

Journal of the Senate

FIRST REGULAR SESSION

NINETEENTH DAY—TUESDAY, FEBRUARY 6, 2007

The Senate met pursuant to adjournment.

Purgason	Ridgeway	Rupp	Scott
Shields	Shoemyer	Smith	Stouffer
Vogel	Wilson—34		

President Kinder in the Chair.

Reverend Carl Gauck offered the following prayer:

“How long will you waver between two opinions? If the Lord is God, follow Him...” (I Kings 18:21)

Lord God, we often waver in doing that which is truly right or for that which we know we are to stand forth accepting the challenges of being Your spokesmen or women. In the midst of calls for compromise and weakness to please others we ask that You guide our steps and actions so that what we do may truly reflect what You require of us. 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

Barnitz	Bartle	Bray	Callahan
Champion	Clemens	Coleman	Crowell
Days	Engler	Gibbons	Goodman
Graham	Green	Griesheimer	Gross
Justus	Kennedy	Koster	Lager
Loudon	Mayer	McKenna	Nodler

Absent—Senators—None

Absent with leave—Senators—None

Vacancies—None

The Lieutenant Governor was present.

RESOLUTIONS

Senator Smith offered Senate Resolution No. 315, regarding Premier Knowledge Solutions, St. Louis, which was adopted.

Senator Nodler offered Senate Resolution No. 316, regarding the One Hundredth Birthday of Elizabeth Smith, Joplin, which was adopted.

Senator Nodler offered Senate Resolution No. 317, regarding the Missouri Southern International Piano Competition, Joplin, which was adopted.

Senator Lager offered Senate Resolution No. 318, regarding The Boji Stone Coffee Shop/Bookstore and C’s Café, Trenton and Chillicothe, which was adopted.

INTRODUCTION OF BILLS

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

SB 449—By Callahan.

An Act to repeal section 143.124, RSMo, and to enact in lieu thereof one new section relating to income taxation of retirement and pension income.

SB 450—By Callahan.

An Act to repeal section 143.011, RSMo, and to enact in lieu thereof one new section relating to income taxation of resident taxpayers filing combined returns.

SB 451—By Goodman.

An Act to repeal sections 414.012, 414.032, 414.042, 414.052, 414.112, and 414.122, RSMo, and to enact in lieu thereof six new sections relating to automotive lubricants.

SB 452—By Bartle and Callahan.

An Act to amend chapter 67, RSMo, by adding thereto one new section relating to media access at certain sports stadiums.

SB 453—By Scott.

An Act to repeal sections 323.010, 323.020, 323.060, 323.075, 323.080, 323.090, and 323.110, RSMo, and to enact in lieu thereof eleven new sections relating to the Missouri propane safety act, with a penalty provision.

SB 454—By Nodler.

An Act to repeal section 30.750, RSMo, and to enact in lieu thereof one new section relating to linked deposits.

SB 455—By Gross.

An Act to amend chapter 33, RSMo, by adding thereto one new section relating to the transfer of certain fund balances to the general revenue fund.

SB 456—By Gross.

An Act to repeal section 163.031, RSMo, and

to enact in lieu thereof one new section relating to state aid for hold harmless school districts, with penalty provisions.

SB 457—By Purgason.

An Act to repeal sections 476.083, 571.080, and 571.090, RSMo, and to enact in lieu thereof two new sections relating to the criminal justice system, with penalty provisions.

SB 458—By Gibbons.

An Act to repeal sections 416.615 and 416.640, RSMo, and to enact in lieu thereof two new sections relating to the sale of motor fuel.

SENATE BILLS FOR PERFECTION

Senator Griesheimer moved that **SB 284**, with **SCS**, be taken up for perfection, which motion prevailed.

SCS for **SB 284**, entitled:

SENATE COMMITTEE SUBSTITUTE FOR SENATE BILL NO. 284

An Act to amend chapters 67 and 386, RSMo, by adding thereto twenty-one new sections relating to the provision of video services, with an emergency clause.

Was taken up.

Senator Griesheimer moved that **SCS** for **SB 284** be adopted.

Senator Griesheimer offered **SS** for **SCS** for **SB 284**, entitled:

SENATE SUBSTITUTE FOR SENATE COMMITTEE SUBSTITUTE FOR SENATE BILL NO. 284

An Act to amend chapter 67, RSMo, by adding thereto twenty new sections relating to the provision of video services, with an emergency clause.

Senator Griesheimer moved that **SS** for **SCS** for **SB 284** be adopted.

