

# Journal of the Senate

FIRST REGULAR SESSION

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**FOURTEENTH DAY—MONDAY, FEBRUARY 2, 2009**

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The Senate met pursuant to adjournment.

President Kinder in the Chair.

Reverend Carl Gauck offered the following prayer:

“For you, O Lord are my hope, my trust, O Lord, from my youth.” (Psalm 71:5)

Almighty God, we had opportunities to rest in Your great strength this past weekend and now count on it in times of increasing stress and distress. We need Your grace now so we might deal with all that we must do and has to be done. We rely on You O God our rock and fortress and take comfort in Your presence with us. We pray for our Doorkeeper Ken Holman who is recovering from surgery on his broken hip and ask that Your healing touch bring him to health and wholeness once again. 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 for Thursday, January 29, 2009 was read and approved.

The following Senators were present during the day’s proceedings:

Present—Senators

Barnitz	Bartle	Bray	Callahan	Champion	Clemens	Crowell	Cunningham
Days	Dempsey	Engler	Goodman	Green	Griesheimer	Justus	Lager
Lembke	McKenna	Nodler	Pearce	Purgason	Ridgeway	Rupp	Schaefer
Schmitt	Scott	Shields	Shoemyer	Smith	Stouffer	Vogel	Wilson

Wright-Jones—33

Absent—Senators—None

Absent with leave—Senator Mayer—1

Vacancies—None

The Lieutenant Governor was present.

**RESOLUTIONS**

Senator Crowell offered Senate Resolution No. 180, regarding the Sixtieth Wedding Anniversary of Mr. and Mrs. Coy Eakins, Burfordville, which was adopted.

Senator Crowell offered Senate Resolution No. 181, regarding the Fiftieth Wedding Anniversary of Mr. and Mrs. Ronald E. Parker, Leopold, which was adopted.

Senator Crowell offered Senate Resolution No. 182, regarding the Sixtieth Wedding Anniversary of Mr. and Mrs. Amander Valentine Gross, Cape Girardeau, which was adopted.

Senator Crowell offered Senate Resolution No. 183, regarding S. Edwin Noffel, DDS, Cape Girardeau, which was adopted.

Senator Crowell offered Senate Resolution No. 184, regarding Jerry Siemers, Cape Girardeau County, which was adopted.

Senator Bray offered Senate Resolution No. 185, regarding Gina Lynn Richards, Maryland Heights, which was adopted.

Senator Smith offered Senate Resolution No. 186, regarding Patricia A. Miller, St. Louis, which was adopted.

Senator Shields offered Senate Resolution No. 187, regarding Matthew Doetzl, Kansas City, which was adopted.

Senator Shields offered Senate Resolution No. 188, regarding Brian Michael Birchler, which was adopted.

Senator Shields offered Senate Resolution No. 189, regarding Thomas Edgar Roth, which was adopted.

Senator Shields offered Senate Resolution No. 190, regarding Maxwell Emory Lanham, which was adopted.

Senator Shields offered Senate Resolution No. 191, regarding Charles Henry Rider, which was adopted.

Senator Champion offered Senate Resolution No. 192, regarding Parker Manning Hall, Springfield, which was adopted.

Senator Champion offered Senate Resolution No. 193, regarding John D. Bruton, Nixa, which was adopted.

Senator Champion offered Senate Resolution No. 194, regarding Connie L. Gourley, Springfield, which was adopted.

Senator Justus offered Senate Resolution No. 195, regarding the Kansas City Arts Institute, which was adopted.

Senator Justus offered Senate Resolution No. 196, regarding Linda Lighton, which was adopted.

Senator Justus offered Senate Resolution No. 197, regarding Beth Ingram, which was adopted.

Senator Shields offered Senate Resolution No. 198, regarding Kyle Elder, Weston, which was adopted.

Senator Shields offered Senate Resolution No. 199, regarding Michael Hoffman, Weston, which was adopted.

Senator Shields offered Senate Resolution No. 200, regarding Miles Hochard, which was adopted.

