

Journal of the Senate

SECOND REGULAR SESSION

THIRTY-SIXTH DAY—WEDNESDAY, MARCH 8, 2006

The Senate met pursuant to adjournment.

Senator Goodman in the Chair.

Reverend Carl Gauck offered the following prayer:

"Devote yourselves to prayer, keeping alert in it with thanksgiving." (Colossians 4:2)

Dear Lord, we have arrived at the midway point of this week. Sometimes looking at the calendar we are mindful of all that must yet be dealt with and we can become discouraged. Help us to keep things in perspective and be thankful for what we have accomplished and know that You will guide us and help us to get what is truly important completed if we remain faithful and we will have yet more reasons to give You thanks. 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.

Senator Shields announced that photographers from KRCG-TV had been given permission to take pictures in the Chamber today.

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	Graham
Green	Griesheimer	Gross	Kennedy
Klindt	Koster	Loudon	Mayer
Nodler	Purgason	Ridgeway	Scott
Shields	Stouffer	Vogel	Wheeler
Wilson—33			

Absent—Senators—None

Absent with leave—Senators—None

Vacancies—1

The Lieutenant Governor was present.

RESOLUTIONS

Senator Gross offered Senate Resolution No. 2327, regarding the Institute for Family Medicine, Saint Louis, which was adopted.

Senator Shields offered Senate Resolution No. 2328, regarding Brett James Main, which was adopted.

Senator Shields offered Senate Resolution No. 2329, regarding Aaron Scott McRuer, Parkville, which was adopted.

Senator Shields offered Senate Resolution No. 2330, regarding Alexander Steven Ortega, Platte

City, which was adopted.

Senator Shields offered Senate Resolution No. 2331, regarding Blaine Evan Steck, Kansas City, which was adopted.

Senator Shields offered Senate Resolution No. 2332, regarding Kory Roth, Kansas City, which was adopted.

Senator Shields offered Senate Resolution No. 2333, regarding J. Cameron Jones, Kansas City, which was adopted.

Senator Shields offered Senate Resolution No. 2334, regarding Noah Brandt Eber, Kansas City, which was adopted.

Senator Shields offered Senate Resolution No. 2335, regarding John A. Clizer, Parkville, which was adopted.

Senator Shields offered Senate Resolution No. 2336, regarding Trevor Don Roth, Kansas City, which was adopted.

Senator Shields offered Senate Resolution No. 2337, regarding Kyle A. Spangler, Kansas City, which was adopted.

Senator Alter offered Senate Resolution No. 2338, regarding Judy Ann Davis, Dittmer, which was adopted.

SENATE BILLS FOR PERFECTION

Senator Griesheimer moved that **SB 816**, with **SCS**, be called from the Informal Calendar and taken up for perfection, which motion prevailed.

SCS for **SB 816**, entitled:

SENATE COMMITTEE SUBSTITUTE FOR SENATE BILL NO. 816

An Act to amend chapter 67, RSMo, by adding thereto six new sections relating to the fair competition in video act.

Was taken up.

Senator Griesheimer moved that **SCS** for **SB 816** be adopted.

Senator Griesheimer offered **SS** for **SCS** for **SB 816**, entitled:

SENATE SUBSTITUTE FOR SENATE COMMITTEE SUBSTITUTE FOR SENATE BILL NO. 816

An Act to amend chapter 67, RSMo, by adding thereto five new sections relating to the fair competition in video act.

Senator Griesheimer moved that **SS** for **SCS** for **SB 816** be adopted.

Senator Green offered **SA 1**:

SENATE AMENDMENT NO. 1

Amend Senate Substitute for Senate Committee Substitute for Senate Bill No. 816, Page 1, In the Title, Line 3, by inserting immediately after the word "act" the following: ", with an emergency clause"; and

Further amend said bill, page 12, section 67.2683, line 8 of said page, by inserting immediately after said line the following:

"92.086. 1. On or before January 1, 2006, the director shall publish a list of the municipalities which have, prior to August 28, 2005, enacted ordinances imposing a business license tax on a telecommunications company. The list shall contain:

(1) The name of the municipality imposing the tax;

(2) The name of the tax as denoted by the municipality;

(3) The citation to the municipal code provisions imposing the tax; and

(4) The percentage of gross receipts.

The director shall not be required to include any figures for the percentage of gross receipts if the municipality in question at the time of August 28, 2005, had an ordinance which imposed a flat fee instead of a fee based on gross receipts as its business license tax. In compiling the list, the

director shall collect information from telecommunications companies, municipalities, municipal codes, and other reliable sources.

2. (1) On or before February 1, 2006, all telecommunications companies in Missouri shall provide the director and the state auditor with the amount of municipal business license tax which they paid each Missouri municipality identified by the director in accordance with subsection 1 of this section for the previous four quarters. On or before February 1, 2006, all telecommunications companies in Missouri shall provide the director and the state auditor with an itemized list establishing their gross receipts for the previous four quarters for each category of gross receipts in each municipality identified by the director in accordance with subsection 1 of this section upon which a sales tax is paid.

(2) On or before February 1, 2006, each municipality shall provide the director and state auditor with the total amount of tax revenue collected for the previous fiscal year of taxable gross receipts from telecommunications companies. Any inconsistency or dispute arising from the information provided by the municipalities and telecommunications companies shall be resolved through an audit performed by the state auditor.

3. Beginning on July 1, 2006, the director shall henceforth collect, administer, and distribute telecommunications business license tax revenues in accordance with the provisions of sections 92.074 to 92.095.

4. Notwithstanding the provisions of any municipal business license tax ordinance, effective July 1, 2006, all business license taxes shall be based solely and exclusively on those gross receipts of telecommunications companies for the retail sale of telecommunications services which are subject to taxation under sections 144.010 and 144.020, RSMo. Any provisions in any municipal taxing ordinances which provide different definitions, rules, or provisions are expressly

preempted and are null and void.