Senator Griesheimer offered **SA 1**:

SENATE AMENDMENT NO. 1

Amend Senate Substitute for Senate Committee Substitute for Senate Bill No. 284, Page 5, Section 67.2679, Lines 25-28 of said page, by striking all of said lines; and

Further amend said bill and section, Page 6, Lines 1 to 27 of said page, by striking said lines and inserting in lieu thereof the following:

“67.2679. 1. The general assembly finds and declares it to be the policy of the state of Missouri that consumers deserve the benefit of competition among all providers of video programming. Creating a process for securing a state-issued video service authorization best promotes the substantial interest of the state of Missouri in facilitating a competitive marketplace that will, in turn, encourage investment and the deployment of new and innovative services in political subdivisions and provide benefits to the citizens of this state. The general assembly further finds and declares that franchise entities will benefit from immediate availability of the state-issued video service authorization to all video service providers, including new entrants and incumbent cable operators. In addition to the benefits to franchise entities found in sections 67.2675 to 67.2715, this immediate availability of state-issued video service authorization will promote fair competition among all video service providers in a local market and thereby provide new revenues to political subdivisions derived from additional video service customers, and the purchase of additional video services by such customers, and the sale of additional advertising by video service providers. This policy will provide a more predictable source of funding for franchise entities which will continue beyond the natural terms of all existing franchise agreements. The franchise entities will also experience cost savings associated with the administrative convenience

of the enactment of the state-issued video service authorization. These benefits are full and adequate consideration to franchise entities, as the term “consideration” is used in article III, section 39(5) of the Missouri constitution.”; and

Further amend said bill, Section 67.2715, Pages 27 and 28, by striking said section from the bill; and

Further amend the title and enacting clause accordingly.

Senator Griesheimer moved that the above amendment be adopted.

Senator Scott assumed the Chair.

Senator Shields requested unanimous consent of the Senate that Major Jeff Weber of the Cass County Sheriff’s office be allowed to enter the Chamber with sidearms, which request was granted.

SA 1 was again taken up.

Senator Griesheimer offered SA 1 to SA 1:

SENATE AMENDMENT NO. 1 TO
SENATE AMENDMENT NO. 1

Amend Senate Amendment No. 1 to Senate Substitute for Senate Committee Substitute for Senate Bill No. 284, Page 1, Section 67.2679, Line 20, by striking the number “67.2715” and inserting in lieu thereof the following: “67.2714”.

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

SA 1, as amended, was again taken up.

Senator Griesheimer moved that the above amendment be adopted and requested a roll call vote be taken. He was joined in his request by Senators Bartle, Gibbons, Gross and Kennedy.

SA 1, as amended, was adopted by the following vote:

YEAS—Senators

Barnitz	Bartle	Bray	Champion
Clemens	Coleman	Days	Gibbons
Goodman	Graham	Green	Griesheimer
Gross	Justus	Kennedy	Koster
McKenna	Ridgeway	Rupp	Shoemyer
Stouffer	Wilson—22		

NAYS—Senators

Callahan	Engler	Lager	Loudon
Mayer	Nodler	Purgason	Scott
Shields—9			

Absent—Senators

Crowell	Vogel—2
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Absent with leave—Senator Smith—1

Vacancies—None

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

SENATE AMENDMENT NO. 2

Amend Senate Substitute for Senate Committee Substitute for Senate Bill No. 284, Page 18, Section 67.2703, Line 18, by striking the word “may” and inserting in lieu thereof the following: “**shall**”; and

further amend said page and section, lines 19-20, by striking the words “any service tier that is purchased by more than fifty percent of its customers” and inserting in lieu thereof the following: “**all service tiers**”.

Senator Gross moved that the above amendment be adopted.

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

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

SENATE AMENDMENT NO. 3

Amend Senate Substitute for Senate Committee Substitute for Senate Bill No. 284, Page 26, Section 67.2707, Line 23, by inserting after the

word “works” the following: “, **excluding minor beautification projects**”.

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

Senator Bray offered **SA 4**:

SENATE AMENDMENT NO. 4

Amend Senate Substitute for Senate Committee Substitute for Senate Bill No. 284, Page 16, Section 67.2693, Line 14 of said page, by inserting immediately after said line the following:

“67.2694. Video service providers shall not disclose the name or address of a subscriber for commercial gain to be used in mailing lists or for other commercial purposes not reasonably related to the conduct of the businesses of the video service provider or its affiliates, as required under 47 U.S.C. Section 551, including all notice requirements. Video service providers shall provide an address and telephone number for a local subscriber to use without toll charge to prevent disclosure of the subscriber's name or address.”; and

Further amend the title and enacting clause accordingly.

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

Senator Bray offered **SA 5**:

SENATE AMENDMENT NO. 5

Amend Senate Substitute for Senate Committee Substitute for Senate Bill No. 284, Pages 18-23, Section 67.2703, by striking all of said section and inserting in lieu thereof the following:

“67.2703. 1. A franchise entity may require a video service provider providing video service in such franchise entity to designate up to three channels for non-commercial public, educational, or governmental “PEG” use if such franchise entity has a population of at least fifty thousand, and up to two PEG channels if such

franchise entity has a population of less than fifty thousand; provided, however, that a PEG Channel that is shared among multiple political subdivisions served by a common headend on the effective date may continue to be shared among those political subdivisions served by that headend. Such limits shall constitute the total number of PEG channels that may be designated on all video service networks that share a common headend, regardless of the number of franchise entities or other political subdivisions served by such headend. The video service provider may provide such channels on any service tier that is purchased by more than fifty percent of its customers. All video service providers serving a political subdivision shall be required to provide the same number of PEG access channels as the incumbent video service provider existing on the date of enactment of sections 67.2675 to 67.2714.

2. Notwithstanding any franchise or ordinance granted by a franchise entity prior to the date of enactment of sections 67.2675 to 67.2714, this section, rather than the franchise or ordinance, shall apply to the designation of PEG access channels by an incumbent cable operator operating under such franchise or ordinance; provided, however, that if such franchise or ordinance requires more PEG access channels than the applicable limit specified in subsection 1 of this section, the requirement in the franchise or ordinance shall apply in lieu of such limit; provided further, that the incumbent cable operator may nonetheless be required to activate additional PEG channel or channels, up to such limit, to the extent the political subdivision certifies that such additional channel or channels will be substantially utilized, as defined in subsection 4 of this section.

3. Any PEG channel designated pursuant to this section that is not substantially utilized, as defined in subsection 4 of this section, by the franchise entity shall no longer be made

available to the franchise entity, but may be programmed at the video service provider's discretion. At such time as the governing body of a franchising entity makes a finding and certifies that a channel that has been reclaimed by a video service provider under this subsection will be substantially utilized, the video service provider shall restore the reclaimed channel within one hundred and twenty days, but shall be under no obligation to carry that channel on any specific tier.

4. For purposes of this section, a PEG channel shall be considered "substantially utilized" when forty hours per week are locally programmed on that channel for at least three consecutive months. In determining whether a PEG channel is substantially utilized, a program may be counted not more than four times during a calendar week.

5. Except as provided in this section, a franchise entity or political subdivision may not require a video service provider to provide any funds, services, programming, facilities, or equipment related to public, educational, or governmental use of channel capacity. The operation of any PEG access channel provided pursuant to this section and the production of any programming that appears on each such channel shall be the sole responsibility of the franchise entity or its duly appointed agent receiving the benefit of such channel, and the video service provider shall bear only the responsibility for the transmission of the programming on each such channel to subscribers.

6. The franchise entity must ensure that all transmissions of content and programming provided by or arranged by it to be transmitted over a PEG channel by a video service provider are delivered and submitted to the video service provider in a manner or form that is capable of being accepted and transmitted by such video service provider holder over its network

without further alteration or change in the content or transmission signal, and which is compatible with the technology or protocol utilized by the video service provider to deliver its video services.

7. The franchise entity shall make the programming of any PEG access channel available to all video service providers in such franchise entity in a nondiscriminatory manner. Each video service provider shall be responsible for providing the connectivity to the franchise entity's or its duly appointed agent's PEG access channel distribution points existing as of effective date of enactment of sections 67.2675 to 67.2714. Where technically necessary and feasible, video service providers in the same franchise entity shall use reasonable efforts and shall negotiate in good faith to interconnect their video service networks on mutually acceptable rates, terms, and conditions for the purpose of transmitting PEG programming within such franchise entity. A video service provider shall have no obligation to provide such interconnection to a new video service provider at more than one point per headend, regardless of the number of franchise entities or other political subdivisions served by such headend. The video service provider requesting interconnection shall be responsible for any costs associated with such interconnection, including signal transmission from the origination point to the point of interconnection. Interconnection may be accomplished by direct cable microwave link, satellite, or other reasonable method of connection acceptable to the person providing the interconnect.”.

Senator Bray moved that the above amendment be adopted.

Senator Gross offered SA 1 to SA 5, which was read:

SENATE AMENDMENT NO. 1 TO
SENATE AMENDMENT NO. 5
Amend Senate Amendment No. 5 to Senate

Substitute for Senate Committee Substitute for Senate Bill No. 284, Page 1, Section 67.2703, Lines 18-19, by striking all of said lines and inserting in lieu thereof the following: “**provider shall provide such channels on all service tiers. All video**”.

Senator Gross moved that the above amendment be adopted.

At the request of Senator Griesheimer, SB 284, with SCS, SS for SCS, SA 5 and SA 1 to SA 5 (pending), was placed on the Informal Calendar.

REPORTS OF STANDING COMMITTEES

Senator Gross, Chairman of the Committee on Appropriations, submitted the following report:

Mr. President: Your Committee on Appropriations, to which was referred **HB 15**, begs leave to report that it has considered the same and recommends that the bill do pass.

CONCURRENT RESOLUTIONS

Senators Justus, Smith, Days and Bray offered the following concurrent resolution:

SENATE CONCURRENT RESOLUTION NO. 13

Whereas, President George W. Bush has proposed an escalation in the number of United States troops deployed in Iraq; and

Whereas, United States involvement in Iraq has resulted in the deaths of more than 3,000 United States soldiers and the wounding and disabling of more than 22,000 United States military personnel to date; and

Whereas, the war and subsequent civil war between Iraqi religious factions has led to at least 55,000 Iraqi civilian deaths, with others estimating as much as ten times that number, which threatens to engulf our troops in an ever escalating cycle of violence and reprisals; and

Whereas, this proposed escalation will further extend National Guard tours in Iraq, that the costs to the states of the call-up of National Guard members for deployment in Iraq have been significant, as reckoned in lost lives, combat injuries and psychic trauma, disruption of family life, financial hardship for individuals, families and businesses, interruption of careers and damage to the

fabric of civic life in our communities; and

Whereas, the American troops have valiantly upheld their duty in Iraq under dire circumstances; and

Whereas, more than \$357 billion has been appropriated by Congress to fund military operations and reconstruction in Iraq to date, money that could fund desperately needed education, health care, housing, nutrition, and other social services in our communities in the United States or humanitarian assistance abroad; and

Whereas, previous budgets that have prioritized Iraq have led to cuts in critical block grants for states and have increased the federal debt, which compounded by interest payments, will likely lead to even larger cuts in funding for critical needs in the States; and

Whereas, polls show that the vast majority of Americans do not support increasing the number of troops in Iraq; and

Whereas, most military experts oppose escalation in Iraq and press reports indicate that even the Joint Chiefs of Staff have opposed such a strategy; and

Whereas, legal experts on all sides have determined that Congress has not only broad authority, but a long tradition of limiting escalation or forcing redeployment of troops through the Constitutionally-designate power of the purse:

Now, therefore, be it resolved that the members of the Senate of the Ninety-fourth General Assembly, First Regular Session, the House of Representatives concurring therein, hereby urges, on behalf of its citizens, that in a period when the Iraq Study Group, leading military and diplomatic officials and allies around the world are calling for a reduction in troops and withdrawal of the United States from Iraq, the United States government should not escalate its involvement in Iraq or increase troop levels; and

Be it further resolved that, at a minimum, the President should obtain explicit approval from Congress if he wants to send more American troops to Iraq; and

Be it further resolved that the Congress should pass legislation prohibiting the President from spending taxpayer dollars on an escalation in Iraq unless he first seeks Congressional approval; and

Be it further resolved that the Secretary of the Missouri Senate be instructed to prepare properly inscribed copies of this resolution for George W. Bush, President of the United States, and to each member of the Missouri Congressional delegation.

REFERRALS

President Pro Tem Gibbons referred **SCR 12** to the Committee on Rules, Joint Rules, Resolutions and Ethics.

COMMUNICATIONS

President Pro Tem Gibbons submitted the

following:

February 6, 2007

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

Dear Mrs. Spieler:

I am appointing the following senator to the Joint Committee on Capitol Improvements and Leases Oversight:

- Senator Frank Barnitz

I am also reappointing the following senator to this committee:

- Gary Nodler

If you have any questions, please feel free to contact me at your earliest convenience.

Yours truly,
/s/ Michael R. Gibbons
MICHAEL R. GIBBONS
President Pro Tem

Also,

February 6, 2007

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

Dear Mrs. Spieler:

I am appointing the following senator to the Joint Committee on Restructuring Fees of the Clean Water and Storm Water Programs:

- Chuck Graham

If you have any questions, please feel free to contact me at your earliest convenience.

Yours truly,
/s/ Michael R. Gibbons
MICHAEL R. GIBBONS
President Pro Tem

Also,

February 6, 2007

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

Dear Mrs. Spieler:

I am reappointing the following senator to the Children's Trust Fund Board:

- Carl Vogel

If you have any questions, please feel free to contact me at your earliest convenience.

Yours truly,
/s/ Michael R. Gibbons
MICHAEL R. GIBBONS
President Pro Tem

Also,

February 6, 2007

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

Dear Mrs. Spieler:

I am reappointing the following senators to the Emergency Response Commission:

- John Griesheimer
- Rita Heard Days

If you have any questions, please feel free to contact me at your earliest convenience.

Yours truly,
/s/ Michael R. Gibbons
MICHAEL R. GIBBONS
President Pro Tem

Also,

February 6, 2007

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

Dear Mrs. Spieler:

I am reappointing the following senator to the Missouri Investment Trust Board of Trustees:

- Gary Nodler

If you have any questions, please feel free to contact me at your earliest convenience.

Yours truly,
/s/ Michael R. Gibbons
MICHAEL R. GIBBONS
President Pro Tem

Also,

February 6, 2007

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

Dear Mrs. Spieler:

I am appointing the following senators to the Multistate Tax Compact Advisory Committee:

- Michael R. Gibbons
- Victor Callahan

If you have any questions, please feel free to contact me at your earliest convenience.

Yours truly,
/s/ Michael R. Gibbons
MICHAEL R. GIBBONS
President Pro Tem

Also,

February 6, 2007

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

Dear Mrs. Spieler:

I am appointing the following senators to the Children's Services Commission:

- Jack Goodman
- Jolie Justus

I am also reappointing the following senator to this committee:

- Rita Heard Days

If you have any questions, please feel free to contact me at your earliest convenience.

Yours truly,
/s/ Michael R. Gibbons
MICHAEL R. GIBBONS
President Pro Tem

Also,

February 6, 2007

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

Dear Mrs. Spieler:

I am appointing the following senators to the Court Automation

Committee:

- Matt Bartle
- Jolie Justus

If you have any questions, please feel free to contact me at your earliest convenience.

Yours truly,
/s/ Michael R. Gibbons
MICHAEL R. GIBBONS
President Pro Tem

INTRODUCTIONS OF GUESTS

Senator Koster introduced to the Senate, Janet West, Holden; and Jennifer Hicks, Pleasant Hill.

Senator Purgason introduced to the Senate, Alicia Timm and Sarah Stunkel, Laclede County.

Senator Coleman introduced to the Senate, John Long, St. Louis.

Senator Scott introduced to the Senate,

Kimberly Smith, Jefferson City.

Senator Loudon introduced to the Senate, his daughter, Lyda, Chesterfield; and Jedidiah and Josiah Summers, Homeschoolers from Ferguson; and Lyda, Jedidiah and Josiah were made honorary pages.

Senator Griesheimer introduced to the Senate, Connie and Robert Lofton and their daughter, Andrea, Homeschoolers from Union; and Andrea was made an honorary page.

Senator Koster introduced to the Senate, Christy Garnett, Kristie Delarber and Charles Smith.

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

SENATE CALENDAR

TWENTIETH DAY—WEDNESDAY, FEBRUARY 7, 2007

FORMAL CALENDAR

SECOND READING OF SENATE BILLS

SB 431-Clemens	SB 444-Goodman
SB 432-Nodler	SB 445-Goodman
SB 433-Callahan and Rupp	SB 446-Goodman
SB 434-Rupp	SB 447-Goodman
SB 435-Rupp	SB 448-Coleman
SB 436-Rupp	SB 449-Callahan
SB 437-Ridgeway	SB 450-Callahan
SB 438-Ridgeway	SB 451-Goodman
SB 439-Days, et al	SB 452-Bartle and Callahan
SB 440-Days and Gibbons	SB 453-Scott
SB 441-Stouffer	SB 454-Nodler
SB 442-Stouffer	SB 455-Gross
SB 443-Smith, et al	SB 456-Gross

SB 457-Purgason

SB 458-Gibbons

HOUSE BILLS ON THIRD READING

HB 15-Icet (Gross)

INFORMAL CALENDAR

SENATE BILLS FOR PERFECTION

SB 284-Griesheimer, et al, with SCS, SS
for SCS, SA 5 & SA 1 to SA 5 (pending)

CONSENT CALENDAR

Senate Bills

Reported 2/1

SB 9-Kennedy, with SCS
SB 47-Engler, with SCS
SB 81-Griesheimer
SB 115-Scott, with SCS
SB 152-Engler
SB 25-Champion

SB 84-Champion
SB 384-Coleman and Gibbons, with SCS
SB 52-Stouffer, with SCS
SB 232-Crowell, with SCS
SB 19-Shields

RESOLUTIONS

Reported from Committee

SCR 5-Shields, with SCS

To be Referred

SCR 13-Justus, et al