of the property within the city, as determined by the annexation process, the city shall within sixty days assume by contract with the fire protection district all responsibility for payment in a lump sum or in installments an amount mutually agreed upon by the fire protection district and the city for the city to cover all obligations of the fire protection district to the area included within the city, and thereupon the fire protection district shall convey to the city the title, free and clear of all liens or encumbrances of any kind or nature, any such tangible real and personal property of the fire protection district as may be agreed upon, which is located within the part of the fire protection district located within the corporate limits of the city with full power in the city to use and dispose of such tangible real and personal property as the city deems best in the public interest, and the fire protection district shall no longer levy and collect any tax upon the property included within the corporate limits of the city; except that, if the city and the fire protection district cannot mutually agree to such an arrangement, then the city shall assume responsibility for fire protection in the annexed area on or before January first of the third calendar year following the actual inclusion of the property within the city, as determined by the annexation process, and furthermore the fire protection district shall not levy and collect any tax

upon that property included within the corporate limits of the city after the date of inclusion of that property:

(1) On or before January first of the second calendar year occurring after the date on which the property was included within the city, the city shall pay to the fire protection district a fee equal to the amount of revenue which would have been generated during the previous calendar year by the fire protection district tax on the property in the area annexed which was formerly a part of the fire protection district;

(2) On or before January first of the third calendar year occurring after the date on which the property was included within the city, the city shall pay to the fire protection district a fee equal to four-fifths of the amount of revenue which would have been generated during the previous calendar year by the fire protection district tax on the property in the area annexed which was formerly a part of the fire protection district;

(3) On or before January first of the fourth calendar year occurring after the date on which the property was included within the city, the city shall pay to the fire protection district a fee equal to three-fifths of the amount of revenue which would have been generated during the previous calendar year by the fire protection district tax on the property in the area annexed which was formerly a part of the fire protection district;

(4) On or before January first of the fifth calendar year occurring after the date on which the property was included within the city, the city shall pay to the fire protection district a fee equal to two-fifths of the amount of revenue which would have been generated during the previous calendar year by the fire protection district tax on the property in the area annexed which was formerly a part of the fire protection district; and

(5) On or before January first of the sixth calendar year occurring after the date on which the property was included within the city, the city shall pay to the fire protection district a fee equal to one-fifth of the amount of revenue which would have been generated during the previous calendar year by the fire protection district tax on the

property in the area annexed which was formerly a part of the fire protection district. Nothing contained in this section shall prohibit the ability of a city to negotiate contracts with a fire protection district for mutually agreeable services. This section shall also apply to those fire protection districts and cities which have not reached agreement on overlapping boundaries previous to August 28, 1990. Such fire protection districts and cities shall be treated as though inclusion of the annexed area took place on December thirty-first immediately following August 28, 1990.

2. Any property excluded from a fire protection district by reason of subsection 1 of this section shall be subject to the provisions of section 321.330.

3. The provisions of this section shall not apply in any county of the first class having a charter form of government and having a population of over nine hundred thousand inhabitants.

Section 1. 1. In any county in which a boundary commission has been established pursuant to section 72.400, RSMo, all boundary changes and unincorporated area proposals shall be subject to the five-year planning cycle mandated in this section. No municipality nor other person shall file, nor shall the commission accept or review, any boundary change or unincorporated area proposal which has not previously been submitted to the commission for map plan review and comment as provided in this section, except that consolidations of municipalities and transfers of jurisdiction may be sought at any time without prior submission for map plan review and comment as provided in this section.

2. Between January 1, 2000 and July 1, 2000, and between January 1 and July 1 of each sixth year thereafter, each municipality, the county, and any citizen group may present general maps of proposed boundary changes and proposed established unincorporated areas to the commission for map plan review. Proposed incorporations and unincorporated areas, if not submitted by the county, shall be submitted by petition of no less than five percent of the registered voters within the proposed area.

Boundary change and unincorporated area maps shall not be accompanied by a plan of intent, but shall be depicted with sufficient detail and accuracy to permit review and comment.

3. Between August 1 and December 31, 2000, and each sixth year thereafter, the commission shall solicit written comments on all boundary change and established unincorporated area map plans and shall hold informational public hearings in or near the affected areas, at which the county, any municipality, or other interested person shall be heard. The commission may encourage negotiation between parties involved in competing map plans. Map plans may be amended by the submitting parties until April 15 of the year following map plan submission based on negotiation or based on the hearings or other comments, but no such amendment shall enlarge the boundary change or unincorporated area map plan beyond the area originally submitted, except for minor technical amendments necessary to address boundary issues.

4. The commission may by April 1 of the year following map plan submission issue written comments regarding each boundary change and unincorporated area map plan to notify proponents of the merits or demerits of such map plan based on planning and public policy considerations. The map plan as submitted or as amended by April 15 shall remain on file with the commission, and shall be the limit of permissible boundary changes and unincorporated area proposals as provided in subsection 1 of this section.

5. Proposals shall be submitted to the commission no later than July 1 of the third year following conclusion of map plan review. Any proposal which has not been approved by the commission by January 1 of the next review period year as provided in subsection 2 shall expire without further action.

Section 2. 1. Neither this state nor any county or other political subdivision of this state shall enter into any contract or arrangement or

expend any general revenue or special revenue funds for the examination of a taxpayer's books and records if any part of the compensation paid or payable for the services of the person, firm or corporation conducting the examination is contingent upon or otherwise related to the amount of tax, interest, court cost or penalty assessed against or collected from the taxpayer. A contract or arrangement in violation of this section, if made or entered into after the effective date of this act, is void and unenforceable. Any assessment or preliminary assessment of taxes, penalties or interest proposed or asserted by a person, firm or corporation compensated pursuant to any such contract or arrangement shall likewise be null and void. Any contract or arrangement, if made or entered into after the effective date of this section, in which the person, firm or corporation conducting the examination agrees or has an understanding with the taxing authority that all or part of the compensation paid or payable will be waived or otherwise not paid if there is no assessment or no collection of tax or if less than a certain amount is assessed or collected is void and unenforceable.

2. For the purposes of this section the word "tax" shall mean any tax, license, fee or other charge payable to the state of Missouri, any agency thereof, county or any agency thereof, or other political subdivision or any agency thereof, including but not limited to, income, franchise, sales and use, property, business license, gross receipts or any other taxes payable by the taxpayer on account of its activities or property in, or income, sales, gross receipts or the like derived from sources within, the state, county or political subdivision.

3. The provisions of this section shall not be construed to prohibit or restrict this state or a county or other political subdivision of this state from entering into contracts or arrangements for the collection of any tax, interest, court cost or penalty when the person, firm or corporation making such assessment or collection has no authority to determine the amount of tax, interest, court cost or penalty owed this state or a county or other political subdivision of this

state without approval of the entity.

Section B. Because of the immediate need for clarification and correction of boundary change procedures, the repeal of section 72.410 and the repeal and reenactment of sections 72.400, 72.401, 72.402, 72.403, 72.405, 72.407, 72.408, 72.409, 72.412, 72.416, 72.418 and 72.422 and the enactment of section 1, is deemed necessary for the immediate preservation of the public health, welfare, peace and safety, and the repeal of section 72.410 and the repeal and reenactment of sections 72.400, 72.401, 72.402, 72.403, 72.405, 72.407, 72.408, 72.409, 72.412, 72.416, 72.418 and 72.422 and the enactment of section 1, is hereby declared to be an emergency act within the meaning of the constitution, and this act shall be in full force and effect upon its passage and approval."; and

Further amend the title and enacting clause accordingly.

Senator Klarich moved that the above amendment be adopted.

Senator Jacob raised the point of order that SA 1 is out of order as it goes beyond the scope of the bill.

The point of order was referred to the President Pro Tem, who ruled it well taken.

Senator Bentley offered SA 2:

SENATE AMENDMENT NO. 2

Amend Senate Committee Substitute for House Bill No. 779, Page 1, Section In the Title, Lines 2-3, by striking the words "vacation of certain streets and easements" and inserting in lieu thereof the words "property of cities"; and

Further amend said bill, Page 2, Section 71.270, Line 29, by inserting after all of said line the following:

"88.812. In all third class cities, fourth class cities, towns and villages, and all cities having a constitutional charter or a special charter **except a constitutional charter city with a population over one hundred and thirty-five thousand located in a county of the first classification without a charter form of government**, the assessments made for constructing and repairing sidewalks and sidewalk curbing, and for sewers,

and for grading, paving, excavating, macadamizing, curbing and guttering of any street, avenue, alley, square, or other highway, or part thereof, and repairing the same, or for any other improvement authorized by sections 88.497 to 88.663, and sections 88.667 to 88.773, and sections 80.090 to 80.560, RSMo, and sections 88.777 to 88.797, and sections 88.811 to 88.861, shall be known as "special assessments for improvements", and shall be levied and collected as a special tax, and a special tax bill shall issue therefor and be paid in the manner provided by ordinance. The legislative body of such city, town or village shall cause plans and specifications for all projects, together with an estimate of the total cost for the projects, including construction, construction contingency and fees and other expenses, and an estimate of the portion of the total cost to be assessed against each property to be benefited by the project, to be prepared by the city engineer or other proper officer, and filed with the clerk of such city, town or village, subject to the inspection of the public, and shall cause notice thereof to be published in some newspaper printed in the county for two consecutive insertions in a weekly paper, and for seven consecutive insertions in a daily paper. A public hearing shall be had before such legislative body upon the request of three or more citizens of such city, town or village, at which hearing citizens may express their assent or objection to such project. These special tax bills may include a reasonable construction contingency and an amount not to exceed twenty percent of the total cost of the improvement to be used for payment of fees and other expenses, and tax bills may bear interest not to exceed the rate on ten-year United States treasury notes as established at the most recent auction; all the tax bills shall become due and payable sixty days after the date of issue thereof, except in the case of tax bills payable in installments as herein provided; and, every special tax bill shall be a lien against the lot or tract or parcel of land described in said special tax bill for a period of ten years after date of issue, unless sooner paid, except in the case of special tax bills payable in installments, the lien of which shall not expire until one year after the date of maturity of the last installment, and except in any case where

it becomes necessary to bring a suit to enforce the lien of any special tax bill, the lien of which shall continue until the expiration of the litigation. **A constitutional charter city with a population over one hundred and thirty-five thousand located in a county of the first classification without a charter form of government may provide for the special assessments enumerated in this section upon such terms, conditions and procedures as set forth in its own charter or ordinances.**"; and

Further amend the title and enacting clause accordingly.

Senator Bentley moved that the above amendment be adopted.

Senator Rohrbach raised the point of order that **SA 2** is out of order as it goes beyond the scope and purpose of the bill.

The point of order was referred to the President Pro Tem, who ruled it well taken.

Senator Flotron offered **SA 3**:

SENATE AMENDMENT NO. 3

Amend Senate Committee Substitute for House Bill No. 779, Page 2, Section 71.270, Line 29, by inserting after all of said line the following:

"89.410. 1. The planning commission shall recommend and the council may by ordinance adopt regulations governing the subdivision of land within its jurisdiction. The regulations, in addition to the requirements provided by law for the approval of plats, may provide requirements for the coordinated development of the municipality; for the coordination of streets within subdivisions with other existing or planned streets or with other features of the city plan or official map of the municipality; for adequate open spaces for traffic, recreation, light and air; and for a distribution of population and traffic; **provided that, the municipality may only impose requirements and the posting of bonds regarding escrows for subdivision related regulations as provided for in subsections 2 to 4 of this section.**

2. The regulation may include, **but only include**, requirements as to the extent and the manner in which the streets of the subdivision or

any designated portions thereto shall be graded and improved as well as including, **but only including**, requirements as to the extent and manner of the installation of all utility facilities[, and]. Compliance with all of these requirements is a condition precedent to the approval of the plat. The regulations or practice of the council may provide for the tentative approval of the plat previous to the improvements and **utility** installations; but any tentative approval shall not be entered on the plat. The regulations may provide that, in lieu of the completion of the work and installations previous to the final approval of a plat, the council may accept a bond **or escrow** in an amount and with surety and **other reasonable** conditions [satisfactory to it], providing for and securing the actual construction and installation of the improvements and utilities within a period specified by the council and expressed in the bond;[and] **provided that, the release of such bond by the municipality shall be as specified in this section.** The council may enforce the bond by all appropriate legal and equitable remedies. The regulations may provide, in lieu of the completion of the work and installations previous to the final approval of a plat, for an assessment or other method whereby the council is put in an assured position to do the work and make the installations at the cost of the owners of the property within the subdivision. The regulations may provide for the dedication, reservation or acquisition of lands and open spaces necessary for public uses indicated on the city plan and for appropriate means of providing for the compensation, including reasonable charges against the subdivision, if any, and over a period of time and in a manner as is in the public interest.

3. **The regulations shall provide that any amount held by the municipality to secure actual construction and installation on each component of the improvements or utilities shall be released within thirty days of completion of each category of improvement or utility work to be installed, minus a maximum retention of five percent which shall be released upon completion of all improvements and utility work. Any such category of improvement or utility work shall be deemed to be completed upon certification by**

the municipality that the project is complete including the filing of all documentation and certifications required by the municipality, in complete and acceptable form.

The release shall be deemed effective when the funds are duly posted with the United States Postal Service or other agreed upon delivery service or when the funds are hand delivered to an authorized person or place as specified by the owner or developer.

4. **If the municipality has not released the funds within thirty days as provided in this section, the municipality shall pay the owner or developer in addition to the funds due the owner or developer, interest at the rate of one and one-half percent per month calculated from the expiration of the thirty-day period until the funds have been released. Any owner or developer aggrieved by the municipality's failure to observe the requirements of this section may bring a civil action to enforce the provisions of this section. In any civil action or part of a civil action brought pursuant to this section, the court shall award the prevailing party the amount of all costs attributable to the action, including reasonable attorneys' fees.**

5. Before adoption of its subdivision regulations or any amendment thereof, a duly advertised public hearing thereon shall be held by the council."; and

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

Senator Flotron moved that the above amendment be adopted.