5. The director is authorized to promulgate regulations to establish the appropriate procedures for collecting, administering, and distributing such taxes. A telecommunications company shall file a quarterly return with the director with an attached schedule setting forth the total amount of taxable gross receipts for the quarter and the amount of business license tax due to each municipality. The director shall distribute the appropriate amounts, as set forth in this section, to the municipalities. In exchange for its collection, administration, and distribution functions, the department of revenue shall retain a collection fee of up to one percent (not to exceed the actual costs incurred) on all funds collected and distributed and shall be allowed to collect the interest off such funds during the time between collection and distribution. In no event shall the director fail to distribute the collected funds to a municipality more than thirty days after the collection of the funds.

6. It is the intent of the general assembly that sections 92.074 to 92.095 comply with article X, section 22 of the Missouri Constitution, so that the application of sections 92.074 to 92.095 shall have a revenue-neutral effect. Because business license taxes shall now be based on the gross receipts subject to the sales tax, it is anticipated that the base of the existing business license taxes in most cases shall be broadened, so in order to comply with article X, section 22 of the Missouri Constitution, the municipality shall adjust the gross receipts percentage rate identified by the director in accordance with subsection 2 of this section so that the amount collectible, in total from all telecommunications companies, excluding the collection fee authorized in subsection 5 as defined herein, before and immediately after enactment remains the same in each municipality. If the determination is made by a municipality that in order to comply with article X, section 22 of the Missouri Constitution the gross receipts percentage rate must be increased, such increase shall be

passed by a majority vote of the qualified voters voting in that municipality. The existing tax base shall be an amount equal to the total amount of telecommunications business license taxes collected by a municipality for fiscal year 2005, increased by fifty percent of [the difference between such amount and] the business license tax receipts that would have been yielded by applying the gross receipts percentage rate identified in accordance with subsection 1 of this section to the total gross receipts for all wireless telecommunications services provided by telecommunications companies as identified in 47 U.S.C. Section 332(D)(1) and 47 C.F.R. Parts 22 or 24 in such fiscal year attributable to the municipality. Based upon the rate information received from the director under this section, each municipality shall, no later than April 1, 2006, promulgate and publish the revenue-neutral rates to be applied in each municipality. Such tax rates shall be the applicable business license tax rate for bills rendered on or after July 1, 2006. Any percentages in any ordinance that are contrary to that established by the municipality herein are null and void. If any municipal business license tax ordinance as of January 1, 2005, had a provision stating that the tax only applied to business customers, the new calculated rate under this section also shall be determined based only on business customers and shall apply only to business customers.

7. On or before April 1, 2007, the director, in consultation with the state auditor and municipalities, shall examine revenues collected and forecast whether a shortfall or excess in municipal revenues for each municipality is likely to occur for the fiscal year ending June 30, 2007, due to data reporting errors or other errors in the calculation of the revenue-neutral tax rate. Section 32.057, RSMo, shall not restrict the disclosure of information to perform such consultation. If a shortfall or excess is expected, the director, after review and comment from municipalities and telecommunications companies, shall promulgate

and publish an adjustment in the rate in such municipalities. Such tax rate adjustment, if necessary, shall apply to bills issued after July 1, 2007.

8. The director shall be notified in writing within thirty days of any change in the municipal business license tax rate adopted by a municipality. The director shall promulgate such rate changes, but such rate changes may only take effect on the first day of a calendar quarter and only after a minimum of ninety days notice from the director to a telecommunications company. Any subsequent increase in the business license tax rate passed through an ordinance by a municipality which is above that rate as established by the municipality under subsection 6 of this section shall be passed by a majority vote of the qualified voters voting in that municipality. No municipal tax rate shall exceed the cap provided in subsection 9 of this section.

9. Notwithstanding the provisions of subsections 3 to 8 of this section or any other provision of law to the contrary, for any municipality not subject to the provisions of subsection 10 of this section, the maximum rate of taxation on gross receipts shall not exceed five percent for bills rendered on or after July 1, 2006, except if the business license tax rate for any municipality, as calculated in subsection 6 of this section, or if necessary, subsection 7 of this section, is determined to be greater than five percent, then, notwithstanding the provisions of such subsections, the business license tax rates for such municipality on and after July 1, 2006, shall be as follows:

(1) For bills rendered between July 1, 2006, and June 30, 2008, the rate shall be the actual adjusted rate as determined by subsection 6 of this section, or, if necessary, subsection 7 of this section;

(2) For bills rendered between July 1, 2008, and June 30, 2010, the rate shall be half the sum of the rate determined in subdivision (1) of this

subsection and five percent; and

(3) For all bills rendered on and after July 1, 2010, five percent.

10. (1) Any municipality which prior to November 4, 1980, had an ordinance imposing a business license tax on telecommunications companies which specifically included the words “wireless”, “cell phones”, or “mobile phones” in its business license tax ordinance as revenues upon which a business license tax could be imposed, and had not limited its tax to local exchange telephone service or landlines, and had taken affirmative action to collect such tax from wireless telecommunications providers prior to January 15, 2005, shall not be required to adjust its business license tax rate as provided in subsection 6 of this section and shall not be subject to the provisions of subsection 9 of this section.

(2) Any municipality which has an ordinance or an amendment to an ordinance imposing a business license tax on telecommunications companies which was authorized or amended by a public vote subsequent to November 4, 1980, and such authorization specifically included the terms “wireless”, “cell phones”, or “mobile telephones” as revenues upon which a business license tax could be imposed, and had not limited its tax to local exchange telephone service or landlines, and had taken affirmative action to collect such tax from wireless telecommunications providers prior to January 15, 2005, shall not be required to adjust its business license tax rate as provided in subsection 6 of this section and shall not be subject to the provisions of subsection 9 of this section.

11. For purposes of sections 92.074 to 92.095, the director and any municipality shall have the authority to audit any telecommunications company. Notwithstanding the provisions of section 32.057, RSMo, the director of revenue shall furnish any municipality with information it requests to permit the municipality to review and audit the payments of any telecommunications company.

12. The statute of limitations shall be three years for the alleged nonpayment or underpayment of the business license tax.

13. Any telecommunications company is authorized to pass through to its retail customers all or part of the business license tax.