Senator Vogel offered Senate Resolution No. 201, regarding Deborah Lynn Coots, New Bloomfield, which was adopted.

Senator Smith offered Senate Resolution No. 202, regarding Margaret Williams, Saint Louis, which was adopted.

Senator Scott offered Senate Resolution No. 203, regarding Commander Ben Haynes, Jr., Humansville, which was adopted.

Senator Griesheimer offered Senate Resolution No. 204, regarding the One Hundredth Birthday of Hedwie “Hattie” Pieper, New Haven, which was adopted.

Senator Rupp offered Senate Resolution No. 205, regarding Linda L. Toth, Troy, which was adopted.

Senator Nodler offered Senate Resolution No. 206, regarding the 2008 State Champion Webb City High School Cardinals football team, which was adopted.

Senator Lembke offered the following resolution:

SENATE RESOLUTION NO. 207

WHEREAS, the St. Louis Public School District has closed many school buildings in recent years; and

WHEREAS, these school buildings were constructed over the course of the past century with the use of taxpayer money for the purpose of providing a free public education in accordance with the principles of the Missouri Constitution; and

WHEREAS, many of these school buildings remain suitable facilities for providing an education for Missouri’s children; and

WHEREAS, the St. Louis Public School District is attempting to sell many of its now closed school buildings; and

WHEREAS, the St. Louis Public School District proposes a restriction in the deed of every building for sale that would prohibit the use of the property for one hundred years for a primary, elementary, or secondary school of any kind, including public charter schools which are funded with public dollars and are free and open to all students in the district, providing instruction for grades kindergarten through twelve; and

WHEREAS, this deed restriction prevents these buildings from being used for the purpose for which they were constructed; and

WHEREAS, these buildings were architecturally designed to be used as school facilities for educating children and, by such a design, cannot easily be used for other purposes; and

WHEREAS, this deed restriction constitutes an inefficient use and a waste of limited resources that could be used in a productive and effective manner to educate children; and

WHEREAS, this deed restriction constitutes a public discredit to institutions of state and local government by needlessly preventing their use and represents a waste of state funds and tax dollars, particularly given the difficult and challenging economic times:

NOW THEREFORE BE IT RESOLVED that the members of the Missouri Senate, Ninety-fifth General Assembly, First Regular Session, hereby urge the members of the special administrative board of the transitional school district of the city of St. Louis, the members of the St. Louis public school district board of education, and the superintendent and officers of the St. Louis public school district to remove the one hundred year restriction from the deeds on the use of these school buildings for a primary, elementary, or secondary school of any kind providing instruction for grades kindergarten through twelve, and to respond to the members of the Missouri Senate regarding their compliance at the next public meeting of the special administrative board of the transitional school district of the City of St. Louis; and

BE IT FURTHER RESOLVED that the Secretary of the Missouri Senate be instructed to prepare properly inscribed copies of this resolution for the members of the special administrative board of the transitional school district of the City of St. Louis, the members of the St. Louis public school district board of education, and the superintendent and officers of the St. Louis public school district, and send them via the United States Postal Service, with return receipt service.

Senator Schmitt offered Senate Resolution No. 208, regarding Matthew Allen James, Manchester, which was adopted.

**CONCURRENT RESOLUTIONS**

Senator Shoemyer offered the following concurrent resolution:

## SENATE CONCURRENT RESOLUTION NO. 15

WHEREAS, the General Assembly established the Lewis and Clark Discovery Fund to support funding of capital improvement projects at public colleges and universities; and

WHEREAS, numerous capital improvement projects have begun; and

WHEREAS, the state of Missouri has been adversely impacted and affected by the downturn in the national economy; and

WHEREAS, moneys from the sale of assets at the Missouri Higher Education Loan Authority are not sufficient to complete the intended capital improvement projects; and

WHEREAS, the following entities have begun the following capital improvement projects and may not have sufficient funds to complete them:

- (1) The Coordinating Board for Higher education for maintenance and repair at community colleges;
- (2) The Department of Economic Development for the Missouri Technology Corporation for the attraction and retention of high technology companies and commercialization of existing research being conducted in Missouri;
- (3) Harris-Stowe University for an early childhood and parent education center;
- (4) Lincoln University for Jason Hall;
- (5) Linn State Technical College for a new facility for heavy equipment technology;
- (6) Missouri Southern State University for a health sciences building;
- (7) Missouri State University for:
  - (a) The implementation of phase one of the facilities reutilization plan; and
  - (b) A business incubator;
- (8) Missouri Western State University for the Agenstein Science and Math facility;
- (9) Northwest Missouri State University, for a center for plant biologics;
- (10) Southeast Missouri State University for:
  - (a) A dental hygiene clinic at the Sikeston facility for use in the distance dental hygiene program done in cooperation with Missouri Southern State University;
  - (b) A business incubator;
  - (c) An addition at the River Campus;
  - (d) An autism center;
- (11) Truman State University for the Pershing Building;
- (12) The University of Central Missouri for the Morrow and Garrison buildings;
- (13) The University of Missouri for:
  - (a) The Ellis Fischel Cancer and medical Education Center on the Columbia campus;
  - (b) The Pharmacy and Nurse Building on the Kansas City campus;
  - (c) A plant science research facility in Mexico, Missouri;
  - (d) The Greenley Learning and Discovery Park;
  - (e) A plant science greenhouse at the Delta Research Center;
  - (f) An education and outreach center in Lawrence County;
  - (g) A meeting and education facility in Atchison and Holt Counties;
  - (h) An agroforestry education and research center and meeting and education facilities in Howard County;
  - (i) A learning discovery center in Gentry County;
  - (j) A headquarters building and meeting room in Grundy County;

- (k) A meeting and education facility in Crawford County;
- (l) Swine confinement buildings and a biomedical swine research facility in Boone County;
- (m) A swine research isolation facility in Callaway County;
- (n) The School of Dentistry on the Kansas City campus;
- (o) A mechanical engineering building on the Rolla campus;
- (p) Construction of Benton and Stadler Halls on the St. Louis campus; and

WHEREAS, the federal government may provide Missouri with moneys for capital improvements as part of a stimulus package, which could be used to fund the completion of these projects:

NOW, THEREFORE, BE IT RESOLVED that the members of the Missouri Senate, Ninety-fifth General Assembly, First Regular Session, the House of Representatives concurring therein, hereby urge the Governor and the Office of Administration to deposit from any moneys received from the federal government for capital improvements during the 111th Congress, first session, as part of a federal stimulus package, an amount sufficient to fully fund the capital improvement projects identified in this resolution into the Lewis and Clark Discovery Fund for distribution to the entities listed above; and

BE IT FURTHER RESOLVED that the Secretary of the Senate be instructed to prepare properly inscribed copies of this resolution for the Governor and the Commissioner of the Office of Administration.

Senator Pearce offered the following concurrent resolution:

SENATE CONCURRENT RESOLUTION NO. 16

WHEREAS, the state of Missouri has a long history of supporting the military in their mission to protect the American people; and

WHEREAS, Whiteman Air Force Base has a long history of being at the forefront of national defense; and

WHEREAS, the United States Air Force is establishing a new major command responsible for all Air Force nuclear operations, and this Global Strike Command will bring the Air Force's B-52 and B-2 bombers and intercontinental ballistic missiles under one command; and

WHEREAS, the United States Air Force is in the process of selecting the location of the permanent headquarters for Global Strike Command; and

WHEREAS, Whiteman Air Force Base is one of six bases where Air Force officials are considering stationing the permanent headquarters of Global Strike Command; and

WHEREAS, state and local organizations, including the Missouri Military Preparedness and Enhancement Commission, the Warrensburg City Council, the Whiteman Area Leadership Council, the Whiteman Air Force Base Community Council, the Military Affairs Committee of the Warrensburg Chamber of Commerce, and the Daily Star-Journal, support the choice of Whiteman Air Force Base as the permanent headquarters for Global Strike Command:

NOW THEREFORE BE IT RESOLVED that the members of the Missouri Senate, Ninety-fifth General Assembly, First Regular Session, the House of Representatives concurring therein, hereby strongly support the choice of Whiteman Air Force Base as the permanent headquarters of the Air Force's Global Strike Command and urge the United States Air Force to select Whiteman Air Force Base as the headquarters of the new Global Strike Command; and

BE IT FURTHER RESOLVED that the Secretary of the Missouri Senate be instructed to prepare properly inscribed copies of this resolution for the Secretary of Defense, the Secretary of the Air Force, and each member of Missouri's congressional delegation.

Senator Shields offered the following concurrent resolution:

SENATE CONCURRENT RESOLUTION NO. 17

WHEREAS, the Council of State Governments is a nonpartisan, nonprofit organization which forecasts policy trends for the community of states, commonwealths, and territories on a national and regional basis; and

WHEREAS, the Council of State Governments serves executive, judicial, and legislative branches of state government through leadership education, research, and information services; and

WHEREAS, the Council of State Governments currently comprises four regions, including the Eastern Region, Midwestern Region, Southern Region, and Western Region; and

WHEREAS, the state of Missouri is currently a member of the Southern Region of the Council of State Governments; and

WHEREAS, the council's unique structure focuses on the needs and special concerns of the four regions of the United States; and

WHEREAS, as a member of the Southern Region of the Council of State Governments, the state of Missouri has been honored to work with the states of Alabama, Arkansas, Florida, Georgia, Kentucky, Louisiana, Maryland, Mississippi, North Carolina, Oklahoma, South Carolina, Tennessee, Texas, Virginia and West Virginia; and

WHEREAS, since the state of Missouri is physically located in the center of the United States in the region commonly known as the "Midwest", it would be more appropriate for the state to be a member of the Midwestern Region of the Council of State Governments:

NOW, THEREFORE, BE IT RESOLVED that the members of the Missouri Senate, Ninety-fifth General Assembly, First Regular Session, the House of Representatives concurring therein, hereby petition the Council of State Governments to remove the State of Missouri's membership from the Southern Region of the Council and place this state's membership into the Midwestern Council of State Governments; and

BE IT FURTHER RESOLVED that the Secretary of the Senate be instructed to prepare a properly inscribed copy of this resolution for Governor Joe Manchin III of West Virginia, President of the Council of State Governments; Senator Bart Davis of Idaho, Chair of the Council of State Governments; Colleen Cousineau, Executive Director of the Southern Legislative Conference of the Council of State Governments; and Michael H. McCabe, Director of the Midwestern Region of the Council of State Governments.

### **INTRODUCTION OF BILLS**

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

**SB 276**—By Barnitz.

An Act to repeal section 67.1360, RSMo, and to enact in lieu thereof one new section relating to transient guest taxes for tourism.

**SB 277**—By Cunningham.

An Act to amend chapters 362 and 369, RSMo, by adding thereto two new sections relating to irrevocable life insurance trusts.

**SB 278**—By Cunningham.

An Act to repeal section 620.472, RSMo, and to enact in lieu thereof one new section relating to job training.

**SB 279**—By Schmitt.

An Act to amend chapter 620, RSMo, by adding thereto one new section relating to the Small Business and Entrepreneurial Growth Act.

**SB 280**—By Rupp and Cunningham.

An Act to repeal sections 143.441, 147.010, and 148.370, RSMo, and to enact in lieu thereof three new sections relating to taxation of insurance companies.

**SB 281**—By Bray.

An Act to repeal section 643.020, RSMo, and to enact in lieu thereof two new sections relating to light pollution.

**SB 282**—By Bray.

An Act to amend chapter 407, RSMo, by adding thereto eleven new sections relating to consumer protection for home owners, with penalty provisions.

**SB 283**—By Lembke.

An Act to amend chapter 376, RSMo, by adding thereto one new section relating to health insurance co-payments and co-insurance.

**SB 284**—By Lembke.

An Act to repeal section 320.097, RSMo, and to enact in lieu thereof one new section relating to fire department employee residency requirements.

**SB 285**—By Lembke.

An Act to amend chapter 348, RSMo, by adding thereto two new sections relating to a tax credit for equity investments in technology-based early stage Missouri companies.

**SB 286**—By Schaefer.

An Act to repeal section 67.402, RSMo, and to enact in lieu thereof one new section relating to nuisance abatement ordinances.

**SB 287**—By Schaefer.

An Act to amend chapter 161, RSMo, by adding thereto one new section relating to a central repository of information for school districts.

**SB 288**—By Schaefer.

An Act to repeal section 620.1039, RSMo, and to enact in lieu thereof one new section relating to a tax credit for qualified research expenses.

**SB 289**—By Griesheimer.

An Act to repeal section 238.202, RSMo, and to enact in lieu thereof one new section relating to transportation development districts.

**SB 290**—By Crowell.

An Act to repeal sections 105.915 and 105.927, RSMo, and to enact in lieu thereof two new sections relating to the state employee deferred compensation program.

**SB 291**—By Shields.

An Act to amend chapter 162, RSMo, by adding thereto one new section relating to virtual courses offered by school districts.

## **RESOLUTIONS**

Senator Engler moved that **SR 141** be taken up for adoption, which motion prevailed.

Senator Lager assumed the Chair.

Senator Bray offered **SA 1**, which was read:

### **SENATE AMENDMENT NO. 1**

Amend Senate Resolution No. 141, as it appears on Page 178 of the Senate Journal for Monday, January 26, 2009, Line 25 of said journal page, by striking the opening bracket “[” and closing bracket “]” from said line; and further amend lines 26-27 of said journal page, by striking all of the bold-faced language from said

lines; and further amend line 34 of said journal page, by inserting immediately after “area.” the following:

**“3. Except as otherwise provided in this rule, no electronic communication devices shall be used in the Senate Chamber, including cellular phones and email and web accessible devices.”**

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

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

SENATE AMENDMENT NO. 2

Amend Senate Resolution No. 141, as it appears on Page 178 of the Senate Journal for Monday, January 26, 2009, Line 26 of said journal page, by inserting after the word “completely” the following:

**“, and shall refrain from using any electronic communication device, including a cellular phone and email and web accessible devices,”**.

Senator Scott moved that the above amendment be adopted.

Senator Engler requested a roll call vote be taken and was joined in his request by Senators Bartle, Shields, Nodler and Green.

**SA 2** was adopted by the following vote:

YEAS—Senators

Barnitz	Bartle	Bray	Callahan	Champion	Clemens	Crowell	Cunningham
Days	Dempsey	Engler	Goodman	Green	Griesheimer	Justus	Lager
Lembke	Nodler	Pearce	Purgason	Schaefer	Scott	Shields	Shoemyer
Stouffer	Vogel	Wilson	Wright-Jones—28				

NAYS—Senators

McKenna	Rupp	Schmitt	Smith—4
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Absent—Senator Ridgeway—1

Absent with leave—Senator Mayer—1

Vacancies—None

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

SENATE AMENDMENT NO. 3

Amend Senate Resolution No. 141, as it appears on Page 178 of the Senate Journal for Monday, January 26, 2009, Line 26 of said journal page, by inserting after the second use of the word “discussion.” the following:

**“A clock shall be installed at each entrance to the chamber and the secretary of the senate shall track the time that each senator arrives and departs the senate chamber. Such arrivals and departures shall be printed as part of the senate journal for each day.”**

Senator Shields moved that the above amendment be adopted.

At the request of Senator Shields, **SA 3** was withdrawn.



Senator Nodler offered **SA 4**, which was read:

SENATE AMENDMENT NO. 4

Amend Senate Resolution No. 141, as it appears on Page 178 of the Senate Journal for Monday, January 26, 2009, Line 26 of said journal page, by inserting after the second use of the word “discussion.” the following:

**“The use of a laptop computer by a senator in the Senate Chamber shall be limited to only official senate business.”.**

Senator Nodler moved that the above amendment be adopted and requested a roll call vote be taken. He was joined in his request by Senators Callahan, Engler, McKenna and Smith.

**SA 4** was adopted by the following vote:

YEAS—Senators

Barnitz	Bray	Callahan	Champion	Days	Dempsey	Engler	Goodman
Griesheimer	Justus	Lager	Lembke	McKenna	Nodler	Schmitt	Shoemyer
Smith	Stouffer	Wilson	Wright-Jones—20				

NAYS—Senators

Bartle	Clemens	Crowell	Cunningham	Green	Pearce	Purgason	Rupp
Schaefer	Scott	Shields	Vogel—12				

Absent—Senator Ridgeway—1

Absent with leave—Senator Mayer—1

Vacancies—None

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

SENATE AMENDMENT NO. 5

Amend Senate Resolution No. 141, as it appears on Page 178 of the Senate Journal for Monday, January 26, 2009, Line 33 of said journal page, by inserting immediately after “area.” the following: “; and

BE IT FURTHER RESOLVED by the Senate of the Ninety-fifth General Assembly, First Regular Session, that the temporary rules adopted January 7, 2009, as amended, hereby be adopted as the permanent rules of the Missouri Senate for the Ninety-fifth General Assembly”.

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

Senator Cunningham was recognized to interrogate Senator Shields.

Senator Rupp raised the point of order that a prop was used during the debate between Senators Cunningham and Shields.

The point of order was referred to the President Pro Tem who took it under advisement.

At the request of Senator Engler, **SR 141**, as amended, was placed back on the calendar, with the point of order pending.

**SECOND READING OF SENATE BILLS**

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

**SB 261**—Judiciary and Civil and Criminal Jurisprudence.

**SB 262**—General Laws.

**SB 263**—General Laws.

**SB 264**—Judiciary and Civil and Criminal Jurisprudence.

**SB 265**—Judiciary and Civil and Criminal Jurisprudence.

**SB 266**—Jobs, Economic Development and Local Government.

**SB 267**—General Laws.

**SB 268**—Progress and Development.

**SB 269**—Small Business, Insurance and Industry.

**SB 270**—General Laws.

**SB 271**—Ways and Means.

**SB 272**—Commerce, Consumer Protection, Energy and the Environment.

**SB 274**—Governmental Accountability and Fiscal Oversight.

**SB 275**—Education.

**SJR 13**—Governmental Accountability and Fiscal Oversight.

**INTRODUCTIONS OF GUESTS**

Senator Schaefer introduced to the Senate, United States Congressman Blaine Luetkemeyer, St. Elizabeth.

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

**SENATE CALENDAR**


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FIFTEENTH DAY—TUESDAY, FEBRUARY 3, 2009

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**FORMAL CALENDAR****SECOND READING OF SENATE BILLS**

SB 276-Barnitz  
 SB 277-Cunningham  
 SB 278-Cunningham

SB 279-Schmitt  
 SB 280-Rupp and Cunningham  
 SB 281-Bray

SB 282-Bray  
SB 283-Lembke  
SB 284-Lembke  
SB 285-Lembke  
SB 286-Schaefer

SB 287-Schaefer  
SB 288-Schaefer  
SB 289-Griesheimer  
SB 290-Crowell  
SB 291-Shields

SENATE BILLS FOR PERFECTION

SB 128-Rupp, with SCS

INFORMAL CALENDAR

CONSENT CALENDAR

Senate Bills

Reported 1/29

SB 31-Stouffer

RESOLUTIONS

SR 139-Engler  
SR 153-Engler

SR 177-Champion

Reported from Committee

SR 141-Engler, with point of order  
(pending)

To be Referred

SR 207-Lembke  
SCR 15-Shoemyer

SCR 16-Pearce  
SCR 17-Shields

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