Senator Jacob raised the point of order that **SA 3** is out of order as it exceeds the scope of the bill.

The point of order was referred to the President Pro Tem, who ruled it well taken.

Senator Quick moved that **SCS for HB 779** be adopted, which motion prevailed.

On motion of Senator Quick, **SCS for HB 779** was read the 3rd time and passed by the following vote:

YEAS—Senators

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

NAYS—Senators—None

Absent—Senators

Banks	Scott—2
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Absent with leave—Senator Singleton—1

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

Senator Johnson assumed the Chair.

PRIVILEGED MOTIONS

Senator Caskey, on behalf of the conference committee appointed to act with a like committee from the House on **HS** for **HCS** for **SB 291**, as amended, submitted the following conference committee report no. 2:

**CONFERENCE COMMITTEE REPORT NO. 2
ON HOUSE SUBSTITUTE FOR
HOUSE COMMITTEE SUBSTITUTE FOR
SENATE BILL NO. 291**

Mr. President: Your Conference Committee, appointed to confer with a like committee of the House, on House Substitute for House Committee Substitute for Senate Bill No. 291 with House Amendment No. 1 and House Amendment No. 2; begs leave to report that we, after free and fair discussion of the differences between the House and Senate, have agreed to recommend and do recommend to the respective bodies as follows:

1. That the Senate recede from its position on

Senate Bill No. 291;

2. That the House recede from its position on House Substitute for House Committee Substitute for Senate Bill No. 291 with House Amendment No. 1 and House Amendment No. 2; and

3. That the attached Conference Committee Substitute for House Substitute for House Committee Substitute for Senate Bill No. 291 be truly agreed to and finally passed.

FOR THE SENATE: FOR THE HOUSE:

/s/ Harold Caskey	/s/ Pat Dougherty
/s/ Ed Quick	/s/ Ralph Monaco
/s/ Jim Mathewson	/s/ Catherine L. Hanaway
/s/ Betty Sims	Emmy McClelland
/s/ Roseann Bentley	/s/ Marsha Campbell

Senator Caskey moved that the above conference committee report no. 2 be adopted, which motion prevailed by the following vote:

YEAS—Senators

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

NAYS—Senators—None

Absent—Senators

Banks	Howard	Jacob	Quick
Scott—5			

Absent with leave—Senator Singleton—1

On motion of Senator Caskey, **CCS No. 2** for **HS** for **HCS** for **SB 291**, entitled:

**CONFERENCE COMMITTEE SUBSTITUTE
NO. 2 FOR HOUSE SUBSTITUTE FOR
HOUSE COMMITTEE SUBSTITUTE FOR
SENATE BILL NO. 291**

An Act to repeal sections 210.843, 454.430, 454.520, 454.810 and 516.350, RSMo 1994, and sections 452.340, 452.345, 452.350, 454.415,

454.432, 454.433, 454.460, 454.495, 454.505, 454.530 and 483.163, RSMo Supp. 1998, relating to child support enforcement, and to enact in lieu thereof twenty-eight new sections relating to the same subject, with an emergency clause.

Was read the 3rd time and passed by the following vote:

YEAS—Senators

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

NAYS—Senators—None

Absent—Senators

Banks	Scott—2
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Absent with leave—Senator Singleton—1

The President declared the bill passed.

President Wilson assumed the Chair.

The emergency clause was adopted by the following vote:

YEAS—Senators

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

NAYS—Senators—None

Absent—Senators

Banks	Goode	Scott—3
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Absent with leave—Senator Singleton—1

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

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

Senator DePasco moved that motion lay on the

table, which motion prevailed.

HOUSE BILLS ON THIRD READING

HCS for HB 139, with SCS, entitled:

An Act relating to tourism sales taxation, with an emergency clause.

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

SCS for HCS for HB 139, entitled:

SENATE COMMITTEE SUBSTITUTE FOR HOUSE COMMITTEE SUBSTITUTE FOR HOUSE BILL NO. 139

An Act relating to taxation for tourism, with an emergency clause.

Was taken up.

Senator Russell moved that **SCS for HCS for HB 139** be adopted.

Senator Russell offered **SA 1:**

SENATE AMENDMENT NO. 1

Amend Senate Committee Substitute for House Committee Substitute for House Bill No. 139, Page 1, In the Title, Line 2, by striking out all of said line 2 and inserting in lieu thereof the following: "Relating to taxation, with an emergency clause for certain sections."; and

Further amend said bill, Page 5, Section 9, Line 23, by inserting immediately after the end of said line 23 the following:

"Section 10. 1. In addition to the exemptions granted under the provisions of section 144.030, there shall also be specifically exempted from the provisions of sections 144.010 to 144.525, sections 144.600 to 144.748, section 238.235, RSMo, and from the provisions of any local sales tax law, as defined in section 32.085, RSMo, and from the computation of the tax levied, assessed or payable under sections 144.010 to 144.525, sections 144.600 to 144.748, section 238.235, RSMo, and under any local sales tax law, as defined in section 32.085, RSMo, any equipment purchased by a federally licensed commercial or public broadcast station when such equipment purchase is made as a result of federal mandate and the technological change that results. This exemption does not

apply to replacement of equipment necessitated by a result of use or equipment replaced due to damage or theft.

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

(1) "Broadcast equipment", such equipment as may be necessary for the broadcast station to fulfill those obligations as set forth under federal guidelines;

(2) "Federal mandate", any action of the congress of the United States or any federal regulatory agency having jurisdiction with regard to broadcast stations when such action requires broadcasters to alter methods of operation;

(3) "Federally licensed broadcast station", any enterprise, either commercial or non-commercial, which operates under a license granted by the Federal Communications Commission for the purpose of the free distribution of audio and/or video services when such distribution occurs by means of transmission over the public airwaves;

(4) "Technological change", those changes in the design and methods of operation of broadcast equipment which would, by virtue of these changes, require the implementation and/or installation of replacement equipment and the updating of existing equipment."

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

Senator Flotron offered **SA 2:**

SENATE AMENDMENT NO. 2

Amend Senate Committee Substitute for House Committee Substitute for House Bill No. 139, Page 1, Section Title, Line 1, by striking all of said line and inserting in lieu thereof the following:

"To repeal section 144.605, RSMo 1994, relating to taxation, and to enact in lieu thereof ten new section relating to the same subject, with an emergency clause for certain sections."; and

Further amend said bill, Page 1, Section 1, Line 1, by inserting before all of said line the following:

"Section A. Section 144.605, RSMo 1994, is repealed and ten new sections enacted in lieu thereof, to be known as sections 144.605, 1, 2, 3, 4, 5, 6, 7, 8 and 9, to read as follows:

144.605. The following words and phrases as used in sections 144.600 to 144.745 mean and include:

(1) "Calendar quarter", the period of three consecutive calendar months ending on March thirty-first, June thirtieth, September thirtieth or December thirty-first;

(2) "Engages in business activities within this state" includes:

(a) Purposefully or systematically exploiting the market provided by this state by any media-assisted, media-facilitated, or media-solicited means, including, but not limited to, direct mail advertising, distribution of catalogs, computer-assisted shopping, telephone, television, radio, or other electronic media, or magazine or newspaper advertisements, or other media; or

(b) Being owned or controlled by the same interests which own or control any seller engaged in the same or similar line of business in this state; or

(c) Maintaining or having a franchisee or licensee operating under the seller's trade name in this state if the franchisee or licensee is required to collect sales tax [under] **pursuant to** sections 144.010 to 144.525; or

(d) Soliciting sales or taking orders by sales agents or traveling representatives;

(3) "Maintains a place of business in this state" includes maintaining, occupying, or using, permanently or temporarily, directly or indirectly, or through a subsidiary, or agent, by whatever name called, an office, place of distribution, sales or sample room or place, warehouse or storage place, or other place of business;

(4) "Person", any individual, firm, copartnership, joint venture, association, corporation, municipal or private, and whether organized for profit or not, state, county, political subdivision, state department, commission, board, bureau or agency, except the state transportation

department, estate, trust, business trust, receiver or trustee appointed by the state or federal court, syndicate, or any other group or combination acting as a unit, and the plural as well as the singular number;

(5) "Purchase", the acquisition of the ownership of, or title to, tangible personal property, through a sale, as defined herein, for the purpose of storage, use or consumption in this state;

(6) "Purchaser", any person who is the recipient for a valuable consideration of any sale of tangible personal property acquired for use, storage or consumption in this state;

(7) "Sale", any transfer, barter or exchange of the title or ownership of tangible personal property, or the right to use, store or consume the same, for a consideration paid or to be paid, and any transaction whether called leases, rentals, bailments, loans, conditional sales or otherwise, and notwithstanding that the title or possession of the property or both is retained for security. For the purpose of this law the place of delivery of the property to the purchaser, user, storer or consumer is deemed to be the place of sale, whether the delivery be by the vendor or by common carriers, private contractors, mails, express, agents, salesmen, solicitors, hawkers, representatives, consignors, peddlers, canvassers or otherwise;

(8) "Sales price", the consideration including the charges for services, except charges incident to the extension of credit, paid or given, or contracted to be paid or given, by the purchaser to the vendor for the tangible personal property, including any services that are a part of the sale, valued in money, whether paid in money or otherwise, and any amount for which credit is given to the purchaser by the vendor, without any deduction therefrom on account of the cost of the property sold, the cost of materials used, labor or service cost, losses or any other expenses whatsoever, except that cash discounts allowed and taken on sales shall not be included and "sales price" shall not include the amount charged for property returned by customers upon rescission of the contract of sales when the entire amount charged therefor is refunded either in cash or credit or the amount charged for labor or services rendered in installing or applying the

property sold, the use, storage or consumption of which is taxable [under] **pursuant to** sections 144.600 to 144.745. In determining the amount of tax due [under] **pursuant to** sections 144.600 to 144.745, any charge incident to the extension of credit shall be specifically exempted;

(9) "Selling agent", every person acting as a representative of a principal, when such principal is not registered with the director of revenue of the state of Missouri for the collection of the taxes imposed [under] **pursuant to** sections 144.010 to 144.525 or sections 144.600 to 144.745 and who receives compensation by reason of the sale of tangible personal property of the principal, if such property is to be stored, used, or consumed in this state;

(10) "Storage", any keeping or retention in this state of tangible personal property purchased from a vendor [for any purpose], except **property for sale or property that is temporarily kept or retained in this state for** subsequent use [solely] outside the state;

(11) "Tangible personal property", all items subject to the Missouri sales tax as provided in subdivisions (1) and (3) of section 144.020;

(12) "Taxpayer", any person remitting the tax or who should remit the tax levied by sections 144.600 to 144.745;

(13) "Use", the exercise of any right or power over tangible personal property incident to the ownership or control of that property, except that it does not include **the temporary storage of property in this state for subsequent use outside the state**, or the sale of the property in the regular course of business;

(14) "Vendor", every person engaged in making sales of tangible personal property by mail order, by advertising, by agent or peddling tangible personal property, soliciting or taking orders for sales of tangible personal property, for storage, use or consumption in this state, all salesmen, solicitors, hawkers, representatives, consignees, peddlers or canvassers, as agents of the dealers, distributors, consignors, supervisors, principals or employers under whom they operate or from whom they obtain the tangible personal property sold by

them, and every person who maintains a place of business in this state, maintains a stock of goods in this state, or engages in business activities within this state and every person who engages in this state in the business of acting as a selling agent for persons not otherwise vendors as defined in this subdivision. Irrespective of whether they are making sales on their own behalf or on behalf of the dealers, distributors, consignors, supervisors, principals or employers, they must be regarded as vendors and the dealers, distributors, consignors, supervisors, principals or employers must be regarded as vendors for the purposes of sections 144.600 to 144.745. A person shall not be considered a vendor for the purposes of sections 144.600 to 144.745 if all of the following apply:

(a) The person's total gross receipts did not exceed five hundred thousand dollars in this state, or twelve and one-half million dollars in the entire United States, in the immediately preceding calendar year;

(b) The person maintains no place of business in this state; and

(c) The person has no selling agents in this state."

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

Senator Childers offered SA 3:

SENATE AMENDMENT NO. 3

Amend Senate Committee Substitute for House Committee Substitute for House Bill No. 139, Page 5, Section 9, Line 23, by inserting after all of said line the following:

"Section 10. 1. To promote tourism by maintaining the quality of the waters of the state, the governing body of any county may impose, by ordinance or order, a sales tax in the amount of up to one-fourth of one percent on all retail sales made in such county which are subject to taxation pursuant to the provisions of sections 144.010 to 144.525, RSMo, for the purpose of providing improved treatment of wastewater and water pollution abatement, including establishment of new wastewater treatment facilities or expansion or other

improvements to existing wastewater treatment facilities, and the governing body of any county, in conjunction with the imposition of any sales tax pursuant to this subsection, may have the option to issue bonds to preliminary fund the provision of improved treatment of wastewater and water pollution abatement as specified in this subsection. The tax authorized by this section shall be in addition to any and all other sales taxes allowed by law; except that, no ordinance or order imposing a sales tax pursuant to the provisions of this section shall be effective unless the governing body of the county submits to the voters of the county, at a county or state general, primary or special election, a proposal to authorize the governing body of the county to impose a tax. In addition, a county shall only be authorized to issue bonds in conjunction with any sales tax imposed pursuant to this section after the governing body of the county submits to the voters of the county, at a county or state general, primary or special election, a proposal to authorize the governing body of the county to issue bonds. Any sales tax imposed pursuant to this section shall not be authorized for a period of more than five years; provided that, if sales tax is imposed pursuant to this section in conjunction with the issuance of bonds, the sales tax shall expire upon full repayment of all bonds issued.

2. The ballot of submission shall contain, but need not be limited to, the following language:

(1) If the proposal submitted involves only authorization to impose the tax authorized by this section the ballot shall contain substantially the following:

Shall the county of (county's name) impose a countywide sales tax of (insert amount) for the purpose of providing improved treatment of wastewater and water pollution abatement, including establishment of new wastewater treatment facilities or expansion or other improvements to existing wastewater treatment facilities in the county?

