

Journal of the Senate

FIRST REGULAR SESSION

THIRTY-NINTH DAY—MONDAY, MARCH 23, 2009

The Senate met pursuant to adjournment.

President Kinder in the Chair.

Reverend Carl Gauck offered the following prayer:

“I arise today through the power of God: God's might to comfort me, God's wisdom to guide me, God's eye to look before me, God's ear to hear me, God's word to speak for me...” (*The Lorica of St. Patrick*)

Gracious God, we return from a time of re-creation in which whether active or passive Your presence was with us. So we are thankful for Your gifts and that You have brought us safely back to the work You have called us to do, relaxed and refreshed. We ask for Your guidance and wisdom throughout this week. 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 Journals for Thursday, March 12, 2009 and Wednesday, March 18, 2009 were read and approved.

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

Present—Senators

Barnitz	Bartle	Bray	Callahan	Champion	Crowell	Cunningham	Days
Dempsey	Engler	Goodman	Green	Griesheimer	Justus	Lager	Lembke
Mayer	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 Clemens—1

Vacancies—None

The Lieutenant Governor was present.

RESOLUTIONS

Senator Pearce offered Senate Resolution No. 544, regarding Kay Caskey, Butler, which was adopted.

Senator Justus offered Senate Resolution No. 545, regarding the Nelson-Atkins Museum of Art, Kansas City, which was adopted.

Senator Lager offered Senate Resolution No. 546, regarding Meredith Laine Jones, Dawn, which was adopted.

Senator Stouffer offered Senate Resolution No. 547, regarding Lieutenant William “Roger” Vorwark, Mayview, which was adopted.

Senator Shoemyer offered Senate Resolution No. 548, regarding the Seventy-fifth Birthday of Mable Faye Sanders, Thompson, which was adopted.

Senator Rupp offered Senate Resolution No. 549, regarding Andrew Nolan Carter, which was adopted.

Senator Bartle offered Senate Resolution No. 550, regarding Elizabeth Rene Grubbs, Independence, which was adopted.

Senator Bartle offered Senate Resolution No. 551, regarding Carol E. Kirila, D.O., Kansas City, which was adopted.

Senator Goodman offered Senate Resolution No. 552, regarding the Lawrence County Justice Center, which was adopted.

Senator Pearce offered Senate Resolution No. 553, regarding Lieutenant Colonel Frank Michael Cavuoti, Warrensburg, which was adopted.

Senator Pearce offered Senate Resolution No. 554, regarding the Fifty-ninth Wedding Anniversary of Mr. and Mrs. Glenn Beck, Sedalia, which was adopted.

Senator Engler offered Senate Resolution No. 555, regarding Cody Daniel Vines, Bloomsdale, which was adopted.

Senator Shoemyer offered Senate Resolution No. 556, regarding Michael Schwend, which was adopted.

Senator Barnitz offered Senate Resolution No. 557, regarding the Ninetieth Birthday of Louise Dewing, Rolla, which was adopted.

Senator Barnitz offered Senate Resolution No. 558, regarding Clemence Krieg, Rich Fountain, which was adopted.

Senator Crowell offered Senate Resolution No. 559, regarding Leah Shaw, which was adopted.

Senator Crowell offered Senate Resolution No. 560, regarding Joan Howard, which was adopted.

Senator Crowell offered Senate Resolution No. 561, regarding Chris Warren, which was adopted.

Senator Crowell offered Senate Resolution No. 562, regarding Kathleen Schmid, which was adopted.

Senator Crowell offered Senate Resolution No. 563, regarding Michael Martin, which was adopted.

Senator Bartle offered Senate Resolution No. 564, regarding Charles Wilson Andrews, Blue Springs, which was adopted.

Senator Griesheimer offered Senate Resolution No. 565, regarding Ashley Mace, Wildwood, which was

adopted.

Senators Lembke, Wright-Jones and Smith offered Senate Resolution No. 566, regarding the Board of Election Commissioners for the City of St. Louis, which was adopted.

Senator Schaefer offered Senate Resolution No. 567, regarding Nanoparticle Biochem, Incorporated, Columbia, which was adopted.

