

Journal of the Senate

NINETIETH GENERAL ASSEMBLY

OF THE

STATE OF MISSOURI

FIRST REGULAR SESSION

VETO SESSION

FIRST DAY—WEDNESDAY, SEPTEMBER 15, 1999

The Senate was called to order in Veto Session by President Wilson.

Staples Steelman Stoll Westfall
Wiggins Yeckel—34

The Reverend Carl R. Gauck offered the following prayer:

Absent with leave—Senators—None

Hear the Psalmist's Words: "Be Still, then, and know that I am God." (Psalm 46:11)

The Lieutenant Governor was present.

Gracious and Heavenly Father: We are thankful to be part of Your creation and for the opportunities for re-creation during what seems such a short break from our business here in the Senate. We would ask that You be with us during these days guiding our hearts and minds as we consider the bills sent back for our consideration once again. As we do so we ask that You still the storms about us so we may listen to Your still quiet voice and do what is in keeping with Your Gracious will. In Your Holy Name we pray. Amen.

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

COMMUNICATIONS FROM THE GOVERNOR

The Pledge of Allegiance to the Flag was recited.

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

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

OFFICE OF THE GOVERNOR
State of Missouri
Jefferson City, Missouri
July 13, 1999

Present—Senators

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

TO THE SECRETARY OF STATE OF THE STATE OF MISSOURI

Herewith I return to you Senate Committee Substitute for Senate Bill No. 244 entitled:

AN ACT

To repeal section 337.029, RSMo Supp. 1998, as enacted by conference committee substitute for senate committee substitute for house substitute for house

committee substitute for house bills nos. 1601, 1591, 1592, 1479 and 1615 and house committee substitute for house bills nos. 1094, 1213, 1311 and 1428, eighty-ninth general assembly, second regular session, relating to the regulation and licensing of psychologists.

I disapprove of Senate Committee Substitute for Senate Bill No. 244. My reasons for disapproval are as follows:

Instead of repealing the language of section 337.029, RSMo Supp. 1998, as enacted by conference committee substitute for senate committee substitute for house substitute for house committee substitute for house bills nos. 1601, 1591, 1592, 1479 and 1615 and house committee substitute for house bills nos. 1094, 1213, 1311 and 1428, eighty-ninth general assembly, second regular session, relating to the regulation and licensing of psychologists, it repealed the language of Senate Bill 732 enacted during the second session of the eighty-ninth general assembly.

For all of the above stated reasons for disapproval, I am returning Senate Committee Substitute for Senate Bill No. 244 without my approval.

Respectfully submitted,
/s/ Mel Carnahan

Also,

OFFICE OF THE GOVERNOR

State of Missouri
Jefferson City, Missouri
July 13, 1999

TO THE SECRETARY OF STATE OF THE STATE OF MISSOURI

Herewith I return to you Conference Committee Substitute for Senate Bill 294 entitled:

AN ACT

To repeal sections 302.020 and 302.321, RSMo Supp. 1998, relating to motor vehicles, and to enact in lieu thereof two new sections relating to the same subject, with penalty provisions.

I disapprove of Conference Committee Substitute for Senate Bill 294. My reasons for disapproval are as follows:

This bill repeals the 32 year old law requiring motorcyclists to wear a motorcycle helmet unless the motorcyclist is 21 years of age or under.

Traffic crashes are the leading cause of death and disability in the United States. Per mile traveled, motorcyclists are 16 times more likely than passenger car occupants to die in a traffic crash and about four times as likely to be injured. National Highway Transportation Safety Administration (February 1996).

Report to Congress: Benefits of Safety Belts and Motorcycle Helmets.

While only 20 percent of car crashes result in injury or death, that figure jumps to an astounding 80 percent for motorcycle crashes. National Highway Traffic Safety Administration. *Fatality Analysis Reporting System* data (1996).

The single most important safety device a motorcyclist can have is a helmet. Helmets are about 29 percent effective in preventing motorcycle deaths and about 67 percent effective in preventing brain injuries. National Highway Traffic Safety Administration. *Traffic Safety Facts 1996 - Motorcycles*. Washington, D.C.: U.S. Department of Transportation.

Failure to use motorcycle helmets places a large financial burden on society and individual states. National Highway Traffic Safety Administration. *State Legislative Fact Sheet*, (September, 1997).

Helmet laws significantly reduce the strain on public resources. Unhelmeted riders cost more to treat at the hospital, spend a longer time in rehabilitation, and are more likely to require some form of public assistance to pay medical bills and rehabilitation. A large number of studies have focused on this issue and, although the percentages vary, one central point remains clear: whether as taxpayers or insurance customers or medical consumers, we all pay. National Highway Traffic Safety Administration (August 1998). *Without Motorcycle Helmets We all Pay the Price* (DOT HS 808 601). Washington, D.C., U.S. Department of Transportation.

The most recent statistics show that private insurance pays for approximately 66 percent of the cost of inpatient care for motorcycle crash victims. Another 22 percent is paid by public funds and 12 percent is paid by public funds and 12 percent is categorized as another source (usually self-payment). National Highway Traffic Safety Administration (February, 1996). *Report to Congress: Benefits of Safety Belts and Motorcycle Helmets*. (DOT HS 8-8-3347). Washington, D.C. U.S. Department of Transportation.

Every state legislature struggles with answering voters' requests for better education systems and lower crime rates, yet state dollars are spent on citizens who incur avoidable head injuries while riding a motorcycle without a helmet. A surviving patient with a critical head injury incurs on average of \$171,000 in medical and convalescence costs in just the first year following the injury. United States General Accounting Office. (July 1991). *Highway Safety: Motorcycle Helmet Laws Save Lives and Reduce Costs to Society*. (GAO/RCED-91-170). Washington, D.C. U.S. General Accounting Office.

But states need the right law -- a law requiring everyone who rides to wear a helmet. Age-specific laws that require only minors to wear helmets have little or no

impact and are virtually impossible to enforce. National Highway Traffic Safety Administration. (August, 1998). *Without Motorcycle Helmets We all Pay the Price* (DOT HS 808 601).

A helmet law is not a “stand-alone” issue. The motorcycle helmet law issue is directly tied to larger issues...health care, budget, and public safety...National Highway Traffic Safety Administration. (August, 1998). *Without Motorcycle Helmets We All Pay the Price* (DOT HS 808 601).

For all of the above stated reasons for disapproval, I am returning Conference Committee Substitute for Senate Bill 294 without my approval.

Respectfully submitted,
/s/ Mel Carnahan

Also,

OFFICE OF THE GOVERNOR

State of Missouri
Jefferson City, Missouri
July 13, 1999

TO THE SECRETARY OF STATE OF THE STATE OF MISSOURI

Herewith I return to you Conference Committee Substitute for House Substitute for House Committee Substitute for Senate Substitute for Senate Committee Substitute for Senate Bill No. 335 entitled:

AN ACT

To repeal sections 1.160, 149.011, 149.071, 217.760, 513.653, 558.011, 558.016, 569.025, 569.035, 570.020, 573.503 and 577.023, RSMo 1994, and sections 21.455, 392.540, 407.020, 558.019, 559.021, 559.026, 559.115, 559.630, 559.633, 559.635, 570.030, 570.040, 571.030, 589.400, 589.410, 589.414 and 589.425, RSMo Supp. 1998, relating to crimes and punishment, and to enact in lieu thereof thirty-seven new sections relating to the same subject, with penalty provisions for certain sections.

I disapprove of Conference Committee Substitute for House Substitute for House Committee Substitute for Senate Substitute for Senate Committee Substitute for Senate Bill No. 335. My reasons for disapproval are as follows:

This bill would permit a judge to order as a condition of probation a “donation of a designated amount of money to a county law enforcement fund as determined by the judge....”

It further provides that the money deposited into the fund “...shall only be expended with the approval of the majority of the presiding commissioner, the sheriff and

one other elected county official to be agreed upon by the presiding commissioner and the sheriff.”

There is no reference to the money going through the county appropriation process.

There is no limit to the amount that would be required to be paid into the fund.

There is no definition of a “county law enforcement fund.” There are no limitations on what purposes money in the fund can be spent, or that it must be used only to reimburse law enforcement for the costs of the investigation or can only be used for law enforcement purposes.

These provisions create the perception that someone could pay into the fund in order to be placed on probation, or worse, go to prison if they failed to pay into the fund. In other words “buy probation.”

While some urge the signing of this bill because of the need for additional funding for law enforcement, this bill does not require the funds be spent only on law enforcement purposes.

I must disapprove of SB 335 based upon this provision.

For all of the above stated reasons for disapproval, I am returning Conference Committee Substitute for House Substitute for House Committee Substitute for Senate Substitute for Senate Committee Substitute for Senate Bill No. 335 without my approval.

Respectfully submitted,
/s/ Mel Carnahan

Also,

OFFICE OF THE GOVERNOR

State of Missouri
Jefferson City, Missouri
July 13, 1999

TO THE SECRETARY OF STATE OF THE STATE OF MISSOURI

Herewith I return to you House Substitute for Senate Committee Substitute for Senate Bill No. 498 entitled:

AN ACT

To repeal section 210.173, RSMo 1994, and sections 301.131, 301.132, 301.142, 301.145, 301.191, 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 and 301.466, RSMo Supp. 1998, and sections 301.130 and 301.144 as both versions appear in RSMo Supp. 1998, relating to motor vehicle license plates, and to enact in lieu thereof forty-eight new sections relating to the same subject, with penalty provisions.

I disapprove of House Substitute for Senate Committee Substitute for Senate Bill No. 498. My reasons for disapproval are as follows:

While the title of the bill states that it is an act "*relating to motor vehicle license plates...*" it contains provisions creating a "Missouri Alternatives to Abortion Support Fund" and a "Missouri Respect Life Commission" in the Office of Administration. The bill also purports to create duties and responsibilities of the Commission as well as an appointment process for the members of the Commission.

These provisions are clearly unrelated to license plates.

The other license plate provisions of the act are clearly related to groups already created. This is the only provision that creates the organization that is to receive the payment for a special cause or group.

The use of a license plate bill to create a lobbying organization is inappropriate and in this particular act most likely in violation of Article III Section 23, of the Missouri constitution which states:

"No bill shall contain more than one subject which shall be clearly expressed in its title..."

For all of the above stated reasons for disapproval, I am returning House Substitute for Senate Committee Substitute for Senate Bill No. 498 without my approval.

Respectfully submitted,
/s/Mel Carnahan

RESOLUTIONS

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

SENATE RESOLUTION NO. 1

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

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

SENATE RESOLUTION NO. 2

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

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

SENATE RESOLUTION NO. 3

WHEREAS, Section 105.496 of the Revised Statutes of Missouri and Rule 25 of the Missouri Senate establish the Senate Committee on Ethics; and

WHEREAS, Rule 28 of the Missouri Senate establishes a duty on the Senate Committee on Ethics "to consider, examine and

report all matters and bills referred to it relating to ethics and the conduct of public officials and employees", and the duty to "recommend to the Senate the rules by which investigations and disciplinary proceedings will be conducted"; and

WHEREAS, the governor, as head of the executive branch, is charged with the responsibility of appointing individuals to serve in various executive and judicial functions; and

WHEREAS, legislators who are facing the prospect of removal from office by term limits may feel pressured to leave their current elected offices for other positions; and

WHEREAS, there have been recent reports in the media that such legislators may be offered employment or other pecuniary gain in exchange for their votes; and

WHEREAS, the appearance of unethical conduct by a legislative member subject to term limits, for such member's own gain, may have adverse effects on the General Assembly if not properly examined and resolved; and

WHEREAS, Senate Rule 31 authorizes the President Pro Tem of the Senate to designate any standing committee of the Senate to function during the interim as "considered necessary to consider matters referred to them, to hold hearings, hear testimony, receive evidence, make such studies as are deemed necessary and to perform any other necessary legislative function pertinent to their respective powers and duties";

NOW THEREFORE, BE IT RESOLVED, that the Missouri Senate hereby requests that the President Pro Tem of the Senate designate the Senate Committee on Ethics to conduct hearings, perform studies and make findings on matters concerning ethics and the ethical conduct of members who are subject to term limits and the potential for personal gain, which may include ethical training, examination of any allegations of such conduct as it relates to any legislation before the General Assembly, or the need to rewrite any laws governing the conduct of members of the legislative branch; and

BE IT FURTHER RESOLVED, that the Senate Committee on Ethics be authorized to consult with appropriate legal counsel in its study of ethical concerns; and

BE IT FURTHER RESOLVED, that the Senate Committee on Ethics be authorized to refer any matters deemed unethical and contrary to law to the appropriate law enforcement officials; and

BE IT FURTHER RESOLVED, that the Secretary of the Senate be instructed to prepare properly inscribed copies of this resolution for the President Pro Tem of the Senate and all members of the Senate Committee on Ethics.

Senator Klarich offered the following resolution:

SENATE RESOLUTION NO. 4

NOTICE OF PROPOSED RULE CHANGE

Notice is hereby given by the Senator from the Twenty-sixth District of the one day notice required by rule of intent to put a motion to adopt the following rule change:

BE IT RESOLVED by the Senate of the Ninetieth General Assembly, Second Regular Session, that Senate Rule 102 be amended to read as follows:

"Rule 102. A member of the Senate may accept meals, food, beverage or other gifts from a legislative lobbyist or the lobbyist's principal as defined in section 105.470(4)(a), RSMo, if any single item accepted has a value of less than fifty dollars, and all items accepted by any member in any calendar year from a lobbyist or lobbyist principal, as defined in section 105.470(4)(a), do not exceed a value of one hundred dollars in the aggregate.

This rule shall not apply to:

(1) The participation of members in activities authorized in Section 105.473.3(2)(c), RSMo, or in caucuses approved by the Senate Ethics Committee regardless of the aggregate value;

(2) The participation in seminars or meetings of national or regional associations when such participation and activities have been requested in writing and approved in advance by the Committee on Administration or **participation in seminars or meetings of a state association or receipt of educational materials from a state association**;

(3) The acceptance of meals, food or beverage or other gifts to be used for charitable purposes, as defined by law, and which are not consumed or used for the personal benefit of the member; or

(4) A member is within the second degree of consanguinity or affinity of the lobbyist with regard to any gift provided to the member by such lobbyist.

The provisions of this rule may be satisfied by reimbursing said lobbyist or lobbyist principal within thirty days of obtaining actual knowledge that reimbursement is necessary to meet the requirements of this rule."

Senator DePasco moved that the Senate proceed to the order of business, vetoed bills, and that the calendar be called, which motion prevailed.

SCS for SB 244 was called thereafter and no action was taken thereon.

CCS for SB 294 was called thereafter and no action was taken thereon.

CCS for HS for HCS for SS for SCS for SB 335 was called.

Senator Caskey moved that **CCS for HS for HCS for SS for SCS for SB 335** be passed, the objections of the Governor thereto notwithstanding, which motion prevailed by the following vote:

YEAS—Senators

Banks	Bentley	Caskey	Childers
DePasco	Flotron	House	Howard
Johnson	Kinder	Klarich	Mathewson

Mueller	Quick	Rohrbach	Schneider
Scott	Sims	Singleton	Staples
Stoll	Westfall	Wiggins	Yeckel—24

NAYS—Senators

Ehlmann	Goode	Graves	Jacob
Kenney	Maxwell	Russell	Steelman—8

Absent—Senators

Bland	Clay—2
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Absent with leave—Senators—None

HS for SCS for SB 498 was called thereafter and no action was taken thereon.

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 adopted **HR 1**.

HOUSE RESOLUTION NO. 1

BE IT RESOLVED, that the Chief Clerk of the House of Representatives of the Ninetieth General Assembly, First Regular Session, inform the Governor and the Senate that the House is duly convened and is now in session in the 1999 Constitutional Veto Session and ready for consideration of business.

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

RECESS

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

RESOLUTIONS

Senator Graves offered Senate Resolution No. 5, regarding the One Hundred First Birthday of Nina Swalley, Maryville, which was adopted.

Senator Graves offered Senate Resolution No. 6, regarding the One Hundred Third Birthday of Mrs. Anna L. Narans, St. Joseph, which was adopted.

INTRODUCTIONS OF GUESTS

Senator Klarich introduced to the Senate, Dennis and Daniel Tacchi and Dennis and

Alexander Corrigan, Wildwood; and Daniel and Alexander were made honorary pages.

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

SENATE CALENDAR

SECOND DAY—THURSDAY, SEPTEMBER 16, 1999

RESOLUTIONS

SR 4-Klarich

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