[] YES

[] NO

If you are in favor of the question, place an "X" in the box opposite "Yes". If you are opposed to the question, place an "X" in the box opposite "No"; or

(2) If the proposal submitted involves authorization to impose the tax authorized by this section, authorization to issue bonds to preliminarily fund the provision of improved treatment of wastewater and water pollution abatement as specified in subsection 1 of this section, obligates the county to repay all bonds issued from the proceeds of the tax authorized by this section and requires the expiration of the tax upon the repayment of all such bonds, the ballot shall contain substantially the following:

Shall the county of(county's name) impose a countywide sales tax of (insert amount) for the purpose of providing improvement treatment of wastewater and water pollution abatement, including establishment of new wastewater treatment facilities or expansion or other improvements to existing wastewater treatment facilities in the county, issue bonds to preliminarily fund the provision of improved treatment of wastewater and water pollution abatement, repay all bonds issued from the proceeds of the tax imposed and terminate such tax upon the repayment of all such bonds?

YES

NO

If you are in favor of the question, place an "X" in the box opposite "Yes". If you are opposed to the question, place an "X" in the box opposite "No".

If a majority of the votes cast on the proposal by the qualified voters voting thereon are in favor of the proposal submitted pursuant to subdivision (1) of this subsection, then the ordinance or order and any amendments thereto shall be in effect on the first day of the second quarter immediately following the election approving the proposal. If the constitutionally required percentage of the voters voting thereon are in favor of the proposal submitted pursuant to subdivision (2) of this subsection, then the ordinance or order

and any amendments thereto shall be in effect on the first day of the second quarter immediately following the election approving the proposal. If a proposal receives less than the required majority, then the governing body of the county shall have no power to impose the sales tax herein authorized unless and until the governing body of the county shall again have submitted another proposal to authorize the governing body of the county to impose the sales tax authorized by this section and such proposal is approved by the required majority of the qualified voters voting thereon. However, in no event shall a proposal pursuant to this section be submitted to the voters sooner than twelve months from the date of the last proposal pursuant to this section.

3. All revenue received by a county from the tax authorized pursuant to the provisions of this section shall be deposited in a special trust fund and shall be used solely for the purposes specified in the proposal submitted pursuant to subsection 2 of this section within such county for so long as the tax shall remain in effect.

4. Once the tax authorized by this section is abolished or is terminated by any means, all funds remaining in the special trust fund shall be used solely for the purposes specified in the proposal submitted pursuant to subsection 2 of this section within such county. Any funds in such special trust fund which are not needed for current expenditures may be invested by the governing body in accordance with applicable laws relating to the investment of other county funds.

5. All sales taxes collected by the director of revenue under this section on behalf of any county, less one percent for cost of collection which shall be deposited in the state's general revenue fund after payment of premiums for surety bonds as provided in section 32.087, RSMo, shall be deposited in a special trust fund, which is hereby created, to be known as the "Local Wastewater Treatment Sales Tax Trust Fund". The moneys in the local wastewater treatment sales tax trust fund shall not be deemed to be state funds and shall not be

commingled with any funds of the state. The director of revenue shall keep accurate records of the amount of money in the trust and which was collected in each county imposing a sales tax pursuant to this section, and the records shall be open to the inspection of officers of the county and the public. Not later than the tenth day of each month the director of revenue shall distribute all moneys deposited in the trust fund during the preceding month to the county which levied the tax; such funds shall be deposited with the county treasurer of each such county, and all expenditures of funds arising from the local wastewater treatment sales tax trust fund shall be by an appropriation act to be enacted by the governing body of each such county. Expenditures may be made from the fund for any purposes authorized pursuant to subsection 2 of this section in the ordinance or order adopted by the governing body submitting the local wastewater treatment tax to the voters.

6. The director of revenue may authorize the state treasurer to make refunds from the amounts in the trust fund and credited to any county for erroneous payments and overpayments made, and may redeem dishonored checks and drafts deposited to the credit of such counties. If any county abolishes the tax, the county shall notify the director of revenue of the action at least ninety days prior to the effective date of the repeal and the director of revenue may order retention in the trust fund, for a period of one year, of two percent of the amount collected after receipt of such notice to cover possible refunds or overpayment of the tax and to redeem dishonored checks and drafts deposited to the credit of such accounts. After one year has elapsed after the effective date of abolition of the tax in such county, the director of revenue shall remit the balance in the account to the county and close the account of that county. The director of revenue shall notify each county of each instance of any amount refunded or any check redeemed from receipts due the county.

7. Except as modified in this section, all provisions of sections 32.085 and 32.087, RSMo, shall apply to the tax imposed pursuant to this

section.

8. All provisions of chapter 108, RSMo shall apply to any bonds issued pursuant to this section.

9. For purposes of this section, the term "wastewater treatment and water pollution abatement" is limited to the following:

(1) Establishment of new wastewater treatment facilities or expansion or other improvement to existing wastewater treatment facilities;

(2) Elimination or reduction of the release of water pollutants affecting waters of the state located in the county; and

(3) Use of funds as matching funds for grants or loans from the clean water commission pursuant to chapter 644, RSMo."; and

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

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

Senator Staples assumed the Chair.

Senator Westfall offered SA 4, which was read:

SENATE AMENDMENT NO. 4

Amend Senate Committee Substitute for House Committee Substitute for House Bill No. 139, Pages 2-4, Sections 2-8, by striking all of said sections; and further amend by renumbering the remaining section accordingly; and

Further amend said bill, Page 5, Section A, Line 2, by striking the following: "1 to 9" and inserting in lieu thereof the following: "1 and 2"; and further amend line 5, by striking the following: "1 to 9" and inserting in lieu thereof the following: "1 and 2".

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

Senator Stoll offered SA 5:

SENATE AMENDMENT NO. 5

Amend Senate Committee Substitute for House Committee Substitute for House Bill No.

139, Page 1, Section Title, Line 1, by striking all of said line and inserting in lieu thereof the following:

"To repeal section 144.190, RSMo 1994, relating to taxation, and to enact in lieu thereof ten new section relating to the same subject, with an emergency clause for certain sections."; and

Further amend said bill, Page 1, Section 1, Line 1, by inserting before all of said line the following:

"Section A. Section 144.190, RSMo 1994, is repealed and ten new sections enacted in lieu thereof, to be known as sections 144.190, 1, 2, 3, 4, 5, 6, 7, 8 and 9, to read as follows:

"144.190. 1. If a tax has been incorrectly computed by reason of a clerical error or mistake on the part of the director of revenue, such fact shall be set forth in the records of the director of revenue, and the amount of the overpayment shall be credited on any taxes then due from the person legally obligated to remit the tax [under] **pursuant to** sections 144.010 to 144.525, and the balance shall be refunded to the person legally obligated to remit the tax, [his] **such person's** administrators or executors, as provided for in section 144.200.

2. If any tax, penalty or interest has been paid more than once, or has been erroneously or illegally collected, or has been erroneously or illegally computed, such sum shall be credited on any taxes then due from the person legally obligated to remit the tax [under] **pursuant to** sections 144.010 to 144.510, and the balance, with interest as determined by section 32.065, RSMo, shall be refunded to the person legally obligated to remit the tax, but no such credit or refund shall be allowed unless duplicate copies of a claim for refund are filed within three years from date of overpayment.

3. Every claim for refund must be in writing under oath, and must state the specific grounds upon which the claim is founded. Any refund or any portion thereof which is erroneously made, and any credit or any portion thereof which is erroneously allowed, may be recovered in any action brought by the director of revenue against the person legally obligated to remit the tax. In the event that a tax has been illegally imposed against

a person legally obligated to remit the tax, the director of revenue shall authorize the cancellation of the tax upon [his] **the director's** record.

4. Notwithstanding the provisions of this section, the director of revenue shall authorize direct pay agreements to purchasers which have annual purchases in excess of seven hundred fifty thousand dollars pursuant to rules and regulations adopted by the director of revenue. For the purposes of such direct pay agreements, the taxes authorized [under] **pursuant to** chapters 66, RSMo, 67, RSMo, 92, RSMo, and 94, RSMo, shall be remitted based upon the location of the place of business of the purchaser. [The deduction allowed in section 144.140 shall not be allowed to any person who is qualified to receive and has received the direct payment authorization as provided by this subsection.]".

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

Senator Childers offered SA 6:

SENATE AMENDMENT NO. 6

Amend Senate Committee Substitute for House Committee Substitute for House Bill No. 139, Page 5, Section 9, Line 23, by inserting after all of said line the following:

"Section 10. 1. To promote tourism by maintaining the quality of the waters of the state, the governing body of any county containing part of a corps of engineer lake may impose, by ordinance or order, a sales tax in the amount of up to one-fourth of one percent on all retail sales made in such county which are subject to taxation pursuant to the provisions of sections 144.010 to 144.525, RSMo, for the purpose of providing improved treatment of wastewater and water pollution abatement, including establishment of new wastewater treatment facilities or expansion or other improvements to existing wastewater treatment facilities, and the governing body of any county, in conjunction with the imposition of any sales tax pursuant to this subsection, may have the option to issue bonds to preliminary fund the provision of improved treatment of wastewater and water pollution abatement as specified in

this subsection. The tax authorized by this section shall be in addition to any and all other sales taxes allowed by law; except that, no ordinance or order imposing a sales tax pursuant to the provisions of this section shall be effective unless the governing body of the county submits to the voters of the county, at a county or state general, primary or special election, a proposal to authorize the governing body of the county to impose a tax. In addition, a county shall only be authorized to issue bonds in conjunction with any sales tax imposed pursuant to this section after the governing body of the county submits to the voters of the county, at a county or state general, primary or special election, a proposal to authorize the governing body of the county to issue bonds. Any sales tax imposed pursuant to this section shall not be authorized for a period of more than five years; provided that, if sales tax is imposed pursuant to this section in conjunction with the issuance of bonds, the sales tax shall expire upon full repayment of all bonds issued.

2. The ballot of submission shall contain, but need not be limited to, the following language:

(1) If the proposal submitted involves only authorization to impose the tax authorized by this section the ballot shall contain substantially the following:

Shall the county of (county's name) impose a countywide sales tax of (insert amount) for the purpose of providing improved treatment of wastewater and water pollution abatement, including establishment of new wastewater treatment facilities or expansion or other improvements to existing wastewater treatment facilities in the county?

YES NO

If you are in favor of the question, place an "X" in the box opposite "Yes". If you are opposed to the question, place an "X" in the box opposite "No"; or

(2) If the proposal submitted involves authorization to impose the tax authorized by this section, authorization to issue bonds to preliminarily fund the provision of improved

treatment of wastewater and water pollution abatement as specified in subsection 1 of this section, obligates the county to repay all bonds issued from the proceeds of the tax authorized by this section and requires the expiration of the tax upon the repayment of all such bonds, the ballot shall contain substantially the following:

Shall the county of(county's name) impose a countywide sales tax of (insert amount) for the purpose of providing improvement treatment of wastewater and water pollution abatement, including establishment of new wastewater treatment facilities or expansion or other improvements to existing wastewater treatment facilities in the county, issue bonds to preliminarily fund the provision of improved treatment of wastewater and water pollution abatement, repay all bonds issued from the proceeds of the tax imposed and terminate such tax upon the repayment of all such bonds?

YES NO

If you are in favor of the question, place an "X" in the box opposite "Yes". If you are opposed to the question, place an "X" in the box opposite "No".

If a majority of the votes cast on the proposal by the qualified voters voting thereon are in favor of the proposal submitted pursuant to subdivision (1) of this subsection, then the ordinance or order and any amendments thereto shall be in effect on the first day of the second quarter immediately following the election approving the proposal. If the constitutionally required percentage of the voters voting thereon are in favor of the proposal submitted pursuant to subdivision (2) of this subsection, then the ordinance or order and any amendments thereto shall be in effect on the first day of the second quarter immediately following the election approving the proposal. If a proposal receives less than the required majority, then the governing body of the county shall have no power to impose the sales tax herein authorized unless and until the governing body of the county shall again have submitted another proposal to authorize the

governing body of the county to impose the sales tax authorized by this section and such proposal is approved by the required majority of the qualified voters voting thereon. However, in no event shall a proposal pursuant to this section be submitted to the voters sooner than twelve months from the date of the last proposal pursuant to this section.

3. All revenue received by a county from the tax authorized pursuant to the provisions of this section shall be deposited in a special trust fund and shall be used solely for the purposes specified in the proposal submitted pursuant to subsection 2 of this section within such county for so long as the tax shall remain in effect.

4. Once the tax authorized by this section is abolished or is terminated by any means, all funds remaining in the special trust fund shall be used solely for the purposes specified in the proposal submitted pursuant to subsection 2 of this section within such county. Any funds in such special trust fund which are not needed for current expenditures may be invested by the governing body in accordance with applicable laws relating to the investment of other county funds.

5. All sales taxes collected by the director of revenue under this section on behalf of any county, less one percent for cost of collection which shall be deposited in the state's general revenue fund after payment of premiums for surety bonds as provided in section 32.087, RSMo, shall be deposited in a special trust fund, which is hereby created, to be known as the "Local Wastewater Treatment Sales Tax Trust Fund". The moneys in the local wastewater treatment sales tax trust fund shall not be deemed to be state funds and shall not be commingled with any funds of the state. The director of revenue shall keep accurate records of the amount of money in the trust and which was collected in each county imposing a sales tax pursuant to this section, and the records shall be open to the inspection of officers of the county and the public. Not later than the tenth day of each month the director of revenue shall distribute all moneys deposited in the trust fund

during the preceding month to the county which levied the tax; such funds shall be deposited with the county treasurer of each such county, and all expenditures of funds arising from the local wastewater treatment sales tax trust fund shall be by an appropriation act to be enacted by the governing body of each such county. Expenditures may be made from the fund for any purposes authorized pursuant to subsection 2 of this section in the ordinance or order adopted by the governing body submitting the local wastewater treatment tax to the voters.