Senator Rupp offered Senate Resolution No. 568, regarding Erin E. Grant, Weldon Spring, which was adopted.

Senator Shields offered Senate Resolution No. 569, regarding Field Elementary School, St. Joseph School District, which was adopted.

Senator Crowell offered Senate Resolution No. 570, regarding Karen Gibbar, which was adopted.

Senator Crowell offered Senate Resolution No. 571, regarding Lawrence Alden Brookins, Jr., which was adopted.

Senator McKenna offered Senate Resolution No. 572, regarding Nicholle Ruess, Crystal City, which was adopted.

On behalf of Senator Clemens, Senator Engler offered Senate Resolution No. 573, regarding Espy Elementary School, Nixa R-II School District, which was adopted.

On behalf of Senator Clemens, Senator Engler offered Senate Resolution No. 574, regarding Century Elementary School, Nixa R-II School District, which was adopted.

On behalf Senator Clemens, Senator Engler offered Senate Resolution No. 575, regarding the City of Willard, which was adopted.

MESSAGES FROM THE GOVERNOR

The following messages were received from the Governor, reading of which was waived:

GOVERNOR OF MISSOURI

Jefferson City

65102

March 12, 2009

To the Senate of the 95th General Assembly of the State of Missouri:

The following addendum should be made to the appointment of Vicki L. McCarrell to the Missouri Commission on Autism Spectrum Disorders, submitted on March 02, 2009. Line 3 and 4 should be amended as follows:

“September 03, 2012, and until her successor is duly appointed and qualified; vice, Vicki McCarrell, withdrawn.”

Respectfully submitted,

Jeremiah W. (Jay) Nixon

Governor

Also,

GOVERNOR OF MISSOURI

Jefferson City

65102

March 12, 2009

To the Senate of the 95th General Assembly of the State of Missouri:

The following addendum should be made to the appointment of Connie L. Hebert to the Missouri Commission on Autism Spectrum Disorders, submitted on March 02, 2009. Line 1, 2, 3, and 4 should be amended as follows:

“Connie L. Hebert, 1553 Trenton Lane, Cape Girardeau, Cape Girardeau County, Missouri 63701, as a member of the Missouri Commission on Autism Spectrum Disorders, for a term ending September 03, 2010, and until her successor is duly appointed and qualified; vice, Connie Hebert, withdrawn.”

Respectfully submitted,
Jeremiah W. (Jay) Nixon
Governor

Also,

GOVERNOR OF MISSOURI
Jefferson City
65102
March 12, 2009

To the Senate of the 95th General Assembly of the State of Missouri:

The following addendum should be made to the appointment of Anne M. Roux to the Missouri Commission on Autism Spectrum Disorders, submitted on March 02, 2009. Line 3 and 4 should be amended as follows:

“September 03, 2012, and until her successor is duly appointed and qualified; vice, Anne M. Roux, withdrawn.”

Respectfully submitted,
Jeremiah W. (Jay) Nixon
Governor

Also,

GOVERNOR OF MISSOURI
Jefferson City
65102
March 12, 2009

To the Senate of the 95th General Assembly of the State of Missouri:

The following addendum should be made to the appointment of David Crowe to the Missouri Commission on Autism Spectrum Disorders, submitted on March 04, 2009. Line 3 and 4 should be amended as follows:

“term ending September 03, 2010, and until his successor is duly appointed and qualified; vice, David Crowe, withdrawn.”

Respectfully submitted,
Jeremiah W. (Jay) Nixon
Governor

Also,

GOVERNOR OF MISSOURI
Jefferson City
65102
March 12, 2009

To the Senate of the 95th General Assembly of the State of Missouri:

The following addendum should be made to the appointment of Troy L. Nash to the Missouri Housing Development Commission, submitted on February 25, 2009. Line 3 should be amended as follows:

“term ending October 13, 2012, and until his successor is duly appointed and qualified;”

Respectfully submitted,
Jeremiah W. (Jay) Nixon
Governor

Also,

GOVERNOR OF MISSOURI

Jefferson City

65102

March 12, 2009

To the Senate of the 95th General Assembly of the State of Missouri:

The following addendum should be made to the appointment of Dennis H. Tesreau to the Mental Health Commission, submitted on March 04, 2009. Line 2 should be amended as follows:

“as a member of the Mental Health Commission, for a term ending June 28, 2012, and”

Respectfully submitted,
Jeremiah W. (Jay) Nixon
Governor

Also,

GOVERNOR OF MISSOURI

Jefferson City

65102

March 12, 2009

To the Senate of the 95th General Assembly of the State of Missouri:

The following addendum should be made to the appointment of Diana L. Willard to the Missouri Planning Council for Developmental Disabilities, submitted on March 04, 2009. Line 3 and 4 should be amended as follows:

“30, 2011, and until her successor is duly appointed and qualified; vice, Diana L. Willard, withdrawn.”

Respectfully submitted,
Jeremiah W. (Jay) Nixon
Governor

Also,

GOVERNOR OF MISSOURI

Jefferson City

65102

March 12, 2009

To the Senate of the 95th General Assembly of the State of Missouri:

The following addendum should be made to the appointment of Brian H. May to the Missouri Development Finance Board, submitted on March 03, 2009. Line 3 should be amended as follows:

“September 14, 2012, and until his successor is duly appointed and qualified; vice, Nelson”

Respectfully submitted,
Jeremiah W. (Jay) Nixon
Governor

Also,

GOVERNOR OF MISSOURI

Jefferson City

65102

March 18, 2009

To the Senate of the 95th General Assembly of the State of Missouri:

I have the honor to transmit to you herewith for your advice and consent the following appointment:

Rebecca S. Blackwell, 112 Holly Drive, Webster Groves, Saint Louis County, Missouri 63119, as a member of the Missouri Commission on Autism Spectrum Disorders, for a term ending September 03, 2010, and until her successor is duly appointed and qualified; vice, Donald McCary, withdrawn.

Respectfully submitted,
Jeremiah W. (Jay) Nixon
Governor

Also,

GOVERNOR OF MISSOURI

Jefferson City
65102
March 18, 2009

To the Senate of the 95th General Assembly of the State of Missouri:

I have the honor to transmit to you herewith for your advice and consent the following appointment:

Paul E. Connors, 1611 Southeast First Street Terrace, Blue Springs, Jackson County, Missouri 64014, as a member of the Missouri Veterans Commission, for a term ending March 17, 2013, and until his successor is duly appointed and qualified; vice, Carson Ross, term expired.

Respectfully submitted,
Jeremiah W. (Jay) Nixon
Governor

Also,

GOVERNOR OF MISSOURI

Jefferson City
65102
March 18, 2009

To the Senate of the 95th General Assembly of the State of Missouri:

I have the honor to transmit to you herewith for your advice and consent the following appointment:

Emmett W. Fairfax, 27248 Goodwill Chapel Road, Sedalia, Pettis County, Missouri 65301, as a member of the Missouri Veterans Commission, for a term ending November 02, 2009, and until his successor is duly appointed and qualified; vice, Philip E. Prewitt, withdrawn.

Respectfully submitted,
Jeremiah W. (Jay) Nixon
Governor

Also,

GOVERNOR OF MISSOURI

Jefferson City
65102
March 18, 2009

To the Senate of the 95th General Assembly of the State of Missouri:

I have the honor to transmit to you herewith for your advice and consent the following appointment:

Lisa A. Green, 12100 Aragan, Saint Louis, Saint Louis County, Missouri 63138, as a member of the Missouri State Board of Nursing, for a term ending June 01, 2012, and until her successor is duly appointed and qualified; vice, Kelly J. Scott, withdrawn.

Respectfully submitted,
Jeremiah W. (Jay) Nixon
Governor

Also,

GOVERNOR OF MISSOURI

Jefferson City

65102

March 18, 2009

To the Senate of the 95th General Assembly of the State of Missouri:

I have the honor to transmit to you herewith for your advice and consent the following appointment:

Marcie A. Luebbert, 1521 East Walnut Street, Apartment A, Columbia, Boone County, Missouri 65201, as a member of the Missouri Quality Home Care Council, for a term ending March 01, 2011, and until her successor is duly appointed and qualified; vice, RSMo 208.56.

