

SENATE CONCURRENT RESOLUTION NO. 15 [SCR 15]

WHEREAS, the United States Corps of Engineers' five-year study of the Upper Mississippi River Basin, which is everything north of Cairo, Illinois, failed to produce a plan for flood control acceptable to all stakeholders; and

WHEREAS, the Mississippi River Commission did recommend Plan H to the United States Congress; and

WHEREAS, the Corps of Engineers has not recommended this plan to the United States Congress, citing the expense of the construction of 500-year levees along these rivers, estimated to be \$6 billion, does not meet current cost-benefit guidelines for federal funding; and

WHEREAS, the Corps of Engineers additionally determined a need for better data based upon new hydrology and flow studies and the need to study tributaries of the Mississippi River; and

WHEREAS, the Corps of Engineers indicated that ramifications of the additional 500-year levees and their potential to cause additional flooding would need to be determined, and affected populations and communities informed and advised of the potential impact; and

WHEREAS, the affected counties include the Missouri counties of Lincoln, Pike, and St. Charles; and

WHEREAS, Plan H designates only about half of the levees in the Missouri counties of Lincoln, Pike, and St. Charles be raised, while to the north a higher percentage of 500-year levees are recommended for both sides of the river; and

WHEREAS, the stakeholders in the Missouri counties of Lincoln, Pike, and St. Charles desire the protections provided by the 500-year levees; and

WHEREAS, the proposed Plan H, if implemented, denies the benefits of 500-year levees to those making a living along the Mississippi River, negatively impacting agriculture, transportation, businesses, industries, tourism, hunting, fishing, boating, infrastructure, and residences; and

WHEREAS, over 6,500 citizens have signed petitions opposing the proposed Plan H; and

WHEREAS, the Upper Mississippi River Basin should receive funding comparable to funding for the Southern Mississippi River Basin from Cairo, Illinois, to New Orleans, Louisiana:

NOW THEREFORE BE IT RESOLVED that the members of the Missouri Senate, Ninety-sixth General Assembly, Second Regular Session, the House of Representatives concurring therein, hereby strongly urge the United States Congress to support a comprehensive plan for the Upper Mississippi River Basin that enhances system-wide flood control without creating adverse impacts on existing levees, levee districts, rural communities, and metropolitan areas. The plan should be based on analysis that quantifies the impacts of enhanced flood control measures and acknowledges the importance of keeping agricultural land in production. The proposed Plan H making the Missouri counties of Lincoln, Pike, and St. Charles the lowest points on the Mississippi River levee system is totally unacceptable and we ask the Missouri Congressional delegation to oppose this plan; and

BE IT FURTHER RESOLVED that the Secretary of the Missouri Senate be instructed to prepare properly inscribed copies of this resolution for each member of the Missouri Congressional delegation.

**SENATE COMMITTEE SUBSTITUTE FOR
SENATE CONCURRENT RESOLUTION NO. 17 [SCR 17]**

WHEREAS, two of this country's greatest waterways, the Mississippi River on Missouri's eastern border and the Missouri River which winds across the state, helped Missouri become a supply center for many of the westward-bound settlers of the nation's early years; and

WHEREAS, from the muddy Missouri to the swift and clear Jacks Fork, the hundreds of rivers and streams in Missouri snake across more than 110,000 miles of the state - more than four times the distance around the earth - providing endless recreational opportunities for Missourians, including boating, fishing, swimming, and bird watching along the bluffs bordering our many rivers and streams; and

WHEREAS, shipping along the navigable rivers boosted Missouri's status as an agriculture supplier, barges and steamboats used the waterways to move goods, river towns boomed, and railroads continued to fuel the growth of Missouri as a large transportation center; and

WHEREAS, the Missouri Territory, and later the State of Missouri, took the name of the Missouri River which was named for the Missouri Indians who lived along the banks; and

WHEREAS, the State of Missouri has many nicknames, with the most widely recognized being "The Show-Me State" and "The Cave State"; and

WHEREAS, roads along or near both banks of the Mississippi River along its entire length have been designated as "The Great River Road" and are marked with a special road sign which depicts a ship's wheel; and

WHEREAS, the Great Rivers Greenway District was established in November 2000 in St. Louis City, St. Louis County, and St. Charles County to eventually develop "The River Ring" as an interconnected system of greenways, parks, and trails in the St. Louis area which will enhance the quality of life for residents and visitors; and

WHEREAS, from confluence of the Big Muddy and the Mighty Mississippi at the eastern portion of the state and looking north, south, or west, the State of Missouri includes the land that Meriwether Lewis and William Clark scanned as they began their journey up the Missouri River on their Voyage of Discovery in 1804, the land that is habitat for deer, turkey, bald eagles, and other wildlife, the land that is farmland abundant with agricultural crops, and the same land that held 260 billion gallons of water during the Great Flood of 1993; and

WHEREAS, with much of Missouri's history tied to the mighty rivers that flow through it, Missouri should also be known as the "The Great Rivers State":

NOW THEREFORE BE IT RESOLVED that the members of the Missouri Senate, Ninety-sixth General Assembly, Second Regular Session, the House of Representatives concurring therein, hereby encourage the use of the slogan "The Great Rivers State" as a slogan for the State of Missouri; and

BE IT FURTHER RESOLVED that the Secretary of the Missouri Senate be instructed to prepare a properly inscribed copy of this resolution for Kathleen Steele-Danner, the Director of the Division of Tourism.

SENATE CONCURRENT RESOLUTION NO. 24 [SCR 24]

WHEREAS, the trucking industry is a critical component of the United States economy;
and

WHEREAS, truck safety is an important public policy concern; and

WHEREAS, on December 16, 2011, the Federal Motor Carrier Safety Administration (FMCSA) published a final rule establishing new Hours of Service (HOS) regulations for commercial motor vehicles; and

WHEREAS, the final rule institutes a new 30-minute rest break requirement for drivers, mandates that the 34-hour restart provision include two off-duty periods between 1:00 a.m. and 5:00 a.m., and revises the definition of on-duty time; and

WHEREAS, FMCSA's new HOS rule reduces the maximum weekly hours truck drivers may work from an average of 82 hours to 70 hours; and

WHEREAS, the final rule also establishes penalties for egregious violations of the HOS regulations and revises log book requirements for drivers involved in oilfield operations; and

WHEREAS, the FMCSA's final rule would decrease the overall number of hours a truck driver could work, and require the addition of more trucks and drivers to deliver the nation's freight; and

WHEREAS, this impact would likely compromise highway safety by generating more exposure to crashes, putting less experienced drivers on the road, exacerbating the shortage of rest area parking spaces and creating long periods of idle time for truck drivers; and

WHEREAS, the increased costs generated by the need for additional trucks and drivers, as well as operational changes, under the proposal would inflate delivery expenses and raise business and consumer costs; and

WHEREAS, the impact of the final rule will result in additional costs for motor carriers, reduced income for truck drivers, reduced productivity, an increase in highway congestion, and an increase in the cost of goods for Missourians; and

WHEREAS, the FMCSA's cost-benefit analysis of the proposal is incomplete, fails to completely account for all trucking-industry and economy-wide costs, and inflates the safety benefits of the proposal; and

WHEREAS, the American Trucking Association recently filed a petition with the U.S. Circuit Court of Appeals for the District of Columbia, asking the court to set aside FMCSA's recently published final rule as arbitrary and capricious and contrary to law; and

WHEREAS, FMCSA advisory panels are looking toward adopting regulations that involve screening and treatment of drivers at risk for obstructive sleep apnea; and

WHEREAS, the FMCSA Advisory Committee and Medical Review Board adopted 11 recommendations, including a requirement that all drivers with a body mass index measurement (BMI) of 35 or higher be tested for sleep apnea; and

WHEREAS, while there is some evidence to indicate that some commercial truck drivers have sleep apnea, there is insufficient evidence that this condition has resulted in the increased likelihood of crashes; and

WHEREAS, the Owner-Operator Independent Drivers Association Foundation calculated that 49 percent of the 3.5 million commercial truck drivers have a BMI of 30 or greater and that if a number of drivers is required to undergo sleep lab exams, such a rule would cost truckers \$5.25 billion; and

WHEREAS, the reach of the proposed sleep apnea testing regulation would even govern school bus drivers; and

WHEREAS, there are valid operational differences between school bus operations and other commercial carrier operations which should be taken into account when considering applying the recommendations to all commercial drivers; and

WHEREAS, FMCSA is considering adopting other rules and regulations, notably regulations concerning electronic stability control for large trucks and speed limits for large trucks, all measures that could have a profound effect on the national economy:

NOW, THEREFORE, BE IT RESOLVED that the members of the Missouri Senate, Ninety-sixth General Assembly, Second Regular Session, the House of Representatives concurring therein, hereby urge the Federal Motor Carrier Safety Administration to rescind its newly published rule regarding hours of service and refrain from adopting regulations concerning sleep apnea and other measures affecting the trucking industry; and

BE IT FURTHER RESOLVED that the Secretary of the Missouri Senate be instructed to prepare properly inscribed copies of this resolution for the Administrator of the Federal Motor Carrier Safety Administration, Anne S. Ferro, and each member of the Missouri Congressional delegation.

SENATE CONCURRENT RESOLUTION NO. 25 [SCR 25]

WHEREAS, over the course of the spring and summer of 2011, unprecedented releases of water upstream by the U.S. Army Corps of Engineers have caused extensive pressure on the river levees in the state of Missouri that protect many communities, businesses, and prime agricultural lands; and

WHEREAS, in the face of this tremendous pressure some of Missouri's levees have been intentionally and unintentionally breached, resulting in widespread flooding, which has proved devastating to many Missouri homes, farms, families, and livelihoods; and

WHEREAS, last summer, the U.S. Army Corps of Engineers intentionally breached the Birds Point levee in southeast Missouri which resulted in the flooding of 130,000 acres of mostly agricultural land; and

WHEREAS, Missouri families have suffered unprecedented losses as a result of this situation and many Missouri farmers have experienced a complete and total loss of agricultural production, resulting in decimated farm incomes and ravaged local economies; and

WHEREAS, according to a June 2011 report drafted by the Food and Agricultural Policy Research Institute of the University of Missouri, the breach of the levee and subsequent flooding of crop lands in southeast Missouri has resulted in economic losses totaling \$60.6 million, a combination of forgone net returns and incurred production expenses in the affected area; and

WHEREAS, according to the University of Missouri Extension, the southeast Missouri region produced the following shares of the state's total production of specific agricultural commodities in 2010:

- 1) 100% of total cotton production in Missouri;
- 2) 99.6% of total rice production in Missouri;
- 3) 52.9% of total wheat production in Missouri;
- 4) 21.4% of total grain sorghum production in Missouri;
- 5) 18.1% of total soybean production in Missouri;
- 6) 15.4% of total corn production in Missouri; and

WHEREAS, with the agricultural production of southeast Missouri accounting for approximately one-third of the state's total economy, the catastrophic results of the flooding of agricultural land due to the intentional breach of the Birds Point levee in southeast Missouri has a significant economic impact for the entire state. This complete and total loss of agricultural

production at a time when our state's economy is experiencing recession can only exacerbate the state's current economic hardships; and

WHEREAS, the flood waters have not yet receded in some parts of Missouri and continue to disrupt the lives of hard-working Missourians; and

WHEREAS, even after the flood waters recede, much work will need to be done to restore the productivity of the damaged agricultural land and repair the ruined homes and businesses; and

WHEREAS, the U.S. Army Corps of Engineers has a responsibility to the nation for flood control; and

WHEREAS, the original flood plan was authorized in 1928 in response to severe flooding of the Mississippi River in 1927. The U.S. Army Corps of Engineers is obligated to re-examine the flood plan in light of the devastating losses, both short-term and long-term, suffered in this state as a result of the unprecedented releases of water upstream and the intentional breach of the Birds Point levee by the U.S. Army Corps of Engineers during the spring and summer of 2011:

NOW THEREFORE BE IT RESOLVED that the members of the Missouri Senate, Ninety-sixth General Assembly, Second Regular Session, the House of Representatives concurring therein, hereby strongly urge the U.S. Army Corps of Engineers to:

- 1) Re-examine the flood plan for the Mississippi River; and
 - 2) Conduct its river operations in such a way as to avoid the devastating flooding disasters that occurred in 2011; and
 - 3) Rebuild the damaged levees to at least their previous heights as expediently as possible;
- and

BE IT FURTHER RESOLVED that the members of the Missouri General Assembly encourage communities, families and other stakeholders to work together to restore the prime agricultural lands that have been damaged by the recent flooding so that the productive value of these lands is not irrevocably lost; and

BE IT FURTHER RESOLVED that the members of the Missouri General Assembly strongly encourage the members of the Missouri Congressional delegation to actively support policies for the management of the Mississippi River that minimize devastating flood events such as those that have been experienced by so many Missourians last summer; and

BE IT FURTHER RESOLVED that the Secretary of the Missouri Senate be instructed to prepare properly inscribed copies of this resolution for the Commanding General of the U.S. Army Corps of Engineers and the members of the Missouri Congressional delegation.

SENATE CONCURRENT RESOLUTION NO. 26 [SCR 26]

WHEREAS, the State of Missouri is currently facing a budget crisis and has limited resources for state spending; and

WHEREAS, the General Assembly is a co-equal branch of state government and is responsible for the appropriation of state funds for various governmental entities; and

WHEREAS, the public expects and requires the General Assembly to ensure that state resources are being used as efficiently and effectively as possible; and

WHEREAS, the Missouri Department of Transportation's statewide construction program has averaged \$1.2 billion in the immediate past and moving forward it will be about approximately half that amount; and

WHEREAS, the Department of Transportation has entered into maintenance mode, which means it will have to direct all available resources to taking care of highways and bridges the state currently owns and not build new projects; and

WHEREAS, the good highways and bridges Missourians have enjoyed since the passage of Amendment 3 will start to deteriorate without more money for transportation projects; and

WHEREAS, the General Assembly understands the importance of finding innovative ways to fund the transportation infrastructure needs of this state:

NOW THEREFORE BE IT RESOLVED that the members of the Missouri Senate, Ninety-Sixth General Assembly, Second Regular Session, the House of Representatives concurring therein, hereby establish the Joint Interim Committee on Transportation Needs in Missouri; and

BE IT FURTHER RESOLVED that the Committee shall be composed of four majority party members to be appointed by the President Pro Tempore of the Senate and three minority party members to be appointed by the Minority Leader of the Senate, and four majority party members to be appointed by the Speaker of the House of Representatives of the House of Representatives, and three minority party members to be appointed by the Minority Leader of the House of Representatives; and

BE IT FURTHER RESOLVED that the Committee shall conduct a comprehensive analysis of the transportation infrastructure needs of this state, examine any other issues that the Committee deems relevant, and make any recommendations for improving the efficiency and effectiveness of funding Missouri's transportation needs; and

BE IT FURTHER RESOLVED that the Committee be authorized to hold hearings as it deems advisable, and may solicit any input or information necessary to fulfill its obligations; and

BE IT FURTHER RESOLVED that the staffs of House Research, Senate Research and the Committee on Legislative Research shall provide such legal, research, clerical, technical and bill drafting services as the Committee may require in the performance of its duties; and

BE IT FURTHER RESOLVED that the Committee, its members, and any staff personnel assigned to the Committee shall receive reimbursement for their actual and necessary expenses incurred in attending meetings of the Committee or any subcommittee thereof; and

BE IT FURTHER RESOLVED that the actual expenses of the Joint Interim Committee, its members, and any staff assigned to the Joint Interim Committee incurred by the Joint Interim Committee shall be paid by the Joint Contingency Fund; and

BE IT FURTHER RESOLVED that the Joint Interim Committee is authorized to function during the legislative interim between the Second Regular Session of the Ninety-Sixth General Assembly and the First Regular Session of the Ninety-Seventh General Assembly through December 31, 2012, as authorized by *State v. Atterbury*, 300 S.W. 2d 806 (Mo. 1957); and

BE IT FURTHER RESOLVED that the Committee report its recommendations and findings to the Missouri General Assembly by January 1, 2013, and the authority of such Committee shall terminate on December 31, 2012.

SENATE CONCURRENT RESOLUTION NO. 28 [SCR 28]

WHEREAS, the State of Missouri first adopted the Missouri Criminal Code in 1977 to create a cohesive body of criminal law to be published in one portion of the Revised Statutes of Missouri; and

WHEREAS, the Code now lacks the cohesiveness it was created to embody after more than three decades of criminal statutes being enacted outside of the Missouri Criminal Code and non-criminal statutes being added to the Code; and

WHEREAS, the statutes enacted over the years include duplicative and conflicting criminal laws and inconsistent penalties; and

WHEREAS, some of these laws, in practice, have not had the intended effect of serving practitioners of criminal law and victims of crimes; and

WHEREAS, the Missouri Bar Association has spent four years developing recommendations for improving the Missouri Criminal Code, making the Code more cohesive and consistent, and repealing duplicative and conflicting provisions; and

WHEREAS, the recommendations of the Missouri Bar Association encompass more than 700 sections of law; and

WHEREAS, the General Assembly understands the importance and immensity of reviewing the recommendations and developing a plan to revise the Missouri Criminal Code:

NOW THEREFORE BE IT RESOLVED that the members of the Missouri Senate, Ninety-sixth General Assembly, Second Regular Session, the House of Representatives concurring therein, hereby establish the Joint Committee on the Missouri Criminal Code; and

BE IT FURTHER RESOLVED that the Committee shall be composed of two majority party members to be appointed by the President Pro Tempore of the Senate and one minority party member to be appointed by the Minority Leader of the Senate, and two majority party members to be appointed by the Speaker of the House of Representatives, and one minority party member to be appointed by the Minority Leader of the House of Representatives; and

BE IT FURTHER RESOLVED that the Committee shall conduct a comprehensive review of the Missouri Criminal Code and the Missouri Bar Associations recommendations, examine any other issues that the Committee deems relevant, and make any recommendations for improving the cohesiveness, consistency, and effectiveness of the state's criminal laws; and

BE IT FURTHER RESOLVED that the Committee be authorized to hold hearings as it deems advisable, and may solicit any input or information necessary to fulfill its obligations; and

BE IT FURTHER RESOLVED that the staffs of House Research and Senate Research shall provide such legal, research, clerical, technical and bill drafting services as the Committee may require in the performance of its duties; and

BE IT FURTHER RESOLVED that the Committee, its members, and any staff personnel assigned to the Committee shall receive reimbursement for their actual and necessary expenses incurred in attending meetings of the Committee or any subcommittee thereof; and

BE IT FURTHER RESOLVED that the actual expenses of the Joint Committee, its members, and any staff assigned to the Joint Committee incurred by the Joint Committee shall be paid by the Joint Contingency Fund; and

BE IT FURTHER RESOLVED that the Joint Committee is authorized to begin its work beginning on the adoption of this resolution and continue during the legislative interim between the Second Regular Session of the Ninety-sixth General Assembly and the First Regular Session of the Ninety-seventh General Assembly through December 31, 2012, as authorized by State v. Atterburry, 300 S.W. 2d 806 (Mo. 1957); and

BE IT FURTHER RESOLVED that the Committee report its recommendations and findings to the Missouri General Assembly by November 15, 2012, and the authority of such Committee shall terminate on November 14, 2012.

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