6. The director of revenue may authorize the state treasurer to make refunds from the amounts in the trust fund and credited to any county for erroneous payments and overpayments made, and may redeem dishonored checks and drafts deposited to the credit of such counties. If any county abolishes the tax, the county shall notify the director of revenue of the action at least ninety days prior to the effective date of the repeal and the director of revenue may order retention in the trust fund, for a period of one year, of two percent of the amount collected after receipt of such notice to cover possible refunds or overpayment of the tax and to redeem dishonored checks and drafts deposited to the credit of such accounts. After one year has elapsed after the effective date of abolition of the tax in such county, the director of revenue shall remit the balance in the account to the county and close the account of that county. The director of revenue shall notify each county of each instance of any amount refunded or any check redeemed from receipts due the county.

7. Except as modified in this section, all provisions of sections 32.085 and 32.087, RSMo, shall apply to the tax imposed pursuant to this section.

8. All provisions of chapter 108, RSMo shall apply to any bonds issued pursuant to this section.

9. For purposes of this section, the term "wastewater treatment and water pollution abatement" is limited to the following:

(1) Establishment of new wastewater treatment facilities or expansion or other improvement to existing wastewater treatment facilities;

(2) Elimination or reduction of the release of water pollutants affecting waters of the state located in the county; and

(3) Use of funds as matching funds for grants or loans from the clean water commission pursuant to chapter 644, RSMo."; and

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

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

Senator Graves offered SA 7:

SENATE AMENDMENT NO. 7

Amend Senate Committee Substitute for House Committee Substitute for House Bill No. 139, Page 5, Section 9, Line 23, by inserting after all of said line the following:

"Section 10. An eligible small business, as defined in section 44 of the Internal Revenue Code, shall be allowed a credit against the tax otherwise due pursuant to chapter 143, RSMo, not including sections 143.191 to 143.265, RSMo, in an amount equal to any amount paid by the eligible small business to the United States Small Business Administration as a guaranty fee pursuant to obtaining Small Business Administration guaranteed financing and to programs administered by the United States Department of Agriculture for rural development or farm service agencies."; and further amend the title and enacting clause accordingly.

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

Senator Russell moved that SCS for HCS for HB 139, as amended, be adopted, which motion prevailed.

On motion of Senator Russell, SCS for HCS for HB 139, as amended, was read the 3rd time and passed by the following vote:

YEAS—Senators

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	Staples	Steelman
Stoll	Westfall	Wiggins	Yeckel—32

NAYS—Senators—None

Absent—Senator Banks—1

Absent with leave—Senator Singleton—1

The President declared the bill passed.

The emergency clause was adopted by the following vote:

YEAS—Senators

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	Staples	Stoll	Westfall
Wiggins	Yeckel—30		

NAYS—Senator Steelman—1

Absent—Senators

Banks Howard—2

Absent with leave—Senator Singleton—1

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

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

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

Senator Maxwell moved that HS for HB 450, with SCS (pending), be called from the Informal Calendar and again taken up for 3rd reading and final passage, which motion prevailed.

SCS for HS for HB 450 was again taken up.

Senator Maxwell offered SS for SCS for HS for HB 450, entitled:

SENATE SUBSTITUTE FOR
SENATE COMMITTEE SUBSTITUTE FOR
HOUSE SUBSTITUTE FOR
HOUSE BILL NO. 450

An Act to repeal sections 8.380, 8.420, 249.645, 278.220, 278.240, 278.245, 278.250, 278.280, 278.290, 278.300, 386.025, 393.295, 393.705, 393.710, 393.715, 393.725, 393.730, 393.760 and 393.770, RSMo 1994, and sections 204.300, 247.030, 247.040, 644.031 and 644.509, RSMo Supp. 1998, and to enact in lieu thereof forty-seven new sections relating to public infrastructure, with an emergency clause for certain sections.

Senator Maxwell moved that **SS** for **SCS** for **HS** for **HB 450** be adopted.

Senator Quick offered **SA 1**:

SENATE AMENDMENT NO. 1

Amend Senate Substitute for Senate Committee Substitute for House Substitute for House Bill No. 450, Page 7, Section 66.405, Line 14, by inserting after all of said line the following:

"70.240. The parties to such contract or cooperative action or any of them, **or any joint board or commission formed pursuant to section 70.260 for the purpose of providing water or sewer services**, may acquire, by gift or purchase, or by the power of eminent domain exercised by one or more of the parties thereto in the same manner as now or hereafter provided for corporations created under the law of this state for public use, chapter 523, RSMo, and amendments thereto, **or any joint board or commission formed pursuant to section 70.260 for the purpose of providing water or sewer services**, the lands necessary or useful for the joint use of the parties for the purposes provided in section 70.220 **or section 70.260**, either within or without the corporate or territorial limits of one or more of the contracting parties, and shall have the power to hold or acquire said lands as tenants in common **with the parties to such contract or in the name of any joint board or commission formed pursuant to section 70.260; provided however, in no event shall any joint board or commission formed pursuant to section 70.260 for the purpose of providing water or sewer services**

exercise the power of eminent domain within the corporate or territorial limits of one of the contracting parties without such party's consent."; and

Further amend the title and enacting clause accordingly.

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

Senator Flotron offered **SA 2**:

SENATE AMENDMENT NO. 2

Amend Senate Substitute for Senate Committee Substitute for House Substitute for House Bill No. 450, Page 11, Section 91.055, Line 13, by inserting after all of said line the following:

"116.170. **1.** After the general assembly adopts a joint resolution proposing a constitutional amendment or a bill which is to be referred to a vote of the people and it has been delivered to the state auditor, the state auditor shall, within thirty days, prepare and file with the secretary of state a fiscal note and a fiscal note summary for the proposed measure in accordance with the provisions of section 116.175.

2. When the resolution authorizes the issuance of bonds or other forms of indebtedness, the fiscal note summary shall indicate the full cost of such indebtedness, including retirement costs of such bonds."; and

Further amend the title and enacting clause accordingly.

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

Senator Stoll offered **SA 3**:

SENATE AMENDMENT NO. 3

Amend Senate Substitute for Senate Committee Substitute for House Substitute for House Bill No. 450, Page 21, Section 247.040, Line 24, by inserting after all of said line the following:

"249.470. The county commission, after receiving the recommendations of the sewer engineer, may, by resolution, establish the boundaries of the sewer district or districts including therein only such lots, tracts and parcels

of ground which may be conveniently served by a sewer, **except that whenever the commission of a county of the first classification without a charter form of government deems that a county-wide wastewater treatment authority would best serve the needs of such county, the commission may establish a county-wide sewer district which shall be subject to the provisions of sections 249.430 to 249.660.** The action of the county commission in determining the boundaries of said sewer districts shall be conclusive, provided that, **except as otherwise provided in this section,** no ground shall be included in a sewer district not contained in the natural drainage area or watercourse, or may be conveniently served through said sewer."; and

Further amend the title and enacting clause accordingly.

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

Senator Graves offered **SA 4:**

SENATE AMENDMENT NO. 4

Amend Senate Substitute for Senate Committee Substitute for House Substitute for House Bill No. 450, Pages 23-24, Section 278.200, by striking all of said section; and

Further amend said bill, Pages 24-27, Section 278.240, by striking all of said section; and

Further amend said bill, Pages 27-28, Section 278.245, by striking all of said section; and

Further amend said bill, Pages 28-32, Section 278.250, by striking all of said section; and

Further amend said bill, Pages 32-36, Section 278.280, by striking all of said section; and

Further amend said bill, Pages 36-37, Section 278.290, by striking all of said section; and

Further amend said bill, Page 38, Section 278.300, by striking all of said section; and

Further amend the title and enacting clause accordingly.

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

Senator Ehlmann offered **SA 5:**

SENATE AMENDMENT NO. 5

Amend Senate Substitute for Senate Committee Substitute for House Substitute for House Bill No. 450, Page 11, Section 204.300, Line 13, of said page by inserting immediately after said line the following:

"245.060. Within thirty days after any levee district shall have been organized and incorporated under the provisions of section 245.025 the circuit clerk of the court organizing said district shall, upon giving notice by causing publication to be made once a week for two consecutive weeks in some newspaper published in each county in which lands of the district are situate, the last insertion to be at least ten days before the day of such meeting, call a meeting of the owners of real estate or other property situate in said district, **including the authorized representative of any corporation which owns real estate or other property situate in said district,** at a day and hour specified in some public place in the county in which the district was organized, for the purpose of electing a board of five supervisors, to be composed of owners of real estate in said district, **which may include the authorized representative of any corporation which owns real estate or other property in said district,** two of whom at least shall be residents of the county or counties in which said district is situate, or some adjoining counties; the landowners, when assembled, shall organize by the election of a chairman and secretary of the meeting, who shall conduct the election; at such election each and every acre of land and each and every mile of right-of-way of every corporation owning a franchise in the district shall represent one share, and each owner shall be entitled to one vote in person or by proxy for every acre of land or mile of right-of-way owned by him in such district, and the five persons receiving the highest number of votes shall be declared elected as supervisors; and said supervisors shall immediately by lot determine the terms of their office, which shall be respectively one, two, three, four and five years, and they shall serve until their successors shall have been elected and qualified; provided, that if the levee district be located within a third or fourth class city of this state, or within any city in this state under fifty thousand

population operating under a special charter then the owner of each lot, tract, parcel or subdivision thereof, as set forth in the final decree of the court creating and incorporating said levee district, shall be entitled to one vote, in person or by proxy, for each lot, tract, parcel or subdivision thereof, owned by him."; and

Further amend the title and enacting clause accordingly.

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

Senator Maxwell moved that **SS** for **SCS** for **HS** for **HB 450**, as amended, be adopted, which motion prevailed.

On motion of Senator Maxwell, **SS** for **SCS** for **HS** for **HB 450**, as amended, was read the 3rd time and passed by the following vote:

YEAS—Senators

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

NAYS—Senator Rohrbach—1

Absent—Senator Banks—1

Absent with leave—Senator Singleton—1

The President declared the bill passed.

The emergency clause was adopted by the following vote:

YEAS—Senators

Bentley	Bland	Caskey	Childers
Clay	DePasco	Ehlmann	Flotron
Goode	Graves	House	Howard
Jacob	Johnson	Kenney	Kinder
Klarich	Maxwell	Mueller	Quick
Russell	Schneider	Sims	Staples
Stoll	Westfall	Wiggins	Yeckel—28

NAYS—Senators

Rohrbach Steelman—2

Absent—Senators

Banks Mathewson Scott—3

Absent with leave—Senator Singleton—1

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

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

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

HB 401, with **SCS**, introduced by Representative Barry, et al, entitled:

An Act relating to screening for hearing loss in newborns.

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

SCS for **HB 401**, entitled:

SENATE COMMITTEE SUBSTITUTE FOR HOUSE BILL NO. 401

An Act to amend chapters 162, 170, 191 and 376, RSMo, by adding thereto twelve new sections relating to programs for the disabled.

Was taken up.

Senator Caskey moved that **SCS** for **HB 401** be adopted.

Senator Caskey offered **SA 1**:

SENATE AMENDMENT NO. 1

Amend Senate Committee Substitute for House Bill No. 401, Page 10, Section 376.685, Line 17, by inserting immediately after the word "policy" as it first appears on said line, the following: ", **short-term major medical policies of six months or less duration**,".

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

Senator Sims offered **SA 2**, which was read:

SENATE AMENDMENT NO. 2

Amend Senate Committee Substitute House Bill No. 401, Page 10, Section 376.685, Line 25, by inserting after all of said line the following:

"Section 1. Nothing in section 376.1361,

RSMo, shall require a health carrier to pay for services which were authorized through utilization review for precertification, if the services are not otherwise covered under the health benefit plan."; and

Further amend the title and enacting clause accordingly.

Senator Sims moved that the above amendment be adopted.

At the request of Senator Sims, **SA 2** was withdrawn.

Senator Maxwell offered **SA 3**, which was read:

SENATE AMENDMENT NO. 3

Amend Senate Committee Substitute for House Bill No. 401, Page 6, Section 191.253, Lines 8-9, by deleting said lines and inserting in lieu thereof the following:

"provisions of section 191.250, as necessary to assure appropriate and timely diagnosis of hearing loss, delivery of amplification, and referral for early intervention services. Such standards and procedures shall include:"; and

Further amend said bill, page 9, Section 376.685, lines 8-10, by deleting said lines and inserting in lieu thereof the following:

"in this state shall provide coverage for newborn hearing screening, necessary rescreening, audiological assessment and follow-up, and initial amplification."

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

Senator Johnson assumed the Chair.

Senator House offered **SA 4**:

SENATE AMENDMENT NO. 4

Amend Senate Committee Substitute for House Bill No. 401, Page 10, Section 376.685, Line 25, by inserting after all of said line the following:

"376.1209. 1. Each entity offering individual and group health insurance policies providing coverage on an expense-incurred basis, individual and group service or indemnity type contracts issued by a nonprofit corporation, individual and

group service contracts issued by a health maintenance organization, all self-insured group arrangements to the extent not preempted by federal law, and all managed health care delivery entities of any type or description, that provide coverage for the surgical procedure known as a mastectomy, and which are delivered, issued for delivery, continued or renewed in this state on or after January 1, 1998, shall provide coverage for **at least a forty-eight-hour stay in the hospital immediately following a mastectomy, and** prosthetic devices or reconstructive surgery necessary to restore symmetry as recommended by the [oncologist or primary care] **attending** physician for the patient incident to the mastectomy, **including a minimum seventy-two-hour stay in the hospital following immediate or concurrent reconstructive surgery.** Coverage for prosthetic devices and reconstructive surgery shall be subject to the same deductible and coinsurance conditions applied to the mastectomy and all other terms and conditions applicable to other benefits.

2. As used in this section, the term "mastectomy" means the removal of all or part of the breast for medically necessary reasons, as determined by a physician licensed pursuant to chapter 334, RSMo.