14. The provisions of subsection 5 of section 144.190, RSMo, and subdivision (3) of subsection 12 of section 32.087, RSMo, shall apply to the tax imposed under sections 92.074 to 92.095.

15. Unless specifically stated otherwise in sections 92.074 to 92.095, taxpayer remedies, enforcement mechanisms, tax refunds, tax protests, assessments, and all other procedures shall be the same as those provided in chapter 144, RSMo.

16. 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.

Section B. Because of the need to ensure the proper taxation of telecommunications services, the repeal and reenactment of section 92.086 of this act is deemed necessary for the immediate preservation of the public health, welfare, peace and safety, and is hereby declared to be an emergency act within the meaning of the constitution, and the repeal and reenactment of section 92.086 of this act shall be in full force and effect upon its passage and approval.”; and

Further amend the title and enacting clause accordingly.

Senator Green moved that the above amendment be adopted.

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

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

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

SENATE AMENDMENT NO. 2

Amend Senate Substitute for Senate Committee Substitute for Senate Bill No. 816, Page 11, Section 67.2683, Line 24, by inserting immediately after all of said line the following:

“10. A competitive video service provider shall be prohibited from airing the movie “Brokeback Mountain”.”; and

further renumber the remaining subsection accordingly.

Senator Purgason moved that the above amendment be adopted.

President Kinder assumed the Chair.

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

At the request of Senator Griesheimer, **SB 816**, with **SCS** and **SS** for **SCS** (pending), was placed on the Informal Calendar.

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 Speaker has appointed the following conferees on **SCS** for **HCS** for **HB 1014**: Representatives: Icet, Robb, Sater, Shoemyer and Donnelly.

REPORTS OF STANDING COMMITTEES

Senator Shields, Chairman of the Committee

on Rules, Joint Rules, Resolutions and Ethics, submitted the following report:

Mr. President: Your Committee on Rules, Joint Rules, Resolutions and Ethics, to which was referred **SS** for **SCS** for **SBs 588, 557, 579, 563, 869, 619, 570, 753, 764, 782, 783** and **890**, begs leave to report that it has examined the same and finds that the bill has been truly perfected and that the printed copies furnished the Senators are correct.

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

RECESS

The time of recess having expired, the Senate was called to order by Senator Koster.

RESOLUTIONS

Senator Shields offered Senate Resolution No. 2339, regarding Mr. and Mrs. Chad Higdon, which was adopted.

Senator Champion offered Senate Resolution No. 2340, regarding Phyllis A. Frick, Springfield, which was adopted.

Senator Purgason offered Senate Resolution No. 2341, regarding Leanna Baumer, Hartville, which was adopted.

Senator Crowell offered Senate Resolution No. 2342, regarding Central High School, Cape Girardeau, which was adopted.

Senator Purgason offered Senate Resolution No. 2343, regarding the Forty-fifth Wedding Anniversary of Mr. and Mrs. Keith Mizer, Lebanon, which was adopted.

Senator Purgason offered Senate Resolution No. 2344, regarding the Fiftieth Wedding Anniversary of Mr. and Mrs. Clyde Gargus, Lebanon, which was adopted.

Senator Purgason offered Senate Resolution No. 2345, regarding the Fiftieth Wedding Anniversary of Mr. and Mrs. Winfred Case, Myrtle, which was adopted.

Senator Coleman offered Senate Resolution No. 2346, regarding Kim D. Shinauld, II, O'Fallon, which was adopted.

Senator Coleman offered Senate Resolution No. 2347, regarding Hannah Marie Ball, Festus, which was adopted.

Senator Coleman offered Senate Resolution No. 2348, regarding Ana Bradley, Chesterfield, which was adopted.

Senator Coleman offered Senate Resolution No. 2349, regarding Nicole M. Gambill, Cedar Hill, which was adopted.

Senator Coleman offered Senate Resolution No. 2350, regarding Danna Christina Lynch, Wildwood, which was adopted.

Senator Coleman offered Senate Resolution No. 2351, regarding Kristen Howell, Cedar Hill, which was adopted.

Senator Coleman offered Senate Resolution No. 2352, regarding Jackie Manetzke, Cedar Hill, which was adopted.

Senator Coleman offered Senate Resolution No. 2353, regarding Brittney L. Martin, Florissant, which was adopted.

Senator Coleman offered Senate Resolution No. 2354, regarding Laura Elizabeth Pickel, Ballwin, which was adopted.

Senator Coleman offered Senate Resolution No. 2355, regarding Lydia Marie Wills, Bonne Terre, which was adopted.

Senator Coleman offered Senate Resolution No. 2356, regarding Ambria McIntosh, Chesterfield, which was adopted.

Senator Coleman offered Senate Resolution No. 2357, regarding Michelle Landers, Weldon Spring, which was adopted.

Senator Coleman offered Senate Resolution No. 2358, regarding Jessica M. Taubel, Washington, which was adopted.

Senator Coleman offered Senate Resolution No. 2359, regarding Laura Fienup, Manchester, which was adopted.

Senator Coleman offered Senate Resolution No. 2360, regarding Madeline Jean Fienup, Manchester, which was adopted.

Senator Coleman offered Senate Resolution No. 2361, regarding Jessica Kostecki, St. Louis, which was adopted.

Senator Coleman offered Senate Resolution No. 2362, regarding Amy Baumann, High Ridge, which was adopted.

SENATE BILLS FOR PERFECTION

Senator Shields moved that **SB 644** be called from the Informal Calendar and taken up for perfection, which motion prevailed.

Senator Kennedy offered **SA 1**:

SENATE AMENDMENT NO. 1

Amend Senate Bill No. 644, Page 8, Section 163.031, Line 230, by inserting after all of said line the following:

“163.087. 1. **Except as provided in subsection 4 of this section**, money in the school district trust fund shall be distributed to each school district in the state in the same ratio that the weighted average daily attendance in the district bears to the total weighted average daily attendance in all such school districts for the preceding year[, except as otherwise provided in section 163.031].