Respectfully submitted,
Jeremiah W. (Jay) Nixon
Governor

Also,

GOVERNOR OF MISSOURI

Jefferson City

65102

March 18, 2009

To the Senate of the 95th General Assembly of the State of Missouri:

I have the honor to transmit to you herewith for your advice and consent the following appointment:

Patrick A. McInerney, Democrat, 11713 Washington Street, Kansas City, Jackson County, Missouri 64114, as a member of the Kansas City Board of Police Commissioners, for a term ending March 17, 2013 and until his successor is duly appointed and qualified; vice, Terry Brady, term expired.

Respectfully submitted,
Jeremiah W. (Jay) Nixon
Governor

Also,

GOVERNOR OF MISSOURI

Jefferson City

65102

March 18, 2009

To the Senate of the 95th General Assembly of the State of Missouri:

I have the honor to transmit to you herewith for your advice and consent the following appointment:

Nancy M. Nelson, 2167 Windemere Drive, Imperial, Jefferson County, Missouri 63052, as a member of the Missouri Veterans Commission, for a term ending March 17, 2013, and until her successor is duly appointed and qualified; vice, Bernadette Miller, term expired.

Respectfully submitted,
Jeremiah W. (Jay) Nixon
Governor

Also,

GOVERNOR OF MISSOURI

Jefferson City

65102

March 18, 2009

To the Senate of the 95th General Assembly of the State of Missouri:

I have the honor to transmit to you herewith for your advice and consent the following appointment:

Michael J. Ponder, Democrat, 2132 Woodhollow Court, Cape Girardeau, Cape Girardeau County, Missouri 63701, as a member of the State Board of Education, for a term ending March 17, 2017, and until his successor is duly appointed and qualified; vice, Shirley Hindman, term expired.

Respectfully submitted,
Jeremiah W. (Jay) Nixon
Governor

Also,

GOVERNOR OF MISSOURI

Jefferson City

65102

March 18, 2009

To the Senate of the 95th General Assembly of the State of Missouri:

I have the honor to transmit to you herewith for your advice and consent the following appointment:

John Riffle, Democrat, 22010 Riffle Road, Pleasant Hill, Cass County, Missouri 64080, as a member of the Land Reclamation Commission, for a term ending September 28, 2011, and until his successor is duly appointed and qualified; vice, John Riffle, withdrawn.

Respectfully submitted,
Jeremiah W. (Jay) Nixon
Governor

President Pro Tem Shields referred the above addendums and appointments to the Committee on Gubernatorial Appointments.

The following message was received from the Governor:

GOVERNOR OF MISSOURI

Jefferson City

65102

March 18, 2009

To the Senate of the 95th General Assembly of the State of Missouri:

I hereby withdraw from your consideration the following appointment to office made and submitted to you on February 27, 2009, for your advice and consent:

Martin Powers, 705 Allen Road, Campbell, Dunklin County, Missouri 63933, as a member of the Missouri Quality Home Care Council, for a term ending March 1, 2010, and until his successor is duly appointed and qualified; vice, RSMo 208.856.

Respectfully submitted,
Jeremiah W. (Jay) Nixon
Governor

President Pro Tem Shields moved that the above appointment be returned to the Governor per his request, which motion prevailed.

SENATE BILLS FOR PERFECTION

At the request of Senator Lembke, **SB 236** was placed on the Informal Calendar.

Senator Griesheimer assumed the Chair.

Senator Mayer moved that **SB 264** be taken up for perfection, which motion prevailed.

Senator Dempsey assumed the Chair.