3. The provisions of this section shall not apply to a supplemental insurance policy, including a life care contract, accident only policy, specified disease policy, hospital policy providing a fixed daily benefit only, Medicare supplement policy or long-term care policy.

4. No insurer, as defined in section 376.060, shall require as a condition of coverage that procedures performed pursuant to this section be performed on an out-patient basis."; and

Further amend the title and enacting clause accordingly.

Senator House moved that the above amendment be adopted.

Senator Caskey raised the point of order that **SA 4** is out of order and goes beyond the scope and purpose of the original bill.

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

SA 4 was again taken up.

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

Senator Mathewson assumed the Chair.

Senator Ehlmann offered **SA 5**:

SENATE AMENDMENT NO. 5

Amend Senate Committee Substitute for House Bill No. 401, Page 9, Section 191.265, Lines 8-10, by striking all of said lines, and inserting in lieu thereof the following:

"2. Any rule or portion of a rule, as that term is defined in section 536.010, RSMo, that is created under the authority delegated in sections 191.250 to 191.265 or Section 376.685, RSMo, shall become effective only if it complies with and is subject to all of the provisions of chapter 536, RSMo, and, if applicable, section 536.028, RSMo. All rulemaking authority delegated prior to August 28, 1999, is of no force and effect and repealed. Nothing in this section shall be interpreted to repeal or affect the validity of any rule filed or adopted prior to August 28, 1999, if it fully complied with all applicable provisions of law. This section and chapter 536, RSMo, are nonseverable and if any of the powers vested with the general assembly pursuant to chapter 536, RSMo, to review, to delay the effective date or to disapprove and annul a rule are subsequently held unconstitutional, then the grant of rulemaking authority and any rule proposed or adopted after August 28, 1999, shall be invalid and void."; and

Further amend the title and enacting clause accordingly.

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

Senator Caskey moved that **SCS for HB 401**, as amended, be adopted, which motion prevailed.

On motion of Senator Caskey, **SCS for HB 401**, as amended, was read the 3rd time and passed by the following vote:

YEAS—Senators

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	Staples	Steelman
Stoll	Westfall	Wiggins	Yeckel—32

NAYS—Senators—None

Absent—Senator Banks—1

Absent with leave—Senator Singleton—1

The President declared the bill passed.

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

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

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

HCS for HB 490 and HCS for HB 308, with **SCS**, entitled respectively:

An Act relating to the establishment of the family care safety act, with penalty provisions.

An Act to repeal sections 210.211, 210.245, 210.251, 210.252, 210.254, 210.256 and 210.485, RSMo 1994, and section 210.221, RSMo Supp. 1998, relating to the regulation of certain child care providers, and to enact in lieu thereof ten new sections relating to the same subject, with penalty provisions.

Were called from the Informal Calendar and taken up by Senator Sims.

SCS for HCS for HB 490 and HCS for HB 308, entitled:

SENATE COMMITTEE SUBSTITUTE FOR
HOUSE COMMITTEE SUBSTITUTE FOR
HOUSE BILL NO. 490 AND
HOUSE COMMITTEE SUBSTITUTE FOR
HOUSE BILL NO. 308

An Act to repeal sections 210.211, 210.245,

210.251, 210.252, 210.254, 210.256 and 210.485, RSMo 1994, and section 210.221, RSMo Supp. 1998, relating to the regulation of certain child care providers, and to enact in lieu thereof twenty-four new sections relating to the same subject, with penalty provisions, a termination date for certain sections and an emergency clause for certain sections.

Was taken up.

Senator Sims moved that **SCS** for **HCS** for **HB 490** and **HCS** for **HB 308** be adopted.

Senator Sims offered **SS** for **SCS** for **HCS** for **HB 490** and **HCS** for **HB 308**, entitled:

SENATE SUBSTITUTE FOR
SENATE COMMITTEE SUBSTITUTE FOR
HOUSE COMMITTEE SUBSTITUTE FOR
HOUSE BILL NO. 490 AND
HOUSE COMMITTEE SUBSTITUTE FOR
HOUSE BILL NO. 308

An Act to repeal sections 210.211, 210.245, 210.251, 210.252, 210.254, 210.256 and 210.485, RSMo 1994, and section 210.221, RSMo Supp. 1998, relating to the regulation of certain child care providers, and to enact in lieu thereof twenty-three new sections relating to the same subject, with penalty provisions, a termination date for certain sections and an emergency clause for certain sections.

Senator Sims moved that **SS** for **SCS** for **HCS** for **HB 490** and **HCS** for **HB 308** be adopted.

Senator Flotron offered **SA 1**:

SENATE AMENDMENT NO. 1

Amend Senate Substitute for Senate Committee Substitute for House Committee Substitute for House Bill No. 490 and House Committee Substitute for House Bill No. 308, Page 30, Section 15, Line 17, by inserting after all of said line the following:

"Section 16. Any person or entity which transports, directly or indirectly, a natural, living person laying down, for a fee, shall be subject to all provisions of this act, unless such

person or entity is duly licensed under section 190.109, RSMo or unless such person or entity is employed by a licensed ambulance service. Notwithstanding any law to the contrary, all patients as defined in chapter 190, RSMo, being transported laying down or reclining shall be transported in an ambulance. The department shall promulgate rules and regulations relating to the provisions of this subsection. Such rules and regulations shall include insurance requirements, training requirements, staffing requirements and medical oversight."; and

Further amend the title and enacting clause accordingly.

Senator Flotron moved that the above amendment be adopted.

Senator Yeckel raised the point of order that **SA 1** is out of order because the amendment goes beyond the scope and purpose of the bill.

The point of order was referred to the President Pro Tem, who ruled it well taken.

Senator Kenney offered **SA 2**:

SENATE AMENDMENT NO. 2

Amend Senate Substitute for Senate Committee Substitute for House Committee Substitute for House Bill No. 490 and House Committee Substitute for House Bill No. 308, Page 2, Section A, Line 3, by inserting immediately after said line the following:

"167.181. 1. The department of health, after consultation with the department of elementary and secondary education, shall promulgate rules and regulations governing the immunization against poliomyelitis, rubella, rubeola, mumps, tetanus, pertussis, diphtheria, and hepatitis B, to be required of children attending public, private, parochial or parish schools. Such rules and regulations may modify the immunizations that are required of children in this subsection. The immunizations required and the manner and frequency of their administration shall conform to recognized standards of medical practice. The

department of health shall supervise and secure the enforcement of the required immunization program. **The department of health shall inform the public of all exemptions available whenever immunization schedules are available.**

2. It is unlawful for any student to attend school unless he **or she** has been immunized as required [under] **pursuant to** the rules and regulations of the department of health, and can provide satisfactory evidence of such immunization; except that if [he] **the student** produces satisfactory evidence of having begun the process of immunization, he **or she** may continue to attend school as long as the immunization process is being accomplished in the prescribed manner. It is unlawful for any parent or guardian to refuse or neglect to have his **or her** child immunized as required by this section, unless the child is properly exempted.

3. This section shall not apply to any child if one parent or guardian objects in writing to [his] **the child's** school administrator against the immunization of the child, because of religious beliefs [or], medical contraindications **or personal convictions. For purposes of this section, personal conviction includes, but is not limited to, the use of homeopathic or alternative medicine.** In cases where any such objection is for reasons of medical contraindications, a statement from a duly licensed physician must also be provided to the school administrator.

4. Each school superintendent, whether of a public, private, parochial or parish school, shall cause to be prepared a record showing the immunization status of every child enrolled in or attending a school under his jurisdiction. The name of any parent or guardian who neglects or refuses to permit a nonexempted child to be immunized against diseases as required by the rules and regulations promulgated pursuant to the provisions of this section shall be reported by the school superintendent to the department of health.

5. The immunization required may be done by any duly licensed physician or by someone under

[his] **such physician's** direction. If the parent or guardian is unable to pay, the child shall be immunized at public expense by a physician or nurse at or from the county, district, city public health center or a school nurse or by a nurse or physician in the private office or clinic of the child's personal physician with the costs of immunization paid through the state Medicaid program, private insurance or in a manner to be determined by the department of health subject to state and federal appropriations, and after consultation with the school superintendent and the advisory committee established in section 192.630, RSMo.

6. Funds for the administration of this section and for the purchase of vaccines for children of families unable to afford them shall be appropriated to the department of health from general revenue or from federal funds if available.

7. No rule or portion of a rule promulgated [under] **pursuant to** the authority of this section shall become effective unless it has been promulgated pursuant to [the provisions of section 536.024] **chapter 536, RSMo.**"; and

Further amend the title and enacting clause accordingly.

Senator Kenney moved that the above amendment be adopted.

Senator Sims raised the point of order that **SA 2** is out of order because it goes beyond the scope and purpose of the bill.

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

SA 2 was again taken up.

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

Senator Kenney offered **SA 3**, which was read:

SENATE AMENDMENT NO. 3

Amend Senate Substitute for Senate

Committee Substitute for House Committee Substitute for House Bill No. 490 and House Committee Substitute for House Bill No. 308, Page 13, Section 210.254, Line 5, by deleting the "." after the word "facility" and insert in lieu thereof the following: ", if said facility chooses to comply."; and

Further amend line 5, same page and section, by deleting the word "shall" and insert in lieu thereof the word "may".

Senator Kenney moved that the above amendment be adopted.

At the request of Senator Sims, **HCS** for **HB 490** and **HCS** for **HB 308**, with **SCS**, **SS** for **SCS** and **SA 3** (pending), were placed on the Informal Calendar.

MESSAGES FROM THE HOUSE

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

Mr. President: I am instructed by the House of Representatives to inform the Senate that the House has taken up and adopted the Conference Committee Report on **SCS** for **HCS** for **HB 18**, as amended, and has taken up and passed **CCS** for **HB 18**.

Also,

Mr. President: I am instructed by the House of Representatives to inform the Senate that the House has taken up and adopted the Conference Committee Report on **HB 19**, as amended, and has taken up and passed **HB 19**, as amended by **SCA 2**.

Also,

Mr. President: I am instructed by the House of Representatives to inform the Senate that the House refuses to concur in the Conference Committee Report on **HCS** for **SCS** for **SBs 31** and **285**, as amended, and requests the Senate grant the House further conference.

Also,

Mr. President: I am instructed by the House of Representatives to inform the Senate that the House refuses to adopt **SS** for **SCS** for **HB 65**, as amended, and requests the Senate to recede from its

position and failing to do so, grant the House a conference thereon and allow the conferees to exceed the differences to the extent necessary to add or delete the language in **HS** for **HCS** for **SCS** for **SBs 308** and **314**, as amended.

PRIVILEGED MOTIONS

Senator Scott moved that the Senate refuse to recede from its position on **SS** for **SCS** for **HB 65**, as amended, and grant the House a conference thereon and further that the Senate conferees be allowed to exceed the differences to the extent necessary to add or delete language in **HS** for **HCS** for **SCS** for **SBs 308** and **314**, as amended, which motion prevailed.

Senator Goode, on behalf of the conference committee appointed to act with a like committee from the House on **SCS** for **HCS** for **HB 18**, as amended, submitted the following conference committee report:

CONFERENCE COMMITTEE REPORT ON HOUSE BILL NO. 18

Mr. President: Your Conference Committee appointed to confer with a like committee from the House on Senate Committee Substitute for House Committee Substitute for House Bill No. 18, begs leave to report that we, after open, free and fair discussion of the differences between the House and Senate, have agreed to recommend and do recommend to the respective bodies as follows:

1. That the Senate recede from its position on Senate Committee Substitute for House Committee Substitute for House Bill No. 18.
2. That the House recede from its position on House Committee Substitute for House Bill No. 18.
3. That the attached Conference Committee Substitute for House Bill No. 18, be truly agreed to and finally passed.

FOR THE SENATE: FOR THE HOUSE:

/s/ Wayne Goode	/s/ Dick Franklin
/s/ Harry Wiggins	/s/ Scott B. Lakin
/s/ Joe Maxwell	/s/ Louis Ford
/s/ John T. Russell	/s/ Ken Legan

/s/ Morris Westfall /s/ Charlie Shields

Senator Goode moved that the above conference committee report be adopted, which motion prevailed by the following vote:

YEAS—Senators

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

NAYS—Senators—None

Absent—Senators

Banks Clay—2

Absent with leave—Senator Singleton—1

On motion of Senator Goode, **CCS for HB 18**, entitled:

CONFERENCE COMMITTEE SUBSTITUTE FOR HOUSE BILL NO. 18

An Act to appropriate money for planning, expenses, lease-purchases, and for capital improvements including but not limited to major additions and renovations, new structures, and land improvements or acquisitions, and to transfer money among certain funds.

Was read the 3rd time and passed by the following vote:

YEAS—Senators

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	Staples	Steelman
Stoll	Westfall	Wiggins	Yeckel—32

NAYS—Senators—None

Absent—Senator Banks—1

Absent with leave—Senator Singleton—1

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

Senator Goode, on behalf of the conference committee appointed to act with a like committee from the House on **HB 19**, as amended, submitted the following conference committee report:

CONFERENCE COMMITTEE REPORT ON HOUSE BILL NO. 19

Mr. President: Your Conference Committee appointed to confer with a like committee from the House on House Bill No. 19, as amended, begs leave to report that we, after open, free and fair discussion of the differences between the House and Senate, have agreed to recommend and do recommend to the respective bodies as follows:

1. That the Senate recede from its position on SCA #1.
2. That House Bill No. 19, as amended by SCA #2, be truly agreed to and finally passed.

FOR THE SENATE: FOR THE HOUSE:

/s/ Wayne Goode	/s/ Dick Franklin
/s/ Harry Wiggins	/s/ Sam Leake
/s/ Joe Maxwell	/s/ Mike Schilling
/s/ John T. Russell	/s/ Ken Legan
/s/ Morris Westfall	/s/ Roy W. Holand

Senator Goode moved that the above conference committee report be adopted, which motion prevailed by the following vote:

YEAS—Senators

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	Staples	Steelman
Stoll	Westfall	Wiggins	Yeckel—32

NAYS—Senators—None

Absent—Senator Banks—1

Absent with leave—Senator Singleton—1

On motion of Senator Goode, **HB 19**, as amended by **SCA 2**, was read the 3rd time and passed by the following vote:

YEAS—Senators

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	Staples	Steelman
Stoll	Westfall	Wiggins	Yeckel—32

NAYS—Senators—None

Absent—Senator Banks—1

Absent with leave—Senator Singleton—1

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

CONFERENCE COMMITTEE APPOINTMENTS

President Pro Tem Quick appointed the following conference committee to act with a like committee from the House on **HCS for SS No. 2** for **SB 288**, as amended: Senators Quick, Johnson, Scott, Mueller and Klarich.

President Pro Tem Quick appointed the following conference committee to act with a like committee from the House on **SS for SCS for HB 65**, as amended: Senators Scott, Mathewson, Staples, Mueller and Sims.

PRIVILEGED MOTIONS

Senator Howard moved that the Senate grant the House further conference on **HCS for SCS for SBs 31 and 285**, as amended, which motion prevailed.

Senator Wiggins assumed the Chair.
HCS for HB 60, with **SCS**, entitled:

An Act to repeal sections 301.129, 301.145, 301.441, 301.443, 301.445, 301.447, 301.448, 301.451, 301.456, 301.457, 301.464 and 301.465, RSMo Supp. 1998, relating to motor vehicle license plates, and to enact in lieu thereof fifteen new sections relating to the same subject.

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

SCS for HCS for HB 60, entitled:

SENATE COMMITTEE SUBSTITUTE FOR HOUSE COMMITTEE SUBSTITUTE FOR HOUSE BILL NO. 60

An Act to repeal sections 301.080, 301.192, 301.215, 301.300, 301.340, 301.370 and 301.711, RSMo 1994, sections 301.020, 301.129, 301.131, 301.132, 301.142, 301.145, 301.441, 301.443, 301.444, 301.445, 301.447, 301.448, 301.449, 301.451, 301.453, 301.454, 301.456, 301.457, 301.458, 301.459, 301.461, 301.462, 301.463, 301.464, 301.465, 301.466, 301.564 and 301.800, RSMo Supp. 1998, section 301.064 as enacted by both senate bill no. 3 and senate bill no. 70 of the 1st regular session of the 88th general assembly, and section 301.064, as enacted by house bill no. 769 of the 1st regular session of the 89th general assembly, as both sections appear in RSMo, Supp. 1998, and section 301.144, as enacted by both senate bill no. 3 and senate bill no. 70 of the 1st regular session of the 88th general assembly, as both sections appear in the RSMo, Supp. 1998, relating to motor vehicle license plates, and to enact in lieu thereof forty-four new sections relating to the same subject, with penalty

provisions.

Was taken up.

Senator Staples moved that **SCS** for **HCS** for **HB 60** be adopted.

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

SENATE AMENDMENT NO. 1

Amend Senate Committee Substitute for House Committee Substitute for House Bill 60, Page 17, Section 301.145, Line 5, by making bold-faced the following language: "vehicle licensed in excess of eighteen"; and

Further amend said bill, page 26, section 301.445, line 7, by making bold-faced the following language: "in excess of eighteen"; and

Further amend said bill, page 28, section 301.448, line 9, by making bold-faced the following language: "vehicle"; and further amend lines 10-11, by making bold-faced the following language: "in excess of eighteen"; and

Further amend said bill, page 30, section 301.451, lines 4-5, by making bold-faced the following language: "motor vehicle licensed in excess of eighteen"; and

Further amend said bill, page 33, section 301.456, line 7, by making bold-faced the following language: "in excess of eighteen"; and

Further amend said bill, page 34, section 301.457, line 8, by making bold-faced the following language: "in excess of eighteen"; and further amend lines 15-16, by making bold-faced the following language: "payment of a fifteen-dollar fee in addition to the regular registration fees"; and

Further amend said bill, page 39, section 301.464, lines 5-6, by making bold-faced the following language: "other than an apportioned motor vehicle or a"; and further amend line 7, by making bold-faced the following language: "in excess of eighteen"; and further amend line 14, by making bold-faced the following language: "payment of a fifteen-dollar fee in addition to the regular registration fees".

Senator Staples moved that the above

amendment be adopted, which motion prevailed.

Senator Mathewson offered **SA 2**:

SENATE AMENDMENT NO. 2

Amend Senate Committee Substitute for House Committee Substitute for House Bill No. 60, Page 30, Section 301.451, Lines 15-18, by deleting all of said lines and inserting in lieu thereof the following: "for each set of special purple heart license plates [issued equal to the fee charged for personalized license plates] but the additional fee shall only have to be paid once by the qualified applicant at the time of initial application. [No more than two sets of purple heart license plates shall be issued to a qualified applicant.] A fee for the".

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

Senator Schneider offered **SA 3**:

SENATE AMENDMENT NO. 3

Amend Senate Committee Substitute for House Committee Substitute for House Bill No. 60, Page 48, Section 6, Line 6, by inserting immediately after said line the following:

"Section 7. Any person who has been awarded the distinguished flying cross medal may apply for distinguished flying cross motor vehicle license plates for any vehicle the person owns, either solely or jointly, other than an apportioned motor vehicle or a commercial motor vehicle licensed in excess of eighteen thousand pounds gross weight. Any such person shall make application for the special license plates on a form provided by the director of revenue and furnish such proof as a recipient of the distinguished flying cross medal as the director may require. The director shall then issue license plates bearing letters or numbers or a combination thereof, with the words "DISTINGUISHED FLYING CROSS" in place of the words "SHOW-ME STATE. Such license plates shall be made with fully reflective material with a common color scheme and design, shall be clearly visible at night, and shall be aesthetically attractive, as prescribed by section 301.130. There shall be a fee of fifteen

dollars in addition to the regular registration fees charged for each set of special plates. A fee for the issuance of personalized license plates issued pursuant to section 301.144 shall not be required for plates issued pursuant to this section. License plates issued pursuant to the provisions of this section shall not be transferable to any other person except that any registered co-owner of the motor vehicle shall be entitled to operate the motor vehicle for the duration of the year licensed in the event of the death of the qualified person."; and

Further amend the title and enacting clause accordingly.

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

Senator Westfall offered SA 4:

SENATE AMENDMENT NO. 4

Amend Senate Committee Substitute for House Committee Substitute for House Bill No. 60, Page 18, Section 301.192, Line 1, by inserting immediately before said line the following:

"301.191. 1. When an application is made for an original Missouri certificate of ownership for a previously untitled trailer sixteen feet or more in length which is stated to be homemade, the applicant shall present a certificate of inspection as provided in this section. No certificate of ownership shall be issued for such a homemade trailer if no certificate of inspection is presented.

2. As used in this section, "homemade" means made by a person who is not a manufacturer using readily distinguishable manufacturers' identifying numbers or a statement of origin.

3. Every person constructing a homemade trailer sixteen feet or more in length shall obtain an inspection from the sheriff of his or her county of residence **or from the Missouri state highway patrol** prior to applying for a certificate of ownership. If the person constructing the trailer sells or transfers the trailer prior to applying for a certificate of ownership, the sheriff's **or the Missouri state highway patrol's** certificate of inspection shall be transferred with the trailer.

4. A fee of ten dollars shall be paid for the inspection. [The] **If the inspection is completed by the sheriff, the** proceeds from the inspections shall be deposited by the sheriff within thirty days into the county law enforcement fund if one exists; otherwise into the county general revenue fund. **If the inspection is completed by the Missouri state highway patrol, the applicant shall pay the ten dollar inspection fee to the director of revenue at the time of application for a certificate of ownership for the homemade trailer. The fee shall be deposited in the state treasury to the credit of the state highway fund.**

5. The sheriff **or Missouri state highway patrol** shall inspect the trailer and certify it if the trailer appears to be homemade. The sheriff **or Missouri state highway patrol** may request the owner to provide any documents or other evidence showing that the trailer was homemade. When a trailer is certified **by the sheriff**, the sheriff [shall] **may** stamp a permanent identifying number in **the tongue of** the frame [in a manner designated by the director of revenue]. The certificate of inspection shall be on a form designed and provided by the director of revenue.

6. **Upon presentation of the certificate of inspection and all applicable documents and fees including the identification plate fee provided in section 301.380, the director of revenue shall issue a readily distinguishable manufacturers' identifying number plate. The identification number plate shall be affixed to the tongue of the trailer's frame.**

7. The sheriff **or Missouri state highway patrol** may seize any trailer which has been stolen or has identifying numbers obliterated or removed. The sheriff **or Missouri state highway patrol** may hold the trailer as evidence while an investigation is conducted. The trailer shall be returned if no related criminal charges are filed within thirty days or when the charges are later dropped or dismissed or when the owner is acquitted."; and

Further amend the title and enacting clause accordingly.

Senator Westfall moved that the above amendment be adopted.

Senator Staples raised the point of order that SA 4 is out of order as it goes beyond the scope and title of the bill.

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

SA 4 was again taken up.

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

Senator Russell offered SA 5:

SENATE AMENDMENT NO. 5

Amend Senate Committee Substitute for House Committee Substitute for House Bill No. 60, Page 1, In the Title, Line 13, by deleting the word "forty-four" and inserting in lieu thereof the word "forty-five"; and

Further amend said bill, Page 2, Section A, Line 11, by deleting the word "forty-four" and inserting in lieu thereof the word "forty-five"; and

Further amend said bill, Page 2, Section A, Line 16, by deleting the word and number "and 6" and inserting in lieu thereof the following: ", 6 and 7"; and

Further amend said bill, Page 48, Section 6, Line 6, by inserting after all of said line the following:

"Section 7. 1. A motor vehicle owner may receive special license plates as prescribed in this section after an annual payment of an emblem-use authorization fee to the Missouri federation of square and round dance clubs. The Missouri federation of square and round dance clubs hereby authorizes the use of its official emblem to be affixed on multiyear personalized license plates as provided in this section. Any contribution to the Missouri federation of square and round dance clubs derived from this section, except reasonable administrative costs, shall be used solely for the educational programs or purposes of the federation. Any motor vehicle owner may annually apply for the use of the emblem.

2. Upon annual application and payment of a five dollar emblem-use contribution to the

Missouri federation of square and round dance clubs, the federation shall issue to the vehicle owner, without further charge, an emblem-use authorization statement, which shall be presented by such owner to the department of revenue at the time of registration of a motor vehicle. Upon presentation of the annual statement and payment of the fee required for personalized license plates in section 301.144, RSMo, and other fees and documents which may be required by law, the department of revenue shall issue a personalized license plate, which shall bear the emblem of the Missouri federation of square and round dance clubs, to the vehicle owner. Such license plates shall be made with fully reflective material with a common color scheme and design, shall be clearly visible at night, and shall be aesthetically attractive, as prescribed by section 301.130, RSMo.

3. A vehicle owner, who was previously issued a plate with the Missouri federation of square and round dance clubs emblem authorized by this section but who does not provide an emblem-use authorization statement at a subsequent time of registration, shall be issued a new plate which does not bear the federation emblem, as otherwise provided by law. The director of revenue shall make necessary rules and regulations for the administration and enforcement of this section, and shall design all necessary forms required by this section. No rule or portion of a rule promulgated pursuant to the authority of this section shall become effective unless it has been promulgated pursuant to the provisions of chapter 536, RSMo."

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

Senator Bentley offered SA 6, which was read:
SENATE AMENDMENT NO. 6

Amend Senate Committee Substitute for House Committee Substitute for House Bill No. 60, Pages 46 and 47, Section 4, Lines 1 through 64, by deleting said lines; and further amend the title and enacting clause accordingly.

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

Senator Schneider assumed the Chair.

Senator Ehlmann offered **SA 7**:

SENATE AMENDMENT NO. 7

Amend Senate Substitute for Senate Committee Substitute for House Committee Substitute for House Bill No. 60, Page 5, Section 301.064, Line 21, by striking the word "promulgated" and inserting in lieu thereof the following: "**created**"; and further amend lines 22 and 23, by striking the following: "has been promulgated pursuant to" and inserting in lieu thereof the following: "**complies with and is subject to all of**"; and further amend line 23, by inserting after "RSMo." the following: "**All rulemaking authority delegated prior to August 28, 1999, is of no force and effect and repealed.**"; and

Further amend said bill, Page 16, Section 301.144, line 20, by striking the word "promulgated" and inserting in lieu thereof the following: "**created**"; and further amend line 21, by striking the following: "has been promulgated pursuant to" and inserting in lieu thereof the following: "**complies with and is subject to all of**"; and further amend line 22, by inserting after "RSMo." the following: "**All rulemaking authority delegated prior to August 28, 1999, is of no force and effect and repealed.**"

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

Senator Wiggins offered **SA 8**:

SENATE AMENDMENT NO. 8

Amend Senate Committee Substitute for House Committee Substitute for House Bill No. 60, Page 48, Section 6, Line 6, by inserting after all of said line the following:

"Section 7. 1. Any person may receive specialized license plates with words and an emblem which denotes respect for human life both before and after birth, pursuant to this section, for any vehicle such person owns either solely or jointly, other than an apportioned motor vehicle or a commercial motor vehicle

licensed in excess of eighteen thousand pounds gross weight after a contribution of at least twenty-five dollars to the Missouri alternatives to abortion support fund. Such license plates shall be called "Respect Life License Plates".

2. Respect life license plates shall bear the words "RESPECT LIFE" in place of the words "SHOW-ME STATE", shall bear an image of a single red rose placed on the plate in a conspicuous manner, and shall have a background with a color scheme chosen to complement and highlight the words "RESPECT LIFE" and the image of the red rose. Such license plates shall be made with fully reflective material with a common color scheme and design, shall be clearly visible at night, and shall be aesthetically attractive, as prescribed by section 301.130, RSMo. A fee for the issuance of personalized license plates pursuant to section 301.144, RSMo, shall not be required for plates issued pursuant to this section.

3. The contribution of at least twenty-five dollars to the Missouri alternatives to abortion support fund shall be made to the director of revenue at the time of registration of the vehicle. The director shall transfer such contributions to the state treasurer for deposit in the Missouri alternatives to abortion support fund. Upon the receipt of such contribution, payment of the regular registration fees and presentation of other documents which may be required by law, the director of revenue shall issue respect life license plates to the vehicle owner.

4. There shall be no limit on the number of sets of respect life license plates a person may obtain pursuant to this section so long as such license plates are issued for vehicles owned solely or jointly by such person, and so long as a contribution of twenty-five dollars is made for each set of respect life license plates.

5. A vehicle owner who was previously issued respect life license plates but who does not make a contribution of at least twenty-five dollars to the Missouri alternatives to abortion support fund at a subsequent time of registration shall be issued new plates which are not respect life license plates, as otherwise

provided by law.

6. The director of revenue shall issue samples of the respect life license plates to all offices in this state where vehicles are registered and license plates are issued. Such sample license plates shall be prominently displayed in such offices along with literature prepared by the director, by the Missouri respect life commission, or jointly, describing the license plates, the Missouri alternatives to abortion support fund, and the purposes for which the fund was created.

7. The general assembly may appropriate moneys annually from the Missouri alternatives to abortion support fund to the department of revenue to offset costs incurred for collecting and transferring contributions pursuant to this section.

8. The director of revenue shall promulgate all necessary rules and regulations for the enforcement of this section. Any rule or portion of a rule, as that term is defined in section 536.010, RSMo, that is created under the authority delegated in this section shall become effective only if it complies with and is subject to all of the provisions of chapter 536, RSMo, and, if applicable, section 536.028, RSMo. This section and chapter 536, RSMo, are nonseverable and if any of the powers vested with the general assembly pursuant to chapter 536, RSMo, to review, to delay the effective date or to disapprove and annul a rule are subsequently held unconstitutional, then the grant of rulemaking authority and any rule proposed or adopted after August 28, 1999, shall be invalid and void.

Section 8. 1. There is hereby established in the state treasury the "Missouri Alternatives to Abortion Support Fund". The state treasurer shall credit to and deposit in such fund all moneys which may be required by law to be credited to or deposited in such fund, all moneys which may be appropriated to it by the general assembly, other amounts which may be received from general revenue, grants, gifts, bequests or from federal, state or local sources, and any other sources granted or given for this specific

purpose.

2. The state treasurer shall invest moneys in the Missouri alternatives to abortion support fund in the same manner as surplus state funds are invested pursuant to section 30.260, RSMo. All earnings which result from the investment of moneys in the Missouri alternatives to abortion support fund shall be credited to such fund.

3. The provisions of section 33.080, RSMo, requiring all unexpended balances remaining in various state funds to be transferred and placed to the credit of the general revenue fund of this state at the end of each biennium, shall not apply to the Missouri alternatives to abortion support fund.

4. The administration of the Missouri alternatives to abortion support fund, including but not limited to the disbursement of moneys from such fund, shall be as prescribed by the Missouri respect life commission in its rules. Moneys credited to and deposited in the fund shall only be used by the commission for the purposes authorized pursuant to this section or as otherwise provided by law.

5. Until the amount in the Missouri alternatives to abortion support fund exceeds one million dollars, not more than one-half of the money credited to and deposited in the fund from all sources, plus all earnings from the investment of moneys in the fund credited to the fund during the previous fiscal year, shall be available for disbursement by the Missouri respect life commission pursuant to this section. When the state treasurer certifies that the assets in the fund exceed one million dollars, from that time on all credited earnings plus all future credits to and deposits in the fund from all sources shall be available for disbursement by the commission within the limits of appropriations and for the purposes of this section. The general assembly may appropriate moneys annually from the Missouri alternatives to abortion support fund to the office of administration to pay the expenses incurred by the office of administration for budgetary, procurement, accounting and other related management functions performed by it relating

to the Missouri respect life commission, to the members of the commission to pay the expenses of the members, and to the executive director and employees of the commission for salaries.

6. The purpose of the Missouri alternatives to abortion support fund is to support those private agencies which are:

(1) Established primarily to provide alternative to abortion services, and which do not perform or refer for abortions;

(2) Located in this state; and

(3) Exempt from income taxation pursuant to the United States Internal Revenue Code.

For purposes of this section, the term "alternative to abortion services" means services or counseling offered to a woman with a crisis pregnancy or unplanned pregnancy specifically to assist her in carrying her pregnancy to term instead of having an abortion.

Section 9. 1. There is hereby established in the office of administration the "Missouri Respect Life Commission". The commission shall consist of thirteen members, two who shall be members of the Missouri senate, one from the majority party and one from the minority party, appointed by the president pro tem of the senate, two who shall be members of the Missouri house of representatives, one from the majority party and one from the minority party, appointed by the speaker of the house of representatives, and nine members, one from each congressional district, appointed by the governor with the advice and consent of the senate. Not more than five congressional district members shall be from the same political party.

2. The four members appointed from the general assembly shall serve during their term as a member of the general assembly, and the nine congressional district members shall serve four-year terms, except that of the initial appointments, five shall be appointed for a term of four years and four shall be appointed for a term of two years. Before the expiration of the term of a congressional district member appointed by the governor, the governor shall

appoint a successor whose term begins on July first next following. Each member shall serve until his or her successor is appointed. A member is eligible for reappointment. If there is a vacancy of a congressional district member for any cause, the governor shall make an appointment for the unexpired term with the advice and consent of the senate.

3. To be eligible for appointment to the commission and confirmation of the senate, a person shall demonstrate agreement with the principles and goals set forth in this section regarding respect for innocent human life from conception until natural death, and the need to offer and promote alternative to abortion services for pregnant women so that such women are encouraged to carry their pregnancies to term instead of having abortions. In making congressional district member appointments to the commission, the governor shall consider nominees recommended to the governor for appointment by right-to-life organizations of this state.

4. Any congressional district member may be removed by the governor for misconduct, incompetency or neglect of duty after first being given the opportunity to be heard in his or her own behalf.

5. The commission shall elect one of its members to serve as chairperson of the commission, and may elect such other officers and establish such committees as deemed necessary.

6. The commission may appoint an executive director who shall serve subject to the supervision of and at the pleasure of the commission. The executive director shall be responsible for the administrative operations of the commission and shall perform such other duties as may be delegated or assigned to the executive director by law or the commission. The executive director may obtain all necessary office space, facilities and equipment, and may hire and set the compensation of such staff as is approved by the commission, within the limitations of appropriations for this purpose.

7. Each member of the commission shall

serve without compensation but shall be reimbursed for ordinary and necessary expenses incurred in the performance of his or her duties.

8. The commission shall exercise its powers and duties independently of the office of administration, except that budgetary, procurement, accounting and other related management functions shall be performed by the office of administration.

9. The commission shall meet at least quarterly.

10. The powers and duties of the Missouri respect life commission shall include, but not be limited to, the following:

(1) To disburse funds from the Missouri alternatives to abortion support fund and any other funds authorized by law to be disbursed by the commission;

(2) To consult with appropriate state agencies, commissions, boards and public and private agencies to determine the effectiveness of, and need for, alternative to abortion services and effectiveness of, and need for, programs that foster respect for human life both before and after birth;

(3) To facilitate information exchange and coordination among agencies and groups concerned with offering and promoting alternative to abortion services, and concerned with offering and promoting programs that foster respect for human life both before and after birth;

(4) To develop statewide educational and public informational campaigns, conferences and workshops for the purpose of developing appropriate public awareness regarding respect for human life both before and after birth, and the need to offer and promote alternative to abortion services;

(5) To identify those groups of pregnant women at risk of obtaining abortions, identify problems and conditions such pregnant women have and encounter which causes them to choose to obtain abortions instead of choosing to carry their pregnancies to term, and propose

solutions to such problems and conditions;

(6) To recommend statutory changes and appropriations to promote alternative to abortion services and to promote programs that foster respect for human life both before and after birth;

(7) To solicit and accept general revenue, grants, gifts, bequests, contributions or other aid from the general assembly, any person or business, organization or foundation, public or private, or from federal, state or local sources;

(8) To perform any other functions or duties consistent with the provisions of this section or otherwise required by law;

(9) To promulgate rules necessary to administer the provisions of this section. Any rule or portion of a rule, as that term is defined in section 536.010, RSMo, that is created under the authority delegated in this section shall become effective only if it complies with and is subject to all of the provisions of chapter 536, RSMo, and, if applicable, section 536.028, RSMo. This section and chapter 536, RSMo, are nonseverable and if any of the powers vested with the general assembly pursuant to chapter 536, RSMo, to review, to delay the effective date or to disapprove and annul a rule are subsequently held unconstitutional, then the grant of rulemaking authority and any rule proposed or adopted after August 28, 1999, shall be invalid and void.

11. The Missouri respect life commission shall submit an annual report of its activities to the president pro tem of the senate, the speaker of the house of representatives and the governor before January thirty-first of each year."; and

Further amend title and enacting clause accordingly.

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

Senator Staples moved that SCS for HCS for HB 60, as amended, be adopted, which motion prevailed.

Senator Mathewson assumed the Chair.

On motion of Senator Staples, **SCS** for **HCS** for **HB 60**, as amended, was read the 3rd time and passed by the following vote:

YEAS—Senators

Bentley	Bland	Caskey	Childers
DePasco	Ehlmann	Flotron	Graves
House	Howard	Kenney	Klarich
Mathewson	Maxwell	Russell	Schneider
Scott	Staples	Steelman	Stoll
Westfall	Wiggins	Yeckel—23	

NAYS—Senators

Rohrbach Sims—2

Absent—Senators

Banks	Clay	Goode	Jacob
Johnson	Kinder	Mueller	Quick—8

Absent with leave—Senator Singleton—1

The President declared the bill passed.

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

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

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

PRIVILEGED MOTIONS

Senator DePasco moved that **SB 196**, with **HCS**, as amended, be taken up for 3rd reading and final passage, which motion prevailed.

HCS for **SB 196**, as amended, entitled:

HOUSE COMMITTEE SUBSTITUTE FOR
SENATE BILL NO. 196

An Act to repeal sections 86.450, 86.457 and 105.691, RSMo Supp. 1998, relating to certain retirement systems, and to enact in lieu thereof three new sections relating to the same subject.

Was taken up.

Senator DePasco moved that **HCS** for **SB 196**, as amended, be adopted, which motion failed by the following vote:

YEAS—Senators—None

NAYS—Senators

Bentley	Bland	Caskey	Childers
DePasco	Ehlmann	Flotron	Graves
House	Howard	Kenney	Klarich
Mathewson	Maxwell	Quick	Rohrbach
Russell	Schneider	Scott	Sims
Staples	Steelman	Stoll	Westfall
Wiggins	Yeckel—26		

Absent—Senators

Banks	Clay	Goode	Jacob
Johnson	Kinder	Mueller—7	

Absent with leave—Senator Singleton—1

Senator DePasco moved that the Senate request the House to take up and pass **SB 196**, which motion prevailed.

President Pro Tem Quick assumed the Chair.

MESSAGES FROM THE HOUSE

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

Mr. President: I am instructed by the House of Representatives to inform the Senate that the Speaker has appointed the following conferees to act with a like committee from the Senate on **SS** for **SCS** for **HB 65**, as amended: Representatives O'Toole, Skaggs, Hagan-Harrell, Elliott, Legan.

Also,

Mr. President: I am instructed by the House of Representatives to inform the Senate that the House has taken up and passed **SB 495**.

Bill ordered enrolled.

Also,

Mr. President: I am instructed by the House of Representatives to inform the Senate that the House has taken up and passed **HS** for **SB 32**, entitled:

An Act to repeal sections 288.038, 288.040 and 288.126, RSMo Supp. 1998, relating to the rights and benefits of employees, and to enact in lieu thereof five new sections relating to the same subject.

In which the concurrence of the Senate is respectfully requested.

Also,

Mr. President: I am instructed by the House of

Representatives to inform the Senate that the House has taken up and passed **HS** for **SB 326**, entitled:

An Act to repeal sections 197.310, 197.315, 197.325, 197.330, 197.335, 197.350, 197.360, 197.365, 198.015, 198.070 and 198.073, RSMo 1994, and sections 197.305, 197.313, 197.316, 197.317, 197.318, 197.320, 198.067 and 198.439, RSMo Supp. 1998, relating to nursing home reimbursement and regulation, and to enact in lieu thereof twenty-nine new sections relating to the same subject, with an emergency clause for certain sections, expiration dates for certain sections and penalty provisions.

Emergency clause adopted.

In which the concurrence of the Senate is respectfully requested.

Also,

Mr. President: I am instructed by the House of Representatives to inform the Senate that the House refuses to adopt **SS** for **SCS** for **HCS** for **HB 888**, as amended, and requests the Senate to recede from its position and failing to do so, grant the House a conference thereon and the conferees are allowed to exceed the differences on taking out the provisions for the state's equity position as stated in the bill.

PRIVILEGED MOTIONS

Senator Mathewson moved that the Senate refuse to recede from its position on **SS** for **SCS** for **HB 888**, as amended, and grant the House a conference thereon and further that the conferees be allowed to exceed the differences on taking out the provisions for the state's equity position as stated in the bill, which motion prevailed.

CONFERENCE COMMITTEE APPOINTMENTS

President Pro Tem Quick appointed the following conference committee to act with a like committee from the House on **SS** for **SCS** for **HB 888**, as amended: Senators Mathewson, Johnson, Caskey, Graves and Westfall.

RESOLUTIONS

On behalf of Senator Singleton, Senator Quick offered Senate Resolution No. 819, regarding

Marilyn Jacobs, Joplin, which was adopted.

Senator Westfall offered Senate Resolution No. 820, regarding the death of D. L. "Bub" Barham, Halfway, which was adopted.

Senators Bland and Banks offered the following resolution, which was read and adopted:

SENATE RESOLUTION NO. 821

WHEREAS, the Members of the Missouri Senate are always pleased to recognize Missouri citizens and the organizations they serve when they observe significant milestones in their lives; and

WHEREAS, it has come to the attention of this body that Representative Betty L. Thompson, a distinguished State Legislator, outstanding wife and mother along with her husband and daughter will soon be celebrating another big accomplishment; and

WHEREAS, on Friday, May 14, 1999 Representative Thompson, her husband Jack and daughter Sonja will gather at the campus of Washington University as a proud family to attend the commencement exercise of their two sons, as they receive degrees; and

WHEREAS, Anthony "Tony" Thompson, a fine gentleman, son, brother, CEO and President of Kwame Building Group will be receiving a Master's Degree in Engineering from Washington University. This degree will be added to his collection of degrees, which includes degrees in Finance, Architecture Engineering, Business, Environment, and Urban Design. Anthony plans to utilize his degrees and expertise by working with the St. Louis Airport Expansion Project in construction management; and

WHEREAS, Kwame Terrence Thompson, a fine gentleman, son, and brother will also receive a degree on that same day. Kwame, who already holds a Bachelor of Science Degree in Biology will receive a Juris Doctor Degree in Law; and

WHEREAS, during his academic career, Kwame has served as past president of the Dr. Martin Luther King Youth Group, past president of Kappa Alpha Psi Fraternity, past president of the Panalistic Group and has just completed his internship as Law Clerk in Washington D.C. while working for Congressman William "Bill" Clay. Kwame has already accepted a position with Bryan Cave Law Firm, one of the biggest law firms in St. Louis; and

WHEREAS, in praising Anthony and Kwame for completing another great milestone, recognition must be given to the proud parents, Representative Betty Thompson and husband Jack for their outstanding job as parents, and role models to their children; and

WHEREAS, Sunday, May 9, 1999 will be observed as Mother's Day honoring all mothers around the globe for their continuous jobs and tireless efforts in providing love, care, warmth and direction to their children; and

WHEREAS, it is only proper and fitting to take this moment to honor Representative Betty Thompson, as "Legislative Mother of the Year" for all of the contributions that she has made to her constituents, community, and most importantly her family including her two fine sons Anthony and Kwame;

NOW, THEREFORE, BE IT RESOLVED that the members

of the Missouri Senate, 90th General Assembly, join Senator J.B. "Jet" Banks, of the Fifth Senatorial District in commending Representative Thompson for her exemplary work as a mother, which is truly reflected in the accomplishments of her sons; and

BE IT FURTHER RESOLVED that the Secretary of the Senate be instructed to prepare a properly inscribed copy of this resolution for Representative Thompson, and her husband Jack, Anthony "Tony" Thompson, Kwame Terrence Thompson and Sonja Thompson.

Senator Rohrbach offered the following resolution, which was adopted:

SENATE RESOLUTION NO. 822

WHEREAS, May 22, 1999, will irrefutably be a very special day for Mr. and Mrs. Joseph A. Schnieders of Jefferson City, Missouri, as they commemorate the truly remarkable occasion of their Fiftieth Wedding Anniversary; and

WHEREAS, upon attaining this significant milestone in their marriage, Joseph and Susie (Engelbrecht) Schnieders will undoubtedly look back some five decades ago and reminisce about the first time they met, their courtship, and that glorious day in which they exchanged their sacred nuptial vows during a beautiful ceremony in Wardsville; and

WHEREAS, God has blessed Joseph and Susie Schnieders with a wonderful family whose members include their children, Nancy and Bill Gratz and Brenda and Fred Roling; five grandchildren, Craig Gratz, Travis Roling, Kim Sandbothe, Troy Roling, and Kristi Gratz; two great-grandchildren, Tyler and Logan Gratz; and two additional great-grandchildren due in June; and

WHEREAS, known as a dedicated family man, Joseph Schnieders worked for several years at the International Shoe Factory before becoming employed as a carpenter at Otke and Kaiser Construction Company prior to retirement; and

WHEREAS, Susie Schnieders distinguished herself through a long and illustrious career at the International Shoe Factory and at Busch's Lake, now known as Hidden Valley; and

WHEREAS, Joseph Schnieders derives spiritual fulfillment from his affiliation with St. Stanislaus Church in Wardsville, while Susie worships at Immanuel Lutheran Church in Honey Creek; and

WHEREAS, always there for their family, Mr. and Mrs. Schnieders enjoy spending time with their loved ones while fishing, mushroom hunting, deer and turkey hunting, barbecuing, and gardening:

NOW, THEREFORE, BE IT RESOLVED that we, the members of the Missouri Senate, Ninetieth General Assembly, unanimously join in extending our most hearty congratulations and best wishes to his mother- and father-in-law, Joseph and Susie Schnieders, for their tremendous success in achieving fifty years of matrimonial happiness and in wishing them only the best as they continue their journey together walking hand-in-hand along life's path; and

BE IT FURTHER RESOLVED that the Secretary of the Senate be instructed to prepare a properly inscribed copy of this resolution for Mr. and Mrs. Joseph A. Schnieders.

Senator Quick offered Senate Resolution No. 823, regarding Gary Richard McCollough, Liberty, which was adopted.

REPORTS OF STANDING COMMITTEES

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

Mr. President: Your Committee on Rules, Joint Rules and Resolutions, to which was referred **SS No. 2** for **SB 336**, 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.

Senator Caskey, Chairman of the Committee on Civil and Criminal Jurisprudence, submitted the following report:

Mr. President: Your Committee on Civil and Criminal Jurisprudence, to which was referred **HS** for **HCS** for **HBs 283, 286, 325, 370, 551, 36, 42, 73, 111, 341, 619, 62** and **579**, begs leave to report that it has considered the same and recommends that the Senate Committee Substitute, hereto attached, do pass.

Senator Howard, Chairman of the Committee on Aging, Families and Mental Health, submitted the following report:

Mr. President: Your Committee on Aging, Families and Mental Health, to which was referred **HS** for **HCS** for **HB 826**, begs leave to report that it has considered the same and recommends that the Senate Committee Substitute, hereto attached, do pass.

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

Mr. President: Your Committee on Agriculture, Conservation, Parks and Tourism, to which was referred **HCS** for **HJR 26**, begs leave to report that it has considered the same and recommends that the Senate Committee Substitute, hereto attached, do pass.

On motion of Senator DePasco, the Senate adjourned until 12:00 noon, Monday, May 10, 1999.

SENATE CALENDAR

SIXTY-NINTH DAY—MONDAY, MAY 10, 1999

FORMAL CALENDAR

THIRD READING OF SENATE BILLS

SB 472-House	SS for SCS for SBs 75,
SCS for SB 440-Schneider	381 & 204-Wiggins
(In Budget Control)	SS#2 for SB 336-Caskey
SS for SCS for SBs 347,	
40, 241 & 301-House	

SENATE BILLS FOR PERFECTION

- | | |
|--|--|
| 1. SB 274-House, et al,
with SCS | 7. SB 98-Kenney |
| 2. SBs 18, 49 & 167-
Goode, et al, with SCS | 8. SJR 29-Caskey |
| 3. SBs 398 & 376-Maxwell,
with SCS | 9. SB 16-Mathewson,
et al, with SCA 1 |
| 4. SB 507-Childers | 10. SB 52-Klarich and
Flotron |
| 5. SB 413-Johnson, et al | 11. SB 236-Stoll |
| 6. SJR 16-Schneider,
with SCS | 12. SB 447-Stoll |

HOUSE BILLS ON THIRD READING

- | | |
|--|--|
| 1. HCS for HB 267, with
SCS (Scott)
(In Budget Control) | (In Budget Control) |
| 2. HS for HCS for HB 852-
Hosmer, with SCS
(Caskey) | 6. HS for HCS for HB 793-
Treadway, with SCS
(Mathewson) |
| 3. HS for HCS for HBs 246 &
405-Bray,
with SCS (Clay)
(In Budget Control) | 7. HB 368-Murray and
Franklin, with SCS
(Goode) |
| 4. HCS for HB 889 (Stoll) | 8. HB 64-Long (Russell) |
| 5. HCS for HBs 603, 722
& 783, with SCS
(Goode) | 9. HS for HCS for HB 822-
Liese, with SCS (Clay) |
| | 10. HCS for HBs 321 & 493,
with SCAs 1 & 2 (Jacob) |
| | 11. HCS for HBs 192 & 945,
with SCS (Maxwell) |

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| <p>12. HCS for HB 389, with
SCS (Klarich)</p> <p>13. HCS for HB 599, with
SCS (Jacob)</p> <p>14. HCS for HBs 430 & 648,
with SCS (Quick)</p> | <p>15. HS for HCS for HBs 283, 286,
325, 370, 551, 36, 42, 73,
111, 341, 619, 62 & 579-
Hosmer, with SCS</p> <p>16. HS for HCS for HB 826-
Harlan, with SCS</p> <p>17. HCS for HJR 26, with SCS</p> |
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INFORMAL CALENDAR

THIRD READING OF SENATE BILLS

SCS for SB 425-Stoll, et al

SENATE BILLS FOR PERFECTION

- | | |
|--|--|
| <p>SB 5-Wiggins, with SS,
SA 2 & point of order
(pending)</p> <p>SB 30-Howard, with SCS
(pending)</p> <p>SB 78-Russell, with SA 4
(pending)</p> <p>SB 97-Maxwell and Sims</p> <p>SB 179-Goode, with SA 3 &
SSA 1 for SA 3 (pending)</p> <p>SB 203-Wiggins</p> <p>SB 208-House, with SCS &
SS for SCS (pending)</p> <p>SB 235-Stoll, with SS &
SA 2 (pending)</p> | <p>SB 316-Schneider and
Ehlmann</p> <p>SB 318-Jacob, et al, with
SCS & SS for SCS
(pending)</p> <p>SB 339-Howard and Sims,
with SCS & SS#2 for
SCS (pending)</p> <p>SB 345-Johnson, with SS
(pending)</p> <p>SB 397-Maxwell, with SCS</p> <p>SB 417-Quick, with SS#2 &
SA 1 (pending)</p> <p>SBs 429, 430 & 407-Jacob,
with SCS & SA 2
(pending)</p> |
|--|--|

HOUSE BILLS ON THIRD READING

- | | |
|--|--|
| <p>HB 191-Dougherty, et al,
with SCS (Maxwell)</p> <p>HCS for HBs 316, 660 &
203, with SCS (Howard)</p> <p>SCS for HCS for HB 343
(Caskey)</p> <p>HCS for HB 349, with SCS
& SS for SCS (pending) (Clay)</p> | <p>HB 468-Koller, with SCS,
SA 1, SSA 1 for SA 1 &
point of order (pending)
(Staples)</p> <p>HCS for HB 490 & HCS for
HB 308, with SCS, SS
for SCS & SA 3 (pending)
(Sims)</p> |
|--|--|

HS for HB 516-Gaw, with
SCS (Jacob)
HB 541-Kreider, et al
(Mathewson)
HB 542-Barry, with SCS
(House)
HS for HCS for HB 618-
Harlan, with SCS, SS#2
for SCS & SA 1
(pending) (Maxwell)

HCS for HB 676, with SCS
(Stoll)
HS for HCS for HB 701-
Rizzo, with SCS
(Mathewson)
HCS for HB 780, with SCS
(Stoll)
HJR 5-Barry, et al, with
SA 2 & point of order
(pending) (Stoll)

Unofficial

CONSENT CALENDAR

House Bills

Reported 4/13

HB 775-Hosmer, with SCS
(Bentley)

Reported 4/14

HB 680-Leake, et al, with
SCA 1 (Stoll)
HB 903-Auer (Jacob)

HB 926-Liese and Ward
(Jacob)

Reported 4/15

HB 812-Berkowitz, et al,
with SCS (Maxwell)
HB 988-Backer (Wiggins)

HB 399-Bray (Wiggins)
HB 472-Nordwald (House)

SENATE BILLS WITH HOUSE AMENDMENTS

SB 32-Howard, with HS
SB 115-Russell, with
HCA 1
SB 294-Staples, with HA 1,
HA 2, HA 3, HA 4,
HA 6 & HA 7

SCS for SBs 295 & 46-Schneider,
et al, with HS for
HCS, as amended
SCS for SBs 308 & 314-
Scott and Russell, with HS
for HCS, as amended
SB 326-Goode, with HS

Journal

Copy

BILLS IN CONFERENCE AND BILLS
CARRYING REQUEST MESSAGES

In Conference

SCS for SBs 8 & 173-Banks,
with HS for HCS, as
amended

SCS for SBs 31 & 285-
Howard, with HCS, as
amended
(Further conference granted)

SB 76-Banks, with HA 1,
HA 2, HA 3 & HA 4

SB 219-Caskey, with HCS,
as amended

(Senate adopted CCR
and passed CCS)

SS#2 for SB 288-Quick,
with HCS, as amended

SB 291-Caskey, with HS
for HCS, as amended
(Senate adopted CCR#2
and passed CCS#2)

SB 310-Maxwell, with HS,
as amended

(Senate adopted CCR
and passed CCS)

SS for SCS for SB 338-
Howard and Sims, with
HS for HCS, as amended

SCS for SB 436-Quick,
with HS for HCS, as
amended

HB 65-O'Toole and May
(108th), with SS for SCS, as
amended (Scott)

HCS for HB 888, with SS
for SCS, as amended
(Mathewson)

Requests to Recede or Grant Conference

SB 196-DePasco
(Senate requests House
take up and pass the bill)

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

SCR 14-Quick, with HCA 1
SCR 13-Stoll, with HA 1

Reported from Committee

HCR 17-Barnett (Graves)
HCS for HCR 29, with SCS
(Howard)

HCR 30-Clayton, with SCS
(Wiggins)

HCS for HCRs 24 & 15,
with SCS (Clay)
SR 588-Sims
HCR 35-Gaw, et al (Bland)

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