

Journal of the Senate

SECOND REGULAR SESSION

NINETEENTH DAY—TUESDAY, FEBRUARY 7, 2006

The Senate met pursuant to adjournment.

Senator Griesheimer in the Chair.

Reverend Carl Gauck offered the following prayer:

“That the creation itself also shall be delivered from the bondage of corruption into the liberty of the glory of the children of God.” (Romans 8:21)

Heavenly Father, we hear daily how many in our world are groaning to be freed from the hardship of life and the tyranny and oppression they live with; but we know that is Your will for Your children. So we pray that Your creation shall be delivered so that we might all live in peace. And we pray for Senator Graham, that he may be quickly healed and return to us whole and healthy. 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

Alter	Barnitz	Bartle	Bray
Callahan	Cauthorn	Champion	Clemens
Coleman	Crowell	Days	Dougherty
Engler	Gibbons	Goodman	Green
Griesheimer	Gross	Kennedy	Klindt
Koster	Mayer	Nodler	Purgason

Ridgeway	Scott	Shields	Stouffer
Vogel	Wheeler	Wilson—31	

Absent—Senators—None

Absent with leave—Senators
Graham Loudon—2

Vacancies—1

RESOLUTIONS

Senator Gibbons offered Senate Resolution No. 1969, regarding Trevor M. Williams, Glendale, which was adopted.

Senator Champion offered Senate Resolution No. 1970, regarding Carson Garner, which was adopted.

INTRODUCTION OF BILLS

The following Bills were read the 1st time and ordered printed:

SB 1017—By Clemens.

An Act to repeal sections 196.931, 196.949, and 196.951, RSMo, and to enact in lieu thereof three new sections relating to the state milk board.

SB 1018—By Kennedy and Mayer.

An Act to repeal section 621.045, RSMo, and to enact in lieu thereof twenty-six new sections

relating to private investigators, with penalty provisions.

SB 1019—By Alter and Gross.

An Act to repeal section 210.1012, RSMo, and to enact in lieu thereof one new section relating to the Amber alert system, with penalty provisions.

SB 1020—By Vogel.

An Act to amend chapter 414, RSMo, by adding thereto one new section relating to requirements for installers and manufacturers of fuel storage tanks.

SB 1021—By Dougherty, Bray, Days, Green and Wilson.

An Act to amend chapter 376, RSMo, by adding thereto one new section relating to the Missouri high risk pool.

SB 1022—By Dougherty, Bray and Wilson.

An Act to repeal section 208.145, RSMo, and to enact in lieu thereof one new section relating to medical assistance.

SECOND READING OF CONCURRENT RESOLUTIONS

The following Concurrent Resolution was read the 2nd time and referred to the Committee indicated:

HCR 5—Rules, Joint Rules, Resolutions and Ethics.

SECOND READING OF SENATE BILLS

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

SB 975—Financial and Governmental Organizations and Elections.

SB 976—Transportation.

SB 977—Financial and Governmental Organizations and Elections.

SB 978—Education.

SB 979—Judiciary and Civil and Criminal

Jurisprudence.

SB 980—Education.

SB 981—Pensions, Veterans' Affairs and General Laws.

SB 982—Judiciary and Civil and Criminal Jurisprudence.

SB 983—Education.

SB 984—Judiciary and Civil and Criminal Jurisprudence.

SB 985—Agriculture, Conservation, Parks and Natural Resources.

SB 986—Aging, Families, Mental and Public Health.

SB 987—Transportation.

SB 988—Small Business, Insurance and Industrial Relations.

SB 989—Financial and Governmental Organizations and Elections.

SB 990—Transportation.

SB 991—Small Business, Insurance and Industrial Relations.

SB 992—Judiciary and Civil and Criminal Jurisprudence.

SB 993—Financial and Governmental Organizations and Elections.

SB 994—Education.

SB 995—Ways and Means.

SB 996—Economic Development, Tourism and Local Government.

SB 997—Economic Development, Tourism and Local Government.

SB 998—Aging, Families, Mental and Public Health.

SB 999—Economic Development, Tourism and Local Government.

SB 1000—Judiciary and Civil and Criminal

Jurisprudence.

SB 1001—Transportation.

SB 1002—Economic Development, Tourism and Local Government.

SB 1003—Economic Development, Tourism and Local Government.

SB 1004—Aging, Families, Mental and Public Health.

Senator Shields moved that the Senate recess to repair to the House of Representatives to receive the State of Transportation Address from Mr. Pete Rahn, Director of the Missouri Department of Transportation, which motion prevailed.

JOINT SESSION

The Joint Session was called to order by President Pro Tem Gibbons.