2. In addition, each such district which is providing an approved program for pupils residing on federal lands shall receive an amount which shall be determined as follows: weighted average daily attendance **or eligible pupils, whichever is applicable for the specified year**, for [pupils] **students** residing on federal lands shall be calculated separately for the district in the manner provided in section 163.011, treating such [pupils] **students** as residents of the district for this

purpose. Such weighted average daily attendance **or eligible pupils, whichever is applicable for the specified year**, shall be multiplied by one-half of the amount to be received by the district, pursuant to this subsection, per weighted average daily attendance **or eligible pupils, whichever is applicable for the specified year**, not residing on federal lands.

[2.] **3.** Money in the fund shall be distributed monthly. The state board of education shall certify the amounts to be distributed to the several school districts to the commissioner of administration who shall issue the warrants therefor.

[3.] **4.** Money received by a school district from the school district trust fund shall be deemed to be local tax revenue derived for the same fiscal year in which the money is received for the teachers' and incidental funds. In the calculation of state aid for the district under the provisions of section 163.031, one-half the amount received by the district in the [first preceding] **2004-2005** year shall be included in local effort as provided in [section 163.031] **subsection 10 of section 163.011.**

5. (1) For purposes of this subsection only, the term "eligible pupils" shall mean the sum of the average daily attendance, as such term is defined in section 163.011, of the school term plus the product of two times the average daily attendance for summer school;

(2) In the 2006-07 school year and each school year thereafter for five years, moneys in the school district trust fund shall be distributed to each school district in the state in the following manner:

(a) For the 2006-07 school year, fifteen percent of the school district trust fund shall be distributed in the manner proscribed in subsection 1 of this section, and eighty-five percent of the school district trust fund shall be distributed to each school district in the state in the same ratio that the number of eligible pupils

in the district bore to the total number of eligible pupils in all such school districts in the 2005-2006 school year;

(b) For the 2007-08 school year, thirty percent of the school district trust fund shall be distributed in the manner proscribed in subsection 1 of this section, and seventy percent of the school district trust fund shall be distributed to each school district in the state in the same ratio that the number of eligible pupils in the district bore to the total number of eligible pupils in all such school districts in the 2005-2006 school year;

(c) For the 2008-09 school year, forty-four percent of the school district trust fund shall be distributed in the manner proscribed in subsection 1 of this section, and fifty-six percent of the school district trust fund shall be distributed to each school district in the state in the same ratio that the number of eligible pupils in the district bore to the total number of eligible pupils in all such school districts in the 2005-2006 school year;

(d) For the 2009-10 school year, fifty-eight percent of the school district trust fund shall be distributed in the manner proscribed in subsection 1 of this section, and forty-two percent of the school district trust fund shall be distributed to each school district in the state in the same ratio that the number of eligible pupils in the district bore to the total number of eligible pupils in all such school districts in the 2005-2006 school year;

(e) For the 2010-11 school year, seventy-two percent of the school district trust fund shall be distributed in the manner proscribed in subsection 1 of this section, and twenty-eight percent of the school district trust fund shall be distributed to each school district in the state in the same ratio that the number of eligible pupils in the district bore to the total number of eligible pupils in all such school districts in the 2005-2006 school year;

(f) For the 2011-12 school year, eighty-six percent of the school district trust fund shall be distributed in the manner proscribed in subsection 1 of this section, and fourteen percent of the school district trust fund shall be distributed to each school district in the state in the same ratio that the number of eligible pupils in the district bore to the total number of eligible pupils in all such school districts in the 2005-2006 school year.”; and

Further amend the title and enacting clause accordingly.

Senator Kennedy moved that the above amendment be adopted.

Senator Mayer assumed the Chair.

Senator Callahan requested a roll call vote be taken on the adoption of **SA 1** and was joined in his request by Senators Coleman, Crowell, Days and Kennedy.

SA 1 failed of adoption by the following vote:

YEAS—Senators

Bray	Callahan	Gibbons	Graham
Gross	Kennedy	Ridgeway—7	

NAYS—Senators

Alter	Bartle	Cauthorn	Champion
Clemens	Coleman	Crowell	Days
Dougherty	Engler	Goodman	Green
Klindt	Koster	Mayer	Nodler
Purgason	Scott	Shields	Stouffer
Vogel	Wheeler	Wilson—23	

Absent—Senators

Barnitz	Griesheimer	Loudon—3
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Absent with leave—Senators—None

Vacancies—1

Senator Gross offered **SA 2**:

SENATE AMENDMENT NO. 2

Amend Senate Bill No. 644, Page 1, Section A,

Line 5 of said page by inserting after all of said line the following:

“163.011. As used in this chapter unless the context requires otherwise:

(1) “Adjusted operating levy”, the sum of tax rates for the current year for teachers' and incidental funds for a school district as reported to the proper officer of each county pursuant to section 164.011, RSMo;

(2) “Average daily attendance”, the quotient or the sum of the quotients obtained by dividing the total number of hours attended in a term by resident pupils between the ages of five and twenty-one by the actual number of hours school was in session in that term. To the average daily attendance of the following school term shall be added the full-time equivalent average daily attendance of summer school students. “Full-time equivalent average daily attendance of summer school students” shall be computed by dividing the total number of hours attended by all summer school pupils by the number of hours required in section 160.011, RSMo, in the school term. For purposes of determining average daily attendance under this subdivision, the term “resident pupil” shall include all children between the ages of five and twenty-one who are residents of the school district and who are attending kindergarten through grade twelve in such district. If a child is attending school in a district other than the district of residence and the child's parent is teaching in the school district or is a regular employee of the school district which the child is attending, then such child shall be considered a resident pupil of the school district which the child is attending for such period of time when the district of residence is not otherwise liable for tuition. Average daily attendance for students below the age of five years for which a school district may receive state aid based on such attendance shall be computed as regular school term attendance unless otherwise provided by law;

(3) “Current operating expenditures”:

(a) For the fiscal year 2007 calculation, “current operating expenditures” shall be calculated using data from fiscal year 2004 and shall be calculated as all expenditures for instruction and support services except capital outlay and debt service expenditures minus the revenue from federal categorical sources; food service; student activities; categorical payments for transportation costs pursuant to section 163.161; state reimbursements for early childhood special education; the career ladder entitlement for the district, as provided for in sections 168.500 to 168.515, RSMo; the vocational education entitlement for the district, as provided for in section 167.332, RSMo; and payments from other districts;

(b) In every fiscal year subsequent to fiscal year 2007, current operating expenditures shall be the amount in paragraph (a) plus any increases in state funding pursuant to sections 163.031 and 163.043 subsequent to fiscal year 2005, not to exceed five percent, per recalculation, of the state revenue received by a district in the 2004-05 school year from the foundation formula, line 14, gifted, remedial reading, exceptional pupil aid, fair share, and free textbook payments for any district from the first preceding calculation of the state adequacy target;

(4) “District’s tax rate ceiling”, the highest tax rate ceiling in effect subsequent to the 1980 tax year or any subsequent year. Such tax rate ceiling shall not contain any tax levy for debt service;

(5) “Dollar value modifier”, an index of the relative purchasing power of a dollar, calculated as one plus fifteen percent of the difference of the regional wage ratio minus one, provided that the dollar value modifier shall not be applied at a rate less than 1.0:

(a) “County wage per job”, the total county wage and salary disbursements divided by the total county wage and salary employment for each county and the city of St. Louis as reported by the Bureau of Economic Analysis of the United States

Department of Commerce for the fourth year preceding the payment year;

(b) “Regional wage per job”:

a. The total Missouri wage and salary disbursements of the metropolitan area as defined by the Office of Management and Budget divided by the total Missouri metropolitan wage and salary employment for the metropolitan area for the county signified in the school district number or the city of St. Louis, as reported by the Bureau of Economic Analysis of the United States Department of Commerce for the fourth year preceding the payment year and recalculated upon every decennial census to incorporate counties that are newly added to the description of metropolitan areas; or if no such metropolitan area is established, then:

b. The total Missouri wage and salary disbursements of the micropolitan area as defined by the Office of Management and Budget divided by the total Missouri micropolitan wage and salary employment for the micropolitan area for the county signified in the school district number, as reported by the Bureau of Economic Analysis of the United States Department of Commerce for the fourth year preceding the payment year, if a micropolitan area for such county has been established and recalculated upon every decennial census to incorporate counties that are newly added to the description of micropolitan areas; or

c. If a county is not part of a metropolitan or micropolitan area as established by the Office of Management and Budget, then the county wage per job, as defined in paragraph (a) of this subdivision, shall be used for the school district, as signified by the school district number;

(c) “Regional wage ratio”, the ratio of the regional wage per job divided by the state median wage per job;

(d) “State median wage per job”, the fifty-eighth highest county wage per job;

(6) “Free and reduced lunch pupil count”, the

number of pupils eligible for free and reduced lunch on the last Wednesday in January for the preceding school year who were enrolled as students of the district, as approved by the department in accordance with applicable federal regulations;

(7) “Free and reduced lunch threshold” shall be calculated by dividing the total free and reduced lunch pupil count of every performance district that falls entirely above the bottom five percent and entirely below the top five percent of average daily attendance, when such districts are rank-ordered based on their current operating expenditures per average daily attendance, by the total average daily attendance of all included performance districts;

(8) “Limited English proficiency pupil count”, the number in the preceding school year of pupils aged three through twenty-one enrolled or preparing to enroll in an elementary school or secondary school who were not born in the United States or whose native language is a language other than English or are Native American or Alaskan native, or a native resident of the outlying areas, and come from an environment where a language other than English has had a significant impact on such individuals' level of English language proficiency, or are migratory, whose native language is a language other than English, and who come from an environment where a language other than English is dominant; and have difficulties in speaking, reading, writing, or understanding the English language sufficient to deny such individuals the ability to meet the state's proficient level of achievement on state assessments described in Public Law 107-10, the ability to achieve successfully in classrooms where the language of instruction is English, or the opportunity to participate fully in society;

(9) “Limited English proficiency threshold” shall be calculated by dividing the total limited English proficiency pupil count of every performance district that falls entirely above the

bottom five percent and entirely below the top five percent of average daily attendance, when such districts are rank-ordered based on their current operating expenditures per average daily attendance, by the total average daily attendance of all included performance districts;

(10) “Local effort”:

(a) For the fiscal year 2007 calculation, “local effort” shall be computed as the equalized assessed valuation of the property of a school district in calendar year 2004 divided by one hundred and multiplied by the performance levy less the percentage retained by the county assessor and collector plus one hundred percent of the amount received in fiscal year 2005 for school purposes from intangible taxes, fines, escheats, payments in lieu of taxes and receipts from state-assessed railroad and utility tax, one hundred percent of the amount received for school purposes pursuant to the merchants' and manufacturers' taxes under sections 150.010 to 150.370, RSMo, one hundred percent of the amounts received for school purposes from federal properties under sections 12.070 and 12.080, RSMo, except when such amounts are used in the calculation of federal impact aid pursuant to P.L. 81-874, fifty percent of Proposition C revenues received for school purposes from the school district trust fund under section 163.087, and one hundred percent of any local earnings or income taxes received by the district for school purposes. Under this paragraph, for a special district established under sections 162.815 to 162.940, RSMo, in a county with a charter form of government and with more than one million inhabitants, a tax levy of zero shall be utilized in lieu of the performance levy for the special school district;

(b) In every year subsequent to fiscal year 2007, “local effort” shall be the amount calculated under paragraph (a) of this subdivision plus any increase in the amount received for school purposes from fines **or less any decrease in the amount received for school purposes from fines.**

If a district's assessed valuation has decreased subsequent to the calculation outlined in paragraph

(a) of this subdivision, the district's local effort shall be calculated using the district's current assessed valuation in lieu of the assessed valuation utilized in calculation outlined in paragraph (a) of this subdivision;

(11) "Membership" shall be the average of:

(a) The number of resident full-time students and the full-time equivalent number of part-time students who were enrolled in the public schools of the district on the last Wednesday in September of the previous year and who were in attendance one day or more during the preceding ten school days; and

(b) The number of resident full-time students and the full-time equivalent number of part-time students who were enrolled in the public schools of the district on the last Wednesday in January of the previous year and who were in attendance one day or more during the preceding ten school days, plus the full-time equivalent number of summer school pupils.

"Full-time equivalent number of part-time students" is determined by dividing the total number of hours for which all part-time students are enrolled by the number of hours in the school term. "Full-time equivalent number of summer school pupils" is determined by dividing the total number of hours for which all summer school pupils were enrolled by the number of hours required pursuant to section 160.011, RSMo, in the school term. Only students eligible to be counted for average daily attendance shall be counted for membership;

(12) "Operating levy for school purposes", the sum of tax rates levied for teachers' and incidental funds plus the operating levy or sales tax equivalent pursuant to section 162.1100, RSMo, of any transitional school district containing the school district, in the payment year, not including any equalized operating levy for school purposes

levied by a special school district in which the district is located;

(13) "Performance district", any district that has met all performance standards and indicators as established by the department of elementary and secondary education for purposes of accreditation under section 161.092, RSMo, and as reported on the final annual performance report for that district each year;

(14) "Performance levy", three dollars and forty-three cents;

(15) "School purposes" pertains to teachers' and incidental funds;

(16) "Special education pupil count", the number of public school students with a current individualized education program and receiving services from the resident district as of December first of the preceding school year, except for special education services provided through a school district established under sections 162.815 to 162.940, RSMo, in a county with a charter form of government and with more than one million inhabitants, in which case the sum of the students in each district within the county exceeding the special education threshold of each respective district within the county shall be counted within the special district and not in the district of residence for purposes of distributing the state aid derived from the special education pupil count;

(17) "Special education threshold" shall be calculated by dividing the total special education pupil count of every performance district that falls entirely above the bottom five percent and entirely below the top five percent of average daily attendance, when such districts are rank-ordered based on their current operating expenditures per average daily attendance, by the total average daily attendance of all included performance districts;

(18) "State adequacy target", the sum of the current operating expenditures of every performance district that falls entirely above the bottom five percent and entirely below the top five

percent of average daily attendance, when such districts are rank-ordered based on their current operating expenditures per average daily attendance, divided by the total average daily attendance of all included performance districts. The department of elementary and secondary education shall first calculate the state adequacy target for fiscal year 2007 and recalculate the state adequacy target every two years using the most current available data. The recalculation shall never result in a decrease from the previous state adequacy target amount. Should a recalculation result in an increase in the state adequacy target amount, fifty percent of that increase shall be included in the state adequacy target amount in the year of recalculation, and fifty percent of that increase shall be included in the state adequacy target amount in the subsequent year. The state adequacy target may be adjusted to accommodate available appropriations;

(19) “Teacher”, any teacher, teacher-secretary, substitute teacher, supervisor, principal, supervising principal, superintendent or assistant superintendent, school nurse, social worker, counselor or librarian who shall, regularly, teach or be employed for no higher than grade twelve more than one-half time in the public schools and who is certified under the laws governing the certification of teachers in Missouri;

(20) “Weighted average daily attendance”, the average daily attendance plus the product of twenty-five hundredths multiplied by the free and reduced lunch pupil count that exceeds the free and reduced lunch threshold, plus the product of seventy-five hundredths multiplied by the number of special education pupil count that exceeds the special education threshold, and plus the product of six-tenths multiplied by the number of limited English proficiency pupil count that exceeds the limited English proficiency threshold. For special districts established under sections 162.815 to 162.940, RSMo, in a county with a charter form of government and with more than one million inhabitants, weighted average daily attendance

shall be the average daily attendance plus the product of twenty-five hundredths multiplied by the free and reduced lunch pupil count that exceeds the free and reduced lunch threshold, plus the product of seventy-five hundredths multiplied by the sum of the special education pupil count that exceeds the threshold for each county district, plus the product of six-tenths multiplied by the limited English proficiency pupil count that exceeds the limited English proficiency threshold. None of the districts comprising a special district established under sections 162.815 to 162.940, RSMo, in a county with a charter form of government and with more than one million inhabitants, shall use any special education pupil count in calculating their weighted average daily attendance.”; and

Further amend said bill, section 163.031, page 2, line 41 of said page, by inserting after all of said line the following:

“(e) For districts meeting the criteria of paragraphs (a) through (d) of this subdivision, an additional payment amount equal to the decrease, if any, in the amount of revenue a district receives from fines in the current year from the revenue the district received from fines in fiscal year 2005 shall be paid to any such qualified district.”; and

Further amend said bill and section, page 3, line 68 of said page, by inserting after all of said line the following:

“(e) For districts meeting the criteria of paragraphs (a) through (d) of this subdivision, an additional payment amount equal to the decrease, if any, in the amount of revenue a district receives from fines in the current year from the revenue the district received from fines in fiscal year 2005 shall be paid to any such qualified district.”; and

Further amend the title and enacting clause accordingly.

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

Senator Bray offered **SA 3**:

SENATE AMENDMENT NO. 3

Amend Senate Bill No. 644, Page 8, Section 163.031, Line 230, by inserting after all of said line the following:

“167.231. 1. Within all school districts except metropolitan districts the board of education shall provide transportation to and from school for all pupils living more than three and one-half miles from school and may provide transportation for all pupils. State aid for transportation shall be paid as provided in section 163.161, RSMo, only on the basis of the cost of pupil transportation for those pupils living one mile or more from school, including transportation provided to and from publicly operated university laboratory schools. The board of education may provide transportation for pupils living less than one mile from school at the expense of the district and may prescribe reasonable rules and regulations as to eligibility of pupils for transportation, **and, notwithstanding any other provision of law, no such district shall be subject to an administrative penalty when the district demonstrates pursuant to rule established by the state board of education that such students are required to cross a state highway or county arterial in the absence of sidewalks, traffic signals, or a crossing guard and that no existing bus stop location has been changed to permit a district to evade such penalty.** If no increase in the tax levy of the school district is required to provide transportation for pupils living less than one mile from the school, the board may transport said pupils. If an increase in the tax levy of the school district is required to provide transportation for pupils living less than one mile from school, the board shall submit the question at a public election. If a two-thirds majority of the voters voting on the question at the election are in favor of providing the transportation, the board shall arrange and provide therefor.

2. The proposal and the ballots may be in

substantially the following form:

Shall the board of education of the school district provide transportation at the expense of the district for pupils living less than one mile from school and be authorized to levy an additional tax of cents on the one hundred dollars assessed valuation to provide funds to pay for such transportation service?

YES NO

(If you are in favor of the proposition (or question), place an X in the box opposite “YES”. If you are opposed to the proposition (or question), place an X in the box opposite “NO”.)

3. The board of education of any school district may provide transportation to and from school for any public school pupil not otherwise eligible for transportation under the provisions of state law, and may prescribe reasonable rules and regulations as to eligibility for transportation, if the parents or guardian of the pupil agree in writing to pay the actual cost of transporting the pupil. The minimum charge would be the actual cost of transporting the pupil for ninety school days, which actual cost is to be determined by the average per pupil cost of transporting children in the school district during the preceding school year. The full actual cost shall be paid by the parent or guardian of the pupil and shall not be paid out of any state school aid funds or out of any other revenues of the school district. The cost of transportation may be paid in installments, and the board of education shall establish the cost of the transportation and the time or times and method of payment.”; and

Further amend the title and enacting clause accordingly.

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

On motion of Senator Shields, **SB 644**, as amended, was declared perfected and ordered printed.

MESSAGES FROM THE HOUSE

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

Mr. President: I am instructed by the House of Representatives to inform the Senate that the House has taken up and passed **HB 1427**, entitled:

An Act to repeal section 351.488, RSMo, and to enact in lieu thereof one new section relating to reinstatement of dissolved corporations.

In which the concurrence of the Senate is respectfully requested.

Read 1st time.

Also,

Mr. President: I am instructed by the House of Representatives to inform the Senate that the House has taken up and passed **HB 1035**, entitled:

An Act to repeal section 301.143, RSMo, and to enact in lieu thereof one new section relating to disabled parking signs, with a penalty provision.

In which the concurrence of the Senate is respectfully requested.

Read 1st time.

Also,

Mr. President: I am instructed by the House of Representatives to inform the Senate that the House has taken up and passed **HCS for HB 1138**, entitled:

An Act to repeal sections 86.1110, 86.1140, 86.1490, and 86.1500, RSMo, and to enact in lieu thereof four new sections relating to police military leave.

In which the concurrence of the Senate is respectfully requested.

Read 1st time.

Also,

Mr. President: I am instructed by the House of Representatives to inform the Senate that the

House has taken up and passed **HCS for HB 978**, entitled:

An Act to amend chapter 42, RSMo, by adding thereto four new sections relating to the Vietnam War medallion program.

In which the concurrence of the Senate is respectfully requested.

Read 1st time.

Also,

Mr. President: I am instructed by the House of Representatives to inform the Senate that the House has taken up and passed **HCS for HB 1344**, entitled:

An Act to repeal section 87.260, RSMo, and to enact in lieu thereof one new section relating to the firefighter's retirement and relief system, with an emergency clause.

Emergency clause adopted.

In which the concurrence of the Senate is respectfully requested.

Read 1st time.

Also,

Mr. President: I am instructed by the House of Representatives to inform the Senate that the House has taken up and passed **HB 1251**, entitled:

An Act to repeal section 172.287, RSMo, and to enact in lieu thereof one new section relating to equipment grants for engineering programs.

In which the concurrence of the Senate is respectfully requested.

Read 1st time.

Also,

Mr. President: I am instructed by the House of Representatives to inform the Senate that the House has taken up and passed **HCS for HB 1168**, entitled:

An Act to amend chapter 338, RSMo, by adding thereto one new section relating to impaired pharmacists.

In which the concurrence of the Senate is respectfully requested.

Read 1st time.

Also,

Mr. President: I am instructed by the House of Representatives to inform the Senate that the House has taken up and passed **HB 1204**, entitled:

An Act to amend chapter 221, RSMo, by adding thereto one new section relating to duties of jailers.

In which the concurrence of the Senate is respectfully requested.

Read 1st time.

HOUSE BILLS ON SECOND READING

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

HCS for HJR 36—Ways and Means.

HJR 28—Ways and Means.

HB 1169—Judiciary and Civil and Criminal Jurisprudence.

HB 1157—Agriculture, Conservation, Parks and Natural Resources.

HB 1249—Ways and Means.

HB 1688—Ways and Means.

HB 1393—Financial and Governmental Organizations and Elections.

HB 1234—Education.

HB 1105—Transportation.

HB 1228—Financial and Governmental Organizations and Elections.

REFERRALS

President Pro Tem Gibbons referred **SS** for **SCS** for **SBs 588, 557, 579, 563, 869, 619, 570, 753, 764, 782, 783** and **890** to the Committee on Governmental Accountability and Fiscal

Oversight.

COMMUNICATIONS

Senator Klindt submitted the following:

March 8, 2006

Honorable Terry Spieler
Secretary of the Senate
Room 325, State Capitol
Jefferson City, MO 65101

Madam Secretary:

Please remove Senate Bill 582 from the Consent Calendar.

Thank you.

Sincerely,

/s/ David G. Klindt

David G. Klindt

State Senator - District 12

Also,

March 8, 2006

Mrs. Terry Spieler
Secretary of the Senate
State Capitol, Room 325
Jefferson City, MO 65101

RE: Senate Appointment to the Advisory Committee on Lead Poisoning

Dear Terry:

Pursuant to Section 701.302, RSMo, I am reappointing Senator Patrick Dougherty to the Advisory Committee on Lead Poisoning.

If you have any questions, do not hesitate to contact me.

Yours truly,

/s/ Michael R. Gibbons

MICHAEL R. GIBBONS

INTRODUCTIONS OF GUESTS

Senator Goodman introduced to the Senate, Justin Gill and Traci Henson, Aurora.

Senator Barnitz introduced to the Senate, Linda Kenzee and Elizabeth Bax, Rolla.

Senator Wheeler introduced to the Senate, members of St. Elizabeth 150 Webelos Boy Scouts, Kenner Bowers, David Beck, Joey Fama, Daniel Craig, Lorenzo Gatapia, Jacob King, Stephen Hart, Thomas Leis, Alex McDonald, Jamie Krzyzanowski, John Pfaff, Richard Sowders,

McKale Wiley and Max Unwin, Kansas City; and the boys were made honorary pages.

Senator Griesheimer introduced to the Senate, Ellen Kluesner, Washington.

Senator Barnitz introduced to the Senate, Kay Johnson, Alana Jacobson, Chris Sipes, Cecelia Jarrett and Jonathan Vaughan, Crocker.

Senator Gross introduced to the Senate, the Physician of the Day, Dr. David Poggemeier, M.D., his father, Dr. William Poggemeier and his daughter, Elise, St. Charles.

Senator Kennedy introduced to the Senate, Dr. James Peterson, M.D., New Melle; Dr. Robert McMahon and Michael Ladevich, St. Louis.

Senator Bray introduced to the Senate, Tom Noble and forty-five fourth grade students from Briar Crest Elementary School, St. Ann.

Senator Scott introduced to the Senate, Principal Mrs. Becky Gallagher, Mrs. Tara Carter, Mrs. Carolyn Harms, Mrs. Bonnie Swisher and students from Windsor Elementary School; and Samantha Neuman, Drew Beeman, Katie Eggers,

Shelby Williams and Lauren Hadley were made honorary pages.

Senator Barnitz introduced to the Senate, Ernestine Mueller, Hermann.

Senator Scott introduced to the Senate, Donna Stelling and Marlene Bredehoeft, Cole Camp.

Senator Gibbons introduced to the Senate, John and Stephanie Robert and their daughter, Samantha, Glenn and Lisa Ross and their daughter, Abby, Pat Fox and her children, Mikaela and Branson, Buffy Johnson and her son, Jordan, Alice Johnson, Tricia Kidd and Lois Jacobs, Valley Park; and Samantha, Abby, Mikaela, Jordan and Branson were made honorary pages.

On behalf of Senator Champion and himself, Senator Clemens introduced to the Senate, Christi Gonder, Lexington; Ashley and Brittany Gillig, Aurora; Marc Allison, South Greenfield and Anson Elliott, Springfield.

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

SENATE CALENDAR

THIRTY-SEVENTH DAY—THURSDAY, MARCH 9, 2006

FORMAL CALENDAR

SECOND READING OF SENATE BILLS

SB 1248-Crowell, et al
SB 1249-Alter
SB 1250-Alter
SB 1251-Shields
SB 1252-Scott

SB 1253-Mayer
SB 1254-Shields, et al
SB 1255-Dougherty
SJR 43-Crowell, et al

HOUSE BILLS ON SECOND READING

HB 1118-Dempsey, et al	HCS for HB 978
HB 983-Meadows, et al	HCS for HB 1344
HB 1427-Johnson (90), et al	HB 1251-Guest, et al
HB 1035-Young (49), et al	HCS for HB 1168
HCS for HB 1138	HB 1204-Roorda, et al

THIRD READING OF SENATE BILLS

SS for SCS for SBs 588, 557, 579,
563, 869, 619, 570, 753, 764, 782,
783 & 890-Bartle (In Fiscal Oversight)

SENATE BILLS FOR PERFECTION

- | | |
|--|---|
| 1. SB 938-Stouffer | 7. SB 825-Koster, et al, with SCS |
| 2. SB 953-Engler, et al, with SCS | 8. SB 616-Stouffer, with SCS |
| 3. SBs 613, 1030 & 899-Engler and
Crowell, with SCS | 9. SB 589-Bartle |
| 4. SBs 1031 & 846-Klindt, with SCS | 10. SB 637-Cauthorn, et al,
with SCS |
| 5. SB 718-Crowell and Mayer, with SCS | 11. SB 901-Shields |
| 6. SB 822-Gross | 12. SB 635-Cauthorn |

INFORMAL CALENDAR

SENATE BILLS FOR PERFECTION

SB 566-Dougherty, et al, with SCS	SB 820-Koster, with SCS
SB 596-Days	SB 832-Griesheimer, with SCS
SB 643-Scott	SRB 848-Bartle, with SCS
SB 646-Griesheimer, with SCS	SB 849-Mayer, et al, with SS, SA 6 & SA 1 to SA 6 (pending)
SBs 665 & 757-Engler, with SCS	SB 916-Koster, et al, with SCS, SS for SCS & SA 1 (pending)
SB 689-Scott	SBs 1014 & 730-Scott and Gibbons, with SCS
SB 690-Champion, with SCS	SJR 26-Ridgeway and Graham
SB 780-Klindt	
SB 816-Griesheimer and Coleman, with SCS & SS for SCS (pending)	

CONSENT CALENDAR

Senate Bills

Reported 2/9

SB 760-Engler, with SCS
SB 830-Ridgeway, et al, with SCS

SB 871-Coleman

Reported 2/23

SB 965-Bartle
SB 806-Gross, with SCS
SB 964-Crowell
SB 990-Vogel

SBs 667, 704, 941, 956 & 987-Engler,
with SCS
SB 779-Engler
SB 735-Crowell

Reported 3/2

SB 1020-Vogel
SB 951-Cauthorn
SB 974-Shields
SB 1008-Klindt, with SCS

SB 834-Nodler
SB 947-Shields
SB 981-Goodman, et al

BILLS IN CONFERENCE AND BILLS
CARRYING REQUEST MESSAGES

In Conference

HCS for HB 1014-Icet, with SCS (Gross)

RESOLUTIONS

Reported from Committee

SCR 24-Scott, with SCS

SCR 28-Days

MISCELLANEOUS

REMONSTRANCE 1-Gross