Senator Bray offered **SA 1**:

SENATE AMENDMENT NO. 1

Amend Senate Bill No. 264, Page 1, Section A, Line 3, by inserting immediately after said line the following:

“170.015. 1. Any course materials and instruction relating to human sexuality and sexually transmitted diseases shall be medically and factually accurate, **be based on peer reviewed projects that have been demonstrated to influence healthy behavior**, and shall:

(1) Present abstinence from sexual activity as the preferred choice of behavior in relation to all sexual activity [for unmarried pupils because it is the only method that is one hundred percent effective in preventing pregnancy, sexually transmitted diseases and the emotional trauma associated with adolescent sexual activity, and advise students that teenage sexual activity places them at a higher risk of dropping out of school because of the consequences of sexually transmitted diseases and unplanned pregnancy] **as the only sure way to avoid pregnancy or sexually transmitted infection;**

(2) Stress that sexually transmitted [diseases] **infections** are serious, possible, health hazards of sexual activity. Pupils shall be provided with the latest medical information regarding exposure to human immunodeficiency virus (**HIV**), acquired immune deficiency syndrome (**AIDS**), human papilloma virus, hepatitis and other sexually transmitted diseases;

(3) Present students with the latest medically factual information [regarding both the possible side effects and health benefits of all forms of contraception, including the success and failure rates for the prevention of pregnancy and sexually transmitted diseases; or shall present students with information on contraceptives and pregnancy in a manner consistent with the provisions of the federal abstinence education law, 42 U.S.C. Section 710] **about the health benefits and side effects of all contraceptives and barrier methods as a means to prevent pregnancy and to reduce the risk of contracting sexually transmitted infections, HIV/AIDS and other diseases;**

(4) [Include a discussion of the possible emotional and psychological consequences of preadolescent and adolescent sexual activity and the consequences of adolescent pregnancy, as well as the advantages of adoption, including the adoption of special needs children, and the processes involved in making an adoption plan] **Provide information about the vaccine for human papilloma virus, which may prevent cervical cancer, genital warts, infertility, and other reproductive health problems, when administered prior to becoming sexually active;**

(5) **Encourage family communication between parents and children about sexuality;**

(6) **Help young people gain knowledge about the physical, biological, and hormonal changes of adolescence and subsequent states of human maturation and the skills to make responsible decisions about sexuality, including how alcohol and drug use can affect that decision making;**

[(5)] (7) Teach skills of conflict management, personal responsibility and positive self-esteem through discussion and role-playing at appropriate grade levels to emphasize that the pupil has the power to control personal behavior. Pupils shall be encouraged to base their actions on reasoning, self-discipline, sense of responsibility, self-control, and ethical considerations, such as respect for one's self and others. Pupils shall be taught not to make unwanted physical and verbal sexual advances or otherwise exploit another person. Pupils shall be taught to resist unwanted sexual advances and other negative peer pressure;

[(6)] (8) Advise pupils of the laws pertaining to their financial responsibility to children born in and out

of wedlock and advise pupils of the provisions of chapter 566, RSMo, pertaining to statutory rape.

2. Policies concerning referrals and parental notification regarding contraception shall be determined by local school boards or charter schools, consistent with the provisions of section 167.611, RSMo.

3. A school district or charter school which provides human sexuality instruction may separate students according to gender for instructional purposes.

4. The board of a school district or charter school shall determine the specific content of the district's or school's instruction in human sexuality, in accordance with subsections 1 to 3 of this section, and shall ensure that all instruction in human sexuality is appropriate to the age of the students receiving such instruction.

5. A school district or charter school shall notify the parent or legal guardian of each student enrolled in the district or school of:

(1) The basic content of the district's or school's human sexuality instruction to be provided to the student; and

(2) The parent's right to remove the student from any part of the district's or school's human sexuality instruction.

6. A school district or charter school shall make all curriculum materials **and names and affiliations of presenters** used in the district's or school's human sexuality instruction available for public inspection pursuant to chapter 610, RSMo, prior to the use of such materials in actual instruction.

[7. No school district or charter school, or its personnel or agents, shall provide abortion services, or permit a person or entity to offer, sponsor, or furnish in any manner any course materials or instruction relating to human sexuality or sexually transmitted diseases to its students if such person or entity is a provider of abortion services.

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

(1) "Abortion", the same meaning as such term is defined in section 188.015, RSMo;

(2) "Abortion services":

(a) Performing, inducing, or assisting in the performance or inducing of an abortion which is not necessary to save the life of the mother;

(b) Encouraging a patient to have an abortion or referring a patient for an abortion, which is not necessary to save the life of the mother; or

(c) Developing or dispensing drugs, chemicals, or devices intended to be used to induce an abortion which is not necessary to save the life of the mother.]; and

Further amend said bill, page 9, section 188.108, line 3, by inserting immediately after said line the following:

"191.648. 1. As used in this section, "expedited partner therapy" means the practice of treating the sexual partners of persons with chlamydia or gonorrhea without an intervening medical evaluation or professional prevention counseling.

2. Any licensed physician may utilize expedited partner therapy for the management of the partners of persons with chlamydia or gonorrhea. Notwithstanding the requirements of 20 CSR 2150-

5.020(5) or any other law to the contrary, a licensed physician utilizing expedited partner therapy may prescribe and dispense medications for the treatment of chlamydia or gonorrhea for an individual who is the partner of a person with chlamydia or gonorrhea and who does not have an established physician-patient relationship with such physician. Any antibiotic medications prescribed and dispensed for the treatment of chlamydia or gonorrhea under this section shall be in pill form.

3. Expedited partner therapy may be utilized in any county health facility if:

(1) The local case rate for chlamydia or gonorrhea exceeds one and a half times the latest available national case rate for such sexually transmitted diseases; or

(2) The local case rate for chlamydia or gonorrhea exceeds the latest available national case rate and the most recent local annual case totals for chlamydia or gonorrhea are at least twenty percent higher than the case totals for the previous year.

4. Any licensed physician utilizing expedited partner therapy for the management of partners of persons with chlamydia or gonorrhea under this section shall have immunity from any civil liability that may otherwise result by reason of such actions, unless such physician acts negligently, recklessly, in bad faith, or with malicious purpose.

5. The department of health and senior services and the division of professional registration within the department of insurance, financial institutions and professional registration shall by rule develop guidelines for the implementation of subsection 2 of this section. Any rule or portion of a rule, as that term is defined in section 536.010, RSMo, that is created under the authority delegated in this section shall become effective only if it complies with and is subject to all of the provisions of chapter 536, RSMo, and, if applicable, section 536.028, RSMo. This section and chapter 536, RSMo, are nonseverable and if any of the powers vested with the general assembly pursuant to chapter 536, RSMo, to review, to delay the effective date, or to disapprove and annul a rule are subsequently held unconstitutional, then the grant of rulemaking authority and any rule proposed or adopted after August 28, 2009, shall be invalid and void.

191.717. 1. Sections 191.717 and 191.718 may be cited as the “Compassionate Assistance for Rape Emergencies (CARE) Act”.

2. As used in sections 191.717 to 191.718, unless the context clearly indicates otherwise, the following terms shall mean:

(1) “Emergency care to sexual assault victims”, medical examinations, procedures, or services provided at a hospital to a sexual assault victim following an alleged rape;

(2) “Emergency contraception”, any drug or device approved by the Food and Drug Administration that prevents pregnancy after sexual intercourse;

(3) “Health care facility”, any urgent care center or facility that offers treatment for patients during normal business, after-business, or weekend hours and that is affiliated with a licensed hospital;

(4) “Medically and factually accurate and objective”, verified or supported by the weight of research conducted in compliance with accepted scientific methods and is published in peer-reviewed journals where applicable; or comprising information that leading professional organizations and agencies with relevant expertise in the field, such as the American College of Obstetricians and

Gynecologists, recognize as accurate and objective;

(5) “Sexual assault”, as defined in section 566.040, RSMo;

(6) “Sexual assault victim”, a female who is alleged to have been raped and is presented as a patient.

191.718. 1. It shall be the standard of care for any hospital and any health care facility that provides emergency care to sexual assault victims to:

(1) Provide each sexual assault victim with medically and factually accurate and objective written and oral information about emergency contraception;

(2) Orally inform each sexual assault victim of her option to be provided emergency contraception at the hospital;

(3) Provide the complete regimen of emergency contraception immediately at the hospital or health care facility to each sexual assault victim who requests it; and

(4) Follow the Department of Justice protocols on HIV/STI screening and prophylactic treatment as referenced in 19 CSR 40-10.010 and the sexual assault forensic exam checklist promulgated by the department of health and senior services.

2. Hