

JOURNAL OF THE HOUSE

First Regular Session, 91st GENERAL ASSEMBLY

SEVENTY-EIGHTH DAY, TUESDAY, MAY 29, 2001

The House met pursuant to adjournment.

Speaker Kreider in the Chair.

There was a moment of silent prayer.

The Pledge of Allegiance to the flag was recited.

COMMITTEE REPORT

Committee on Rules, Joint Rules, and Bills Perfected and Printed, Chairman Crump reporting:

Mr. Speaker: Your Committee on Rules, Joint Rules, and Bills Perfected and Printed, to which was referred **HS HJR 11, HB 1, CCS SCS HCS HB 2, CCS SCS HCS HB 3, CCS SCS HCS HB 4, CCS SCS HCS HB 5, CCS SCS HCS HB 6, CCS SCS HCS HB 7, CCS SCS HCS HB 8, CCS SCS HCS HB 9, CCS SCS HCS HB 10, CCS SCS HCS HB 11, CCS SCS HCS HB 12, CCS SCS HCS HB 13, CCS SCS HCS HB 14, CCS SCS HB 16, SCS HB 17, CCS SCS HCS HB 18, CCS SCS HCS HB 19, HB 45, HB 48, HB 78, CCS SCS HB 80, HB 84, HCS HB 106, SCS HS HCS HB 107, HB 129, SCS HB 133, CCS #2 SS SCS HCS HBs 144 & 46, CCS SCS HB 157, HB 163, HB 180, SS SCS HB 185, SCS HB 202, SCS HB 212, HB 218, SCS HB 219, SCS HB 236, CCS SCS HCS HB 241, SCS HB 242, HB 266, HCS HB 279, CCS #2 SCS HCS HBs 302 & 38, HB 321, SS #2 SCS HS HCS HBs 328 & 88, SCS HB 361, SS SCS HS HB 381, HB 408, HB 409, HB 410, HB 420, HS HCS HB 425, HB 431, HCS HBs 441, 94 & 244, CCS #2 SS SCS HB 453, HB 454, HB 458, SCS HB 459, HB 470, CCS SCS HB 471, SCS HB 473, CCS SCS HB 491, SCS HB 498, SS SCS HB 501, HB 502, HB 537, CCS SS SCS HCS HB 567, SS SCS HB 575, HB 590, HB 596, HB 600, SCS HB 603, SCS HB 606, SCS HB 607, CCS HB 621, SCS HB 644, SCS HBs 648, HB 477 & HB 805, SCS HCS HB 660, HB 664, HB 679, SCS HB 691, SCS HB 693, HB 725, HB 732, SS HCS HB 738, SCS HB 742, HB 745, CCS SS SCS HS HCS HB 762, HB 779, HB 788, SCS HB 796, SCS HBs 808 & 951, HB 816, HB 821, HB 825, HB 865, SCS HB 881, HB 897, SCS HB 904, HB 909, HB 922, HB 933, SCS HB 945, HB 955 and SCS HS HCS HB 1000**, begs leave to report it has examined the foregoing bills and finds the same to be truly and correctly printed as agreed to and finally passed.

SIGNING OF HOUSE JOINT RESOLUTION

All other business of the House was suspended while **HS HJR 11** was read at length and, there being no objection, was signed by the Speaker to the end that the same may become law.

Having been duly signed in open session of the Senate, **HS HJR 11** was delivered to the Secretary of State by the Chief Clerk of the House.

SIGNING OF HOUSE BILLS

All other business of the House was suspended while **HB 1, CCS SCS HCS HB 2, CCS SCS HCS HB 3, CCS SCS HCS HB 4, CCS SCS HCS HB 5, CCS SCS HCS HB 6, CCS SCS HCS HB 7, CCS SCS HCS HB 8, CCS SCS HCS HB 9, CCS SCS HCS HB 11, CCS SCS HCS HB 12, CCS SCS HCS HB 13, CCS SCS HCS HB 14, CCS SCS HB 16, SCS HB 17, CCS SCS HCS HB 18, CCS SCS HCS HB 19, HB 45, HB 48, HB 78, CCS SCS HB 80, HB 84, HCS HB 106, SCS HS HCS HB 107, HB 129, SCS HB 133, CCS #2 SS SCS HCS HBs 144 & 46, CCS SCS HB 157, HB 163, HB 180, SS SCS HB 185, SCS HB 202, SCS HB 212, HB 218, SCS HB 219, SCS HB 236, CCS SCS HCS HB 241, SCS HB 242, HB 266, HCS HB 279, CCS #2 SCS HCS HBs 302 & 38, HB 321, SS #2 SCS HS HCS HBs 328 & 88, SCS HB 361, SS SCS HS HB 381, HB 408, HB 409, HB 410, HB 420, HS HCS HB 425, HB 431, HCS HBs 441, 94 & 244, CCS #2 SS SCS HB 453, HB 454, HB 458, SCS HB 459, HB 470, CCS SCS HB 471, SCS HB 473, CCS SCS HB 491, SCS HB 498, SS SCS HB 501, HB 502, HB 537, CCS SS SCS HCS HB 567, SS SCS HB 575, HB 590, HB 596, HB 600, SCS HB 603, SCS HB 606, SCS HB 607, CCS HB 621, SCS HB 644, SCS HBs 648, HB 477 & HB 805, SCS HCS HB 660, HB 664, HB 679, SCS HB 691, SCS HB 693, HB 725, HB 732, SS HCS HB 738, SCS HB 742, HB 745, CCS SS SCS HS HCS HB 762, HB 779, HB 788, SCS HB 796, SCS HBs 808 & 951, HB 816, HB 821, HB 825, HB 865, SCS HB 881, HB 897, SCS HB 904, HB 909, HB 922, HB 933, SCS HB 945, HB 955, SCS HS HCS HB 1000 and **HS HCR 25** were read at length and, there being no objection, were signed by the Speaker to the end that the same may become law.**

Representative Riback Wilson (25) offered an objection to **CCS SCS HCS HB 10**.

CONSTITUTIONAL OBJECTION

In the first regular session of the ninety-first general assembly of the state of Missouri.

OBJECTION

Comes now, Representative Vicky Riback Wilson, duly elected member of the Missouri House of Representatives from the twenty-fifth district, to present the following objection pursuant to article III, section 30, of the Missouri Constitution, to Conference Committee Substitute for Senate Committee Substitute for House Committee Substitute for House Bill No. 10. This bill should not be signed and this objection shall be so noted in the Journal and shall be annexed to the bill for the Governor's consideration.

I believe that this legislation is constitutionally infirm for the following reasons:

1. Conference Committee Substitute for Senate Committee Substitute for House Committee Substitute for House Bill No. 10 contains language which encourages groups receiving funds under Title X of the federal Public Health Services Act to ignore federal regulatory provisions that may be prohibited under state law unless the group is specifically directed to do so by the Secretary of the United States Department of Health and Human Services by written order

directed to the organization, the order is final and no longer subject to appeal, and the refusal to perform such services would result in the withholding of federal funds. It further states that federal statutory or regulatory provisions or guidelines of general application shall not constitute such written order.

2. Such language is unconstitutional as a violation of article IV, section 23 of the Missouri Constitution which provides that appropriation bills must distinctly specify the amount and purpose of the appropriation without reference to any other law to fix the amount or purpose. The language in Conference Committee Substitute for Senate Committee Substitute for House Committee Substitute for House Bill No. 10 attempts to condition the appropriation on avoidance of federal laws, rules and actions. This is in clear violation of article IV, section 23 of the state constitution.

3. Such language is unconstitutional as a violation of article III, section 23 of the Missouri Constitution which provides that no bill shall contain more than one subject...except general appropriation bills which may express the various subjects and accounts for which moneys are appropriated. The language in Conference Committee Substitute for Senate Committee Substitute for House Committee Substitute for House Bill No. 10 attempts to legislate a substitute provision in an appropriation bill going beyond the “embracing” of various subjects and accounts. The courts of Missouri have established a clear pattern of opposing any attempt by the legislature to include general legislation in an appropriation bill. (State ex rel. Gaines v. Canada, 113 S.W.2d 783; Davis v. Smith, 75 S.W.2d 828).

4. Such language is unconstitutional as a violation of article VI of the Constitution of the United States which provides that “this constitution, and the laws of the United States which shall be made pursuant thereof....shall be the supreme law of the land.” The Secretary of the United States Department of Health and Human Services has issued rules under authority of the laws of the United States to require groups receiving federal moneys under Title X of the federal Public Health Services Act to provide family planning services. The language in Conference Committee Substitute for Senate Committee Substitute for House Committee Substitute for House Bill No. 10 would encourage and may require groups seeking to receive state funds under the appropriations contained therein to violate federal regulation as a condition for the receipt of such state moneys. This would have the effect of placing a state amendment in direct contravention of federal requirements and would have the effect of rendering laws made in pursuance of the Constitution of the United States not the “supreme law of the land” but only a weak suggestion which state legislators may ignore at will.

5. Conference Committee Substitute for Senate Committee Substitute for House Committee Substitute for House Bill No. 10 is unconstitutional in that the unequal treatment accorded to groups complying with the federal regulation, the supreme law of the land, is a violation of the equal protection provisions of article I, section 2 of the Constitution of Missouri and of the fourteenth amendment of the United States Constitution.

6. Accordingly, I conclude that Conference Committee Substitute for Senate Committee Substitute for House Committee Substitute for House Bill No. 10 is unconstitutional for the above-stated reasons and should not be signed.

Respectfully submitted,

/s/ Vicky Riback Wilson
State Representative
District 25

/s/ Jim Kreider - 142
/s/ Melba J. Curls - 41
/s/ Craig C. Bland - 43
/s/ Barbara Wall Fraser - 83
/s/ Bill Skaggs - 31
/s/ Amber Boykins - 20
/s/ Tim Harlan - 23
/s/ Carol Jean Mays - 50
/s/ Ted Farnen - 21
/s/ Juanita Head Walton - 69
/s/ May Scheve - 98
/s/ Marsha Campbell - 39
/s/ Glenda Kelly - 27
/s/ Craig Hosmer - 138
/s/ Nancy Copenhaver - 22

/s/ Kate Hollingsworth - 101
/s/ Chuck Graham - 24
/s/ Russ Carnahan - 59
/s/ Maida Coleman - 63
/s/ John L. Bowman - 70
/s/ Meg Harding - 30
/s/ Sharon Sanders Brooks - 37
/s/ Cindy Ostmann - 14
/s/ Betty L. Thompson - 72
/s/ Joan Bray - 84
/s/ Esther Haywood - 71
/s/ Yvonne S. Wilson - 42
/s/ Mary Hagan-Harrell - 75
/s/ Deleta Williams - 121
/s/ Connie L. Johnson - 61

/s/ Cathy Jolly - 45
/s/ Rick Johnson - 90
/s/ Jenee Lowe - 44

/s/ Tim Van Zandt - 38
/s/ Richard Franklin - 53

All other business of the House was suspended while **CCS SCS HCS HB 10** was read at length and was signed by the Speaker to the end that the same may become law.

Having been duly signed in open session of the Senate, **HB 1, CCS SCS HCS HB 2, CCS SCS HCS HB 3, CCS SCS HCS HB 4, CCS SCS HCS HB 5, CCS SCS HCS HB 6, CCS SCS HCS HB 7, CCS SCS HCS HB 8, CCS SCS HCS HB 9, CCS SCS HCS HB 10, CCS SCS HCS HB 11, CCS SCS HCS HB 12, CCS SCS HCS HB 13, CCS SCS HCS HB 14, CCS SCS HB 16, SCS HB 17, CCS SCS HCS HB 18, CCS SCS HCS HB 19, HB 45, HB 48, HB 78, CCS SCS HB 80, HB 84, HCS HB 106, SCS HS HCS HB 107, HB 129, SCS HB 133, CCS #2 SS SCS HCS HBs 144 & 46, CCS SCS HB 157, HB 163, HB 180, SS SCS HB 185, SCS HB 202, SCS HB 212, HB 218, SCS HB 219, SCS HB 236, CCS SCS HCS HB 241, SCS HB 242, HB 266, HCS HB 279, CCS #2 SCS HCS HBs 302 & 38, HB 321, SS #2 SCS HS HCS HBs 328 & 88, SCS HB 361, SS SCS HS HB 381, HB 408, HB 409, HB 410, HB 420, HS HCS HB 425, HB 431, HCS HBs 441, 94 & 244, CCS #2 SS SCS HB 453, HB 454, HB 458, SCS HB 459, HB 470, CCS SCS HB 471, SCS HB 473, CCS SCS HB 491, SCS HB 498, SS SCS HB 501, HB 502, HB 537, CCS SS SCS HCS HB 567, SS SCS HB 575, HB 590, HB 596, HB 600, SCS HB 603, SCS HB 606, SCS HB 607, CCS HB 621, SCS HB 644, SCS HBs 648, HB 477 & HB 805, SCS HCS HB 660, HB 664, HB 679, SCS HB 691, SCS HB 693, HB 725, HB 732, SS HCS HB 738, SCS HB 742, HB 745, CCS SS SCS HS HCS HB 762, HB 779, HB 788, SCS HB 796, SCS HBs 808 & 951, HB 816, HB 821, HB 825, HB 865, SCS HB 881, HB 897, SCS HB 904, HB 909, HB 922, HB 933, SCS HB 945, HB 955, SCS HS HCS HB 1000 and HS HCR 25** were delivered to the Governor by the Chief Clerk of the House.

SIGNING OF SENATE BILLS

All other business of the House was suspended while **SCS SB 4, HS HCS SCS SB 10, SCS SB 13, SB 25, CCS HS HCS SS SCS SB 48, SB 58, HCS SB 86, SB 87, HS HCS SS SCS SBs 89 & 37, SB 110, SB 111, HCS SB 130, SB 142, CCS #2 HCS SCS SB 151, HCS SCS SB 178, SB 179, HS HCS SCS SB 186, HCS SS SB 193, SCS SB 197, SB 200, SB 201, SB 203, SB 207, SB 223, HCS SB 227, SCS SB 234, CCS #2 HS HCS SCS SB 236, SCS SB 241, CCS HCS SS SB 244, SB 252, CCS HS HCS SCS SB 266, CCS HS HCS SS SCS SB 267, SCS SB 270, CCS HCS SB 274, SB 275, HS HCS SB 288, HS SCS SB 290, SB 295, SCS SB 301, SB 303, SB 316, SCS SB 317, CCS HCS SB 319, HCS SB 321, CCS HS SS SCS SBs 323 & 230, SCS SB 341, HCS SB 345, HCS SB 348, SCS SB 352, SB 353, SCS SB 357, CCS HS HCS SS SCS SB 369, HS HCS SB 371, HS SCS SB 374, SCS SB 383, SCS SB 384, SCS SB 387, CCS HS SCS SB 393, SB 394, SB 406, SCS SB 407, SB 430, SB 435, SB 436, HCS SB 441, SB 442, SB 451, CCS HCS SB 462, SB 470, SB 500, SCS SB 514, HCS SCS SB 515, HCS SCS SB 520, HCS SB 521, HCS SB 538, SB 540, HCS SB 543, HCS SB 544, SB 553, SB 556, HCS SCS SB 568, SB 575, SB 605, SRB 606, and SS SCR 6**, were read at length and, there being no objection, were signed by the Speaker to the end that the same may become law.

MESSAGES FROM THE GOVERNOR

EXECUTIVE OFFICE
May 23, 2001

TO THE CHIEF CLERK OF THE
HOUSE OF REPRESENTATIVES
FIRST REGULAR SESSION
91ST GENERAL ASSEMBLY
STATE OF MISSOURI

Herewith I return to you **House Bill No. 52** entitled:

"AN ACT"

To repeal section 56.066, RSMo 2000, relating to full-time prosecutors, and to enact in lieu thereof one new section relating to the same subject, with an emergency clause.

On May 23, 2001, I approved said **House Bill No. 52**.

Respectfully submitted,

/s/ Bob Holden
Governor

EXECUTIVE OFFICE
May 23, 2001

TO THE CHIEF CLERK OF THE
HOUSE OF REPRESENTATIVES
FIRST REGULAR SESSION
91ST GENERAL ASSEMBLY
STATE OF MISSOURI

Herewith I return to you **House Committee Substitute for House Bill No. 207** entitled:

"AN ACT"

To repeal sections 34.115 and 313.835, and to enact in lieu thereof two new sections relating to the veterans' commission capital improvement trust fund, with an emergency clause.

On May 23, 2001, I approved said **House Committee Substitute for House Bill No. 207**.

Respectfully submitted,

/s/ Bob Holden
Governor

EXECUTIVE OFFICE
May 23, 2001

TO THE CHIEF CLERK OF THE
HOUSE OF REPRESENTATIVES
FIRST REGULAR SESSION
91ST GENERAL ASSEMBLY
STATE OF MISSOURI

Herewith I return to you **Senate Committee Substitute for House Bill No. 801** entitled:

"AN ACT"

Relating to compliance with Title V of the federal Gramm-Leach-Bliley Financial Modernization Act of 1999, with an emergency clause.

On May 23, 2001, I approved said **Senate Committee Substitute for House Bill No. 801**.

Respectfully submitted,

/s/ Bob Holden
Governor

ADJOURNMENT

The Speaker declared the House of Representatives, 91st General Assembly, convened in First Regular Session on January 3, 2001, adjourned as of midnight, May 30, 2001, in accordance with the Constitution.