On roll call the following Senators were present:

Present—Senators

Alter	Barnitz	Bartle	Bray
Callahan	Cauthorn	Champion	Clemens
Coleman	Crowell	Days	Dougherty
Engler	Gibbons	Goodman	Green
Griesheimer	Gross	Kennedy	Klindt
Mayer	Nodler	Purgason	Ridgeway
Scott	Shields	Stouffer	Vogel
Wheeler	Wilson—30		

Absent—Senator Koster—1

Absent with leave—Senators

Graham Loudon—2

Vacancies—1

On roll call the following Representatives were present:

Present—Representatives

Aull	Avery	Baker 25	Baker 123
Bean	Bearden	Behnen	Bivins
Black	Bland	Bogetto	Bowman

Boykins	Bringer	Brown 30	Bruns
Burnett	Casey	Chinn	Chappelle-Nadal
Cooper 120	Cooper 155	Cooper 158	Corcoran
Cunningham 145	Cunningham 86	Curls	Darrough
Daus	Davis	Day	Dempsey
Denison	Dethrow	Dixon	Donnelly
Dougherty	Dusenberg	El-Amin	Emery
Ervin	Faith	Fares	Fisher
Flook	Franz	Fraser	George
Guest	Harris 23	Harris 110	Haywood
Henke	Hobbs	Hoskins	Hubbard
Hughes	Hunter	Ice	Jackson
Johnson 61	Johnson 90	Jolly	Jones
Kelly	Kingery	Kratky	Kraus
Kuessner	Lager	Lampe	Lembke
Lipke	Loehner	Low 39	Lowe 44
Marsh	May	McGhee	Meiners
Moore	Munzlinger	Muschany	Myers
Nance	Nieves	Nolte	Oxford
Page	Parson	Pearce	Phillips
Pollock	Portwood	Pratt	Quinn
Rector	Richard	Roark	Robinson
Roorda	Rucker	Ruestman	Rupp
Salva	Sander	Sater	Schaaf
Schad	Schlottach	Schoemehl	Self
Shoemyer	Silvey	Skaggs	Smith 14
Smith 118	Smith 150	Spreng	Stevenson
St. Onge	Storch	Sutherland	Swinger
Threlkeld	Tilley	Viebrock	Villa
Vogt	Wagner	Wallace	Walsh
Walton	Wasson	Wells	Weter
Whorton	Wildberger	Wilson 119	Wilson 130
Witte	Wood	Wright-Jones	Yaeger
Yates	Young	Mr Speaker—147	

Absent and Absent with leave—Representatives

Brooks	Brown 50	Deeken	Johnson 47
Levota	Liese	Meadows	Parker
Robb	Schneider	Wright 137	Wright 159
Zweifel—13			

Vacancies—3

The Director of Transportation, Pete Rahn, assumed the dais and delivered the State of Transportation Address to the Joint Assembly:

Pete Rahn

State of Transportation Address

Jefferson City, Missouri

February 7, 2006

Mr. Speaker, Mr. President Pro Tem, Distinguished State Officials, Members of the 93rd General Assembly, Members of the Missouri Highways and Transportation Commission, and Citizens of Missouri:

What a difference a year makes!

Last year during this address, I made a lot of bold statements. I said that together, the people of Missouri and MoDOT, would make our highways smoother and safer, sooner than anyone could imagine. I said that MoDOT would become a model for state government by demonstrating openness, accountability and an unrelenting focus on the people we serve. And I said we would make the absolute best use of every taxpayer dollar we spent on your transportation system.

Last year, I talked the talk. During the past year, we have walked the walk. With your help, we are proud to bring you progress you can feel!

You are feeling that progress through the improved smoothness and safety of our highways. The voters of Missouri presented us with the opportunity to do great things by passing Amendment 3. We moved quickly to get vital projects ready to go and in 2005 our Smoother, Safer, Sooner plan roared full speed ahead.

I have said many times that people judge the job MoDOT is doing through the seat of their pants. In other words, the smoothness of our roads.

Upon completion of this initiative, over 2,200 miles of Missouri's busiest highways will be in good condition. These highways carry 60 percent of all traffic, and 86 percent of our population lives within 10 miles of one of them. Nearly 29 billion miles a year are traveled on these roads. We are making them smooth. That is progress millions of Missourians can feel.

As the average age of our driving population increases we must accommodate their needs too. So the Smooth Roads Initiative also means progress you can see and hear. Progress you can see through larger, easier-to-read road signs; and brighter, wider pavement markings. Progress you can hear through rumble stripes that alert you loud and clear when you are veering off the roadway and that provide a clear path on highway shoulders for bicyclists.

We moved quickly to get Amendment 3 improvements started, and a majority of Smooth Roads Initiative projects are now under contract. In his State of the State Address, however, Governor Blunt issued a challenge to even further speed up our efforts to improve Missouri's highways. He challenged MoDOT to complete the Smooth Roads Initiative by the end of 2006 -- a full one year ahead of schedule. And, not that we're keeping track, but that is a mere 327 days, 13 hours, 19 minutes and 46 seconds from now.

This is a major challenge, but the governor was right to stress fixing our roads as fast as possible. It is paramount to the success of our state. The sooner we finish, the sooner we benefit from the results. It will not be easy, but we will meet the governor's challenge. When we do, it will be progress you can feel...in record time.

A sage once said, "The shortest distance between two points is...under construction." Well, we demonstrated that in 2005 with over 1,000 work zones from border to border. A record number of work zones means a record number of opportunities to inconvenience travelers. We responded to this by working closely with our contractors to ensure work zones flowed as well as possible and that they were safe for crews and the traveling public. We are committed to progress, but we must achieve it safely.

There is no doubt, 2006 will be even bigger--in fact, the biggest year in Missouri's highway construction history. That's unprecedented progress. Progress you can feel!

The second element of Smoother, Safer, Sooner focused on getting scheduled highway improvements done quicker. Bonding made possible by Amendment 3 allowed us to speed up work already in our five-year construction plan - some by several years. We have moved up 55 projects totaling four hundred and thirty two million dollars, with work already under way on more than 35 highway improvements.

Getting this work done sooner is extremely important. An improved road saves lives, creates jobs, and makes travel more efficient for millions of drivers. This is a vital aspect of our Amendment 3 implementation. This is progress you can feel!

The third element of Smoother, Safer, Sooner resulted from the most open and transparent highway improvement selection process in Missouri's history and, I am confident, the entire nation. We invited private citizens from every region of Missouri to sit at the table with MoDOT and decide what new projects should be added to our five-year plan.

The people of Missouri helped us identify 39 projects to be added to the five-year construction program. These are high-priority, major projects totaling one point six billion dollars that otherwise could not have been built for decades.

Ladies and gentlemen, this progress means that you can feel the state of your transportation system improving, but there is much work left to be done and insufficient resources to do it. Amendment 3 and the outstanding work of our congressional delegation on the renewal of the federal transportation-funding bill have provided an increased highway revenue stream that is greatly appreciated, and we are using it to dramatically improve your state highways. However, in 2010 the construction bubble bursts and our construction program will diminish by over six hundred million dollars annually.

Our five-year construction program will average one point four billion dollars per year. We will make the best use of every dollar spent to successfully complete the largest transportation program in Missouri's history with 866 projects totaling seven point three billion dollars.

At the end of those five years, however, our per-year construction average will plummet to \$805 million. Additionally, we are experiencing higher fuel prices and a decrease in car sales. These are factors that add up to less than expected revenues for needed highway improvements and increasing costs to build them.

The sun is shining on transportation in Missouri, but there are storm clouds on the horizon. Good old Missouri common sense says that you fix the roof when the sun is shining not once it starts raining. It is imperative that we initiate a discussion about future transportation investments.

This year we celebrate the 50th anniversary of the nation's interstate highway system. Interstate highways have changed the American way of life. They have brought us closer together, revolutionized freight shipment and fueled the most powerful economic engine in world history. Unfortunately, interstate highways weren't built to last 50 years.

In Missouri, stretches of I-70 that are now nearly 50 years old were designed to last just 20 years. There was no way to predict that this corridor, connecting our two largest cities and Missouri to the world, would carry the amount or type of traffic it now does. The congestion on I-70 presents safety concerns, could affect productivity and has damaged this vital highway all the way to its core. By 2030, the entire length of I-70 will be stop-and-go traffic and I-44 is just ten years behind. The bottom line is that our interstates are victims of their own success.

I-70 needs to be rebuilt from the ground up and needs to be expanded to accommodate ever-growing traffic and the ever-larger vehicles using it. A total reconstruction would cost more than three and a half billion dollars. With current funding, however, we will only be able to rebuild this vital corridor one short section at a time. That method will mean none of us will be alive to see its completion.

Unfortunately, while we know how much it will cost to fix I-70 and we know what will not work as a reasonable way to pay for it, we do not know how we WILL pay for it.

As Ron McLinden of the Sierra Club mentioned to me, "The future isn't what it used to be." We are now competing in a global economy with legitimate global competitors. China, for example, is replicating our interstate system, along with major new air and water ports, and is already a world economic power that will challenge U. S. markets in the future.

We must not lose our competitive advantage in the global economy and part of maintaining that advantage is investing in transportation. We know that right here in Missouri for every dollar spent on transportation we get a five-dollar return on that investment. We must continue to invest and, to do so, we must find innovative ways to generate the money. We face many tough decisions that cannot be avoided.

Big problems, however, do not have to mean inaction. Due to unique circumstances involving a new Mississippi River Bridge, we are asking the General Assembly to authorize the creation of an innovative public/private partnership to construct a sorely needed new river crossing in St. Louis. We have gone back to the drawing

board on this project and, working with the Illinois Department of Transportation, have reduced its cost by nearly half. Yet, we still do not have the money to build it.

A new river bridge in St. Louis would benefit our entire state through commerce, tourism, safety and positive environmental impacts. Analysis by the Missouri Department of Economic Development shows a 16 to one return on investment for this project. I urge you to pass this vital legislation quickly.

We also support legislation this year to redirect the sales tax paid by highway contractors to transportation. MoDOT is charged with being a transportation department, but it is funded like a highway department. Our plan is to use revenue generated by the highway contractors' sales tax to fix this situation.

Ending this mini-diversion from transportation will mean better airports for economic development. Greater access to rail and river resources to move freight and reduce traffic on our highways. And better public transit options in both our urban and rural communities.

Now, I realize that we cannot expect major increases in resourcesuntil the public knows that we make the absolute best use of every tax dollar. It is imperative that we stretch our dollars to do more because that's what the people of Missouri demand.

MoDOT is listening and responding. A major reconstruction of I-64, also known as Highway 40, is in the works. It will be the largest highway construction project in Missouri history. It will also be the most innovative through the use of a design-build process and unprecedented contractor flexibility to allow for innovations and cost savings. The completion of this project will mean congestion relief and greater connectivity for motorists in St. Louis. That is progress of record proportions.

With progress, however, sometimes comes annoyance. We will do everything we can to minimize inconvenience to travelers on this 12-mile section of highway, but some inconvenience is inevitable. What we will not do though is close I-64 in its entirety for the duration of construction. That is our promise to the people of St. Louis. We have heard you, we have responded and that option is off the table.

While a complete closure is off the table, we are giving more people a seat at the table. A job can change a life. Therefore, we are working with community organizations that represent Missouri's under served to ensure greater opportunity for low income and minority citizens in our highway program. It is our hope that I-64 will become a model for the future.

Our innovations also include the implementation of a common sense approach to designing highway construction projects. This no-frills philosophy, called Practical Design, allows us to build safe roads and bridges that meet the needs of Missourians without unnecessary extravagances. This approach allows us to save money on each project so we can do even more projects.

Through Practical Design, we will save four hundred million dollars on highway improvements over the next five years. That is four hundred million dollars going to vital road work in all parts of this state, work that would not have been done previously. Now THAT

is progress taxpayers feel in their pocketbooks.

Our innovations also include the most extensive results-based performance measuring system in state government. Through a report called the Tracker, we provide you and all Missourians with a direct window into MoDOT - warts and all.

We have identified 18 tangible results that the people of Missouri expect us to deliver. These include smooth and unrestricted roads and bridges; uninterrupted traffic flow; a safe transportation system; personal, courteous and fast customer service; the best value for every dollar spent; and customer involvement in decision making -- among other vital outcomes.

To gauge our progress toward these critical results, we track 123 measures. How we are doing on these measures, good or bad, is reported in the Tracker quarterly and immediately released for anyone to see. Hard copies are made available and it is posted on our web site.

We are proud that the Governor's Government Review Commission cited the Tracker as a model for other state agencies and has recommended that they implement similar processes. That feels like progress to me.

Additionally, we have looked to the people of this state for innovative solutions to our transportation challenges. For example, we brought together private citizens, business leaders, elected officials, highway contractors, consultants and many others for a day-long session to identify ways we can do things better, faster and cheaper.

We call this process Partnering for Innovative Efficiencies. It has yielded numerous ideas, many of which we are implementing, and we are planning another session in April where we will further focus on better, faster and cheaper ways to improve transportation in Missouri.

I believe strongly that we must continuously find ways to do things better, faster and cheaper. When I asked MoDOT workers to do things better, however, the response was, "just better isn't good enough. We will not produce a world class transportation system unless we do world class work."

When I said faster, MoDOT workers said, "faster isn't fast enough. We will move at unreasonably fast speeds to deliver the best transportation system in the world."

When I said cheaper, MoDOT workers said, "we will build quality products of great value -- efficiently - and we will save the taxpayers of this state more money than you would have thought possible."

Ladies and gentlemen, welcome to the new MoDOT! An organization committed to innovation. Our approach is economical, but our success will be enormous. We are listening to you. We are working with you. We are showing you progress like never before - progress you can feel!

In 2005, MoDOT employees showed there is no limit to how far they will go to help their fellow Missourians. During the past year, these dedicated public servants have gone above and beyond the call of duty.

When the Taum Sauk Dam failed last December in south central

Missouri, MoDOT employees were among the first on the scene. Operations Engineer Henry Haggard was a mere 15 minutes behind the wall of water that flooded the area. He arrived on Route N and began coordinating crews clearing the roadway.

Among those crewmembers were Ben Meredith and Justin Blankenship of Centerville and Nick Lambert of Belleview. These folks did not stop until the roads were clear of debris, traffic could pass again, an alternate route could be used if the second dam failed and whatever else needed to be done was done. They and many other members of the MoDOT family went home covered in mud, but today they are wrapped in our appreciation.

MoDOT employees responded heroically to that disaster, but heroism is common among the people with whom I am privileged to work. Tragedy struck twice near a repaving project on Route 61 through Moscow Mills. On both occasions, MoDOT Construction Inspector Lee Ann Kelly reacted in heroic fashion.

At around 2 a.m. on Aug. 11, a man was thrown from his motorcycle landing on the centerline, with the cycle in the middle of the passing lane. As a licensed emergency medical technician, Lee Ann knew what to do. Traffic was diverted and she enlisted a bystander to hold the gentleman's head while she cared for him until an ambulance arrived.

Just a few weeks later, another accident occurred at Route 61 and U south of Troy. Lee Ann ran to the wrecked car. The driver was unconscious sitting upright in the driver's seat. She placed his head in the correct position, opened his airway, and made sure he was breathing until emergency responders could reach the scene.

Local law enforcement officials credited Lee Ann with saving both drivers' lives. Lee Ann and the Taum Sauk responders are here today. I ask them to stand and receive the recognition they deserve.

These are just five of the outstanding people who work for MoDOT and are dedicated to public service. They reacted to dire circumstances in extraordinary ways.

We are asking all MoDOT employees, however, to accomplish extraordinary feats. We are asking them to complete the single largest transportation project in Missouri history, we are asking them to deliver the largest construction program in Missouri history, we are asking them to deliver the Smooth Roads Initiative a full year early and we are holding them accountable for results at every step along the way.

Last year, I promised you that MoDOT employees would accomplish these things and more without adding personnel or new buildings. We have kept that promise and will remain committed to it.

MoDOT employees are doing more, but like other state employees they have not received a significant pay increase in five years. Therefore, I ask the General Assembly to pass a four percent across-the-board pay increase for Missouri's dedicated state employees. Missouri has a lot of things to be proud of - being last in state employee pay isn't one of them.

Statewide, we are focused on saving more than 200 lives per year and getting traffic fatalities below 1,000 by 2009. Through a

partnership with the Highway Patrol, local law enforcement, highway safety advocates and other governmental agencies we have formed the Missouri Coalition for Roadway Safety. I know this grassroots effort will save lives on Missouri's roads.

The news from 2005, however, is not good. After a dramatic decrease in traffic deaths in 2004, fatalities increased by 9 percent this past year. 1,234 sons and daughters, mothers and fathers lost their lives on our highways in 2005. These numbers are unacceptable, undeniably tragic and an inexcusable embarrassment to our state.

They are particularly inexcusable when you consider that we could save 90 lives per year through a primary safety belt law. We can accomplish that noble goal by simply allowing officers to enforce our current law that requires safety belt use.

Now, I realize this issue may not be universally popular, but I feel a moral obligation to appeal to you once again for a primary safety belt law. Not because it is necessarily popular, but because it is right.

Doing what is right isn't always easy, but it is always right. We are losing an obscene number of Missourians to traffic crashes. A primary safety belt law will save lives and it is the right thing to do.

Etched in stone over the back entrance to this chamber is the phrase, "Progress is the law of life." In other words, when we are through making progress, then we are through. Well, we're not through. With your help, MoDOT will continue to get better, to make our transportation system better and to make our great state better.

You don't achieve progress, however, through talk. You achieve it through action. On the wall of my office I have a sign with an equation that reads, "Dreams minus Action equals Squat."

MoDOT is your action agency. We dream big, and we deliver big. Gone is the indecisive bureaucracy. Arrived is the more nimble organization that gets things done. The department that produces real progress. Progress you can feel.

To paraphrase a great Missourian, George Washington Carver: It will only be when MoDOT does common things in an uncommon way that people will take notice. That's our commitment to you - to make you notice uncommon progress. Progress you can feel.

So, how does this make you feel? In the coming years, we will undertake the reconstruction of I-64 in St. Louis and will finally connect it to I-70. We will also build a new Paseo Bridge in Kansas City. And we will complete the four-laning of U.S. 67 from Festus to Poplar Bluff.

Within five years, we will have new major river bridges in Hermann and Atchison.

Plus, we will complete the four-laning of U.S. 60 from Springfield to Sikeston; the four-laning of U.S. 71 from I-44 to Arkansas; the four-laning of U.S. 61 from Iowa to St. Louis; the four-laning of U.S. 65 from Buffalo to Arkansas; the four-laning of U.S. 36 from St. Joseph to Hannibal; the four-laning of U.S. 13 from Clinton to Springfield and the four-laning of U.S. 63 from Kirksville to Jefferson City.

Additionally, our 2,200 busiest miles of state highways -- including

all of I-70, all of I-44 and every other interstate in Missouri -- will be in good condition.

What does that feel like to you? That feels like real, tangible progress to me. Progress you can feel!

I look forward to working with each of you for even greater progress in the years ahead. Thank you and may God bless your travels.

On motion of Senator Shields, the Joint Session was dissolved and the Senators returned to the Chamber where they were called to order by Senator Griesheimer.

SENATE BILLS FOR PERFECTION

Senator Nodler moved that **SB 590**, with **SCS**, **SS** for **SCS** and **SA 1** (pending), be called from the Informal Calendar and again taken up for perfection, which motion prevailed.

SA 1 was again taken up.

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

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

SENATE AMENDMENT NO. 2

Amend Senate Substitute for Senate Committee Substitute for Senate Bill No. 590, Pages 16-19, Section 173.272, by striking said section from the bill; and

Further amend the title and enacting clause accordingly.

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

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

SENATE AMENDMENT NO. 3

Amend Senate Substitute for Senate Committee Substitute for Senate Bill No. 590, Page 7, Section 173.005, Line 15, by adding after the word "any" the word "**public**" and by deleting the comma "," on said line and further amend said bill line 16 by deleting the words "public or private," and further amend said bill, line 27 by deleting the word "an" and insert in lieu thereof the

words “**any such public**”.

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

Senator Dougherty offered SA 4:

SENATE AMENDMENT NO. 4

Amend Senate Substitute for Senate Committee Substitute for Senate Bill No. 590, Page 16, Section 173.234, Line 22, by inserting after all of said line the following:

“173.270. 1. The coordinating board for higher education shall make provisions for institutions under the board's jurisdiction to award a tuition and fee waiver for undergraduate courses at state institutions of higher education for any student, beginning with incoming freshmen in the 2006 fall semester or term, who:

(1) Is a resident of this state;

(2) Has graduated within the previous three years from high school or passed the GED examination; and

(3) Has been in foster care or other residential care under the department of social services on or after:

(a) The day preceding the student's eighteenth birthday;

(b) The day of the student's fourteenth birthday, if the student was also eligible for adoption on or after that day; or

(c) The day the student graduated from high school or received a GED.

2. To be eligible for a waiver award, a student shall:

(1) Apply to and be accepted at the institution not later than:

(a) The third anniversary of the date the student was discharged from foster or other residential care, the date the student graduated from high school, or the date the student

received a GED, whichever is earliest; or

(b) The student's twenty-first birthday;

(2) Apply for other student financial assistance, other than student loans, in compliance with federal financial aid rules, including the federal Pell grant;

(3) Apply to the coordinating board for higher education for a determination of eligibility. Application shall be on forms and in a manner prescribed by rule of the coordinating board; and

(4) Complete a minimum of one hundred hours of community service or public internship within a twelve-month period beginning September first for each year in which the student is receiving a tuition and fee waiver award pursuant to this section. The department of higher education, in collaboration with participating state institutions of higher education, shall by rule determine the community service and public internships that students may participate in to meet the requirements of this subdivision. A student may fulfill this requirement by completing the necessary community service or public internship hours during the summer.

3. The tuition and fee waiver provided by this section shall be awarded on an annual basis and shall continue to be available, if the student is otherwise eligible pursuant to this section, as long as the student remains in good academic standing at the state institution of higher education.

4. The waiver provided by this section for each eligible student may be used for no more than four years of undergraduate study and may only be used after other sources of financial aid that are dedicated solely to tuition and fees are exhausted.

5. No student who is enrolled in an institution of higher education as of the effective date of this section shall be eligible for a waiver

award under this section.

6. 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, 2005, shall be invalid and void.”; and

Further amend the title and enacting clause accordingly.

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

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

SENATE AMENDMENT NO. 5

Amend Senate Substitute for Senate Committee Substitute for Senate Bill No. 590, Page 1, In the Title, Line 3-4, by striking the words: “the powers of the coordinating board of”.

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

Senator Green offered **SA 6**:

SENATE AMENDMENT NO. 6

Amend Senate Substitute for Senate Committee Substitute for Senate Bill No. 590, Page 1, Section A, Line 5, by inserting immediately after said line the following:

“143.121. 1. The Missouri adjusted gross income of a resident individual shall be the taxpayer's federal adjusted gross income subject to the modifications in this section.

2. There shall be added to the taxpayer's

federal adjusted gross income:

(a) The amount of any federal income tax refund received for a prior year which resulted in a Missouri income tax benefit;

(b) Interest on certain governmental obligations excluded from federal gross income by Section 103 of the Internal Revenue Code. The previous sentence shall not apply to interest on obligations of the state of Missouri or any of its political subdivisions or authorities and shall not apply to the interest described in subdivision (a) of subsection 3 of this section. The amount added pursuant to this paragraph shall be reduced by the amounts applicable to such interest that would have been deductible in computing the taxable income of the taxpayer except only for the application of Section 265 of the Internal Revenue Code. The reduction shall only be made if it is at least five hundred dollars;

(c) The amount of any deduction that is included in the computation of federal taxable income pursuant to Section 168 of the Internal Revenue Code as amended by the Job Creation and Worker Assistance Act of 2002 to the extent the amount deducted relates to property purchased on or after July 1, 2002, but before July 1, 2003, and to the extent the amount deducted exceeds the amount that would have been deductible pursuant to Section 168 of the Internal Revenue Code of 1986 as in effect on January 1, 2002; and

(d) The amount of any deduction that is included in the computation of federal taxable income for net operating loss allowed by Section 172 of the Internal Revenue Code of 1986, as amended, other than the deduction allowed by Section 172(b)(1)(G) and Section 172(i) of the Internal Revenue Code of 1986, as amended, for a net operating loss the taxpayer claims in the tax year in which the net operating loss occurred or carries forward for a period of more than twenty years and carries backward for more than two years. Any amount of net operating loss taken against federal income taxes but disallowed against

Missouri income taxes pursuant to this paragraph since July 1, 2002, may be carried forward and taken against any loss on the Missouri income tax return for a period of not more than twenty years from the year of the initial loss.

3. There shall be subtracted from the taxpayer's federal adjusted gross income the following amounts to the extent included in federal adjusted gross income:

(a) Interest or dividends on obligations of the United States and its territories and possessions or of any authority, commission or instrumentality of the United States to the extent exempt from Missouri income taxes pursuant to the laws of the United States. The amount subtracted pursuant to this paragraph shall be reduced by any interest on indebtedness incurred to carry the described obligations or securities and by any expenses incurred in the production of interest or dividend income described in this paragraph. The reduction in the previous sentence shall only apply to the extent that such expenses including amortizable bond premiums are deducted in determining the taxpayer's federal adjusted gross income or included in the taxpayer's Missouri itemized deduction. The reduction shall only be made if the expenses total at least five hundred dollars;

(b) The portion of any gain, from the sale or other disposition of property having a higher adjusted basis to the taxpayer for Missouri income tax purposes than for federal income tax purposes on December 31, 1972, that does not exceed such difference in basis. If a gain is considered a long-term capital gain for federal income tax purposes, the modification shall be limited to one-half of such portion of the gain;

(c) The amount necessary to prevent the taxation pursuant to this chapter of any annuity or other amount of income or gain which was properly included in income or gain and was taxed pursuant to the laws of Missouri for a taxable year prior to January 1, 1973, to the taxpayer, or to a decedent by reason of whose death the taxpayer

acquired the right to receive the income or gain, or to a trust or estate from which the taxpayer received the income or gain;

(d) Accumulation distributions received by a taxpayer as a beneficiary of a trust to the extent that the same are included in federal adjusted gross income;

(e) The amount of any state income tax refund for a prior year which was included in the federal adjusted gross income;

(f) The portion of capital gain specified in section 135.357, RSMo, that would otherwise be included in federal adjusted gross income;

(g) The amount that would have been deducted in the computation of federal taxable income pursuant to Section 168 of the Internal Revenue Code as in effect on January 1, 2002, to the extent that amount relates to property purchased on or after July 1, 2002, but before July 1, 2003, and to the extent that amount exceeds the amount actually deducted pursuant to Section 168 of the Internal Revenue Code as amended by the Job Creation and Worker Assistance Act of 2002; [and]

(h) For all tax years beginning on or after January 1, 2005, the amount of any income received for military service while the taxpayer serves in a combat zone which is included in federal adjusted gross income and not otherwise excluded therefrom. As used in this section, "combat zone" means any area which the President of the United States by Executive Order designates as an area in which armed forces of the United States are or have engaged in combat. Service is performed in a combat zone only if performed on or after the date designated by the President by Executive Order as the date of the commencing of combat activities in such zone, and on or before the date designated by the President by Executive Order as the date of the termination of combatant activities in such zone; **and**

(i) The amount of any qualified higher

education expenses determined under section 143.1014.

4. There shall be added to or subtracted from the taxpayer's federal adjusted gross income the taxpayer's share of the Missouri fiduciary adjustment provided in section 143.351.

5. There shall be added to or subtracted from the taxpayer's federal adjusted gross income the modifications provided in section 143.411.

143.1014. 1. This section shall be known and may be cited as the "Higher Education Expenses Deduction".

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

(1) "Department", the department of revenue;

(2) "Director", the director of the department of revenue;

(3) "Higher education institution", a Missouri public institution that meets the standards for accreditation as determined by either the North Central Association of Colleges and Secondary Schools or by other accrediting bodies recognized by the United States Department of Education or by utilizing accreditation standards applicable to non-degree granting institutions as established by the coordinating board for higher education.

(4) "Tax liability", the tax due under chapter 143, other than taxes withheld under sections 143.191 to 143.265; and

(5) "Taxpayer", any student filing income tax returns or a taxpayer who claims a student as a dependent.

3. If any taxpayer with a federal adjusted gross income of less than one hundred thousand dollars incurs tuition or fee expenses for enrollment of at least half time at a higher education institution, such taxpayer shall subtract from such taxpayer's federal adjusted

gross income an amount equal to one hundred percent of such costs the taxpayer paid during the taxable year.

4. The department may promulgate such rules or regulations as are 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, 2006, shall be invalid and void.

5. The provisions of this section shall apply to all tax years beginning on or after January 1, 2007.; and

Further amend the title and enacting clause accordingly.

Senator Green moved that the above amendment be adopted and requested a roll call vote be taken. He was joined in his request by Senators Callahan, Coleman, Days and Barnitz.

Senator Scott offered SA 1 to SA 6, which was read:

SENATE AMENDMENT NO. 1 TO
SENATE AMENDMENT NO. 6

Amend Senate Amendment No. 6 to Senate Substitute for Senate Committee Substitute for Senate Bill No. 590, Page 5, Section 143.1014, Line 14, by adding after the word "public" the words: "or private".

Senator Scott moved that the above amendment be adopted.

At the request of Senator Scott, **SA 1 to SA 6** was withdrawn.

Senator Scott offered **SA 2 to SA 6**, which was read:

SENATE AMENDMENT NO. 2 TO
SENATE AMENDMENT NO. 6

Amend Senate Amendment No. 6 to Senate Substitute for Senate Committee Substitute for Senate Bill No. 590, Page 5, Section 143.1014, Line 14, by adding after the word “public” the words: “or private”.

Senator Scott moved that the above amendment be adopted.

At the request of Senator Nodler, **SB 590** with **SCS, SS** for **SCS, SA 6** and **SA 2 to SA 6** (pending) was placed on the Informal Calendar.

RE-REFERRALS

President Pro Tem Gibbons re-referred **SB 991** to the Committee on the Judiciary and Civil and Criminal Jurisprudence.

INTRODUCTION OF BILLS

The following Bills were read the 1st time and ordered printed:

SB 1023—By Gibbons, Crowell, Koster, Bartle and Bray.

An Act to repeal section 650.055, RSMo, and to enact in lieu thereof two new sections relating to exoneration using DNA testing, with penalty provisions.

SB 1024—By Koster.

An Act to repeal sections 513.600, 513.605, 513.607, 513.610, 513.612, 513.615, 513.617, 513.620, 513.623, 513.625, 513.630, 513.635, 513.637, 513.640, 513.645, 513.647, 513.649,

513.651, and 513.653, RSMo, and to enact in lieu thereof twenty-five new sections relating to criminal forfeiture reform, with penalty provisions.

SB 1025—By Koster.

An Act to repeal section 57.280, RSMo, and to enact in lieu thereof two new sections relating to compensation for sheriffs and deputy sheriffs.

INTRODUCTIONS OF GUESTS

Senator Engler introduced to the Senate, Jeff and Robin Brady and their children, Heidi, Tiffany, Brianna, Katelyn, Timothy, Amanda and Caleb, Farmington; and Timothy and Amanda were made honorary pages.

On behalf of Senators Shields, Klindt and herself, Senator Ridgeway introduced to the Senate, leadership and members of the Northland Regional Chamber of Commerce, Clay and Platte Counties.

On behalf of Senator Dougherty and himself, Senator Kennedy introduced to the Senate, the Physician of the Day, Dr. Timothy J. McCann, M.D., and his daughters, Erin and Meghan, St. Louis; and Erin and Meghan were made honorary pages.

Senator Cauthorn introduced to the Senate, Mike Lichtenberg, Montgomery City; Margo and Bob Smith, Independence; and Ben Steinman, Mexico.

Senator Champion introduced to the Senate, Orlando Hodges, John B. Harms, Ph.D. and Art L. Spisak, Ph.D., Springfield.

On behalf of Senators Coleman, Dougherty and himself, Senator Kennedy introduced to the Senate, Joe Mokwa, St. Louis.

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

SENATE CALENDAR

TWENTIETH DAY–WEDNESDAY, FEBRUARY 8, 2006

FORMAL CALENDAR

SECOND READING OF SENATE BILLS

SB 1005-Stouffer	SB 1016-Gross
SB 1006-Goodman, et al	SB 1017-Clemens
SB 1007-Goodman and Days	SB 1018-Kennedy and Mayer
SB 1008-Klindt	SB 1019-Alter and Gross
SB 1009-Klindt	SB 1020-Vogel
SB 1010-Wheeler	SB 1021-Dougherty, et al
SB 1011-Wheeler	SB 1022-Dougherty, et al
SB 1012-Wheeler	SB 1023-Gibbons, et al
SB 1013-Crowell	SB 1024-Koster
SB 1014-Scott and Gibbons	SB 1025-Koster
SB 1015-Kennedy	

SENATE BILLS FOR PERFECTION

SJR 26-Ridgeway and Graham	SB 583-Griesheimer and Alter, with SCS
SBs 858 & 868-Shields, with SCS	

INFORMAL CALENDAR

SENATE BILLS FOR PERFECTION

SB 590-Nodler and Champion, with SCS, SS for SCS, SA 6 & SA 2 to SA 6 (pending)	SB 690-Champion, with SCS
SB 645-Griesheimer	SB 773-Cauthorn and Barnitz, with SCS
SB 689-Scott	SB 849-Mayer, et al

CONSENT CALENDAR

Senate Bills

Reported 2/2

SB 749-Engler, with SCS
SB 747-Klindt, with SCS
SB 641-Scott
SB 808-Ridgeway
SB 818-Scott
SB 819-Scott
SB 828-Scott
SB 691-Champion
SB 678-Gross
SB 630-Gross, with SCS

SB 805-Gross
SB 612-Engler
SB 646-Griesheimer, with SCS
SB 712-Scott
SB 802-Shields, with SCS
SB 648-Champion
SB 677-Gross
SB 791-Mayer and Kennedy
SB 871-Coleman

RESOLUTIONS

Reported from Committee

SCR 25-Cauthorn, with SCS
SCR 24-Scott, with SCS

SCR 22-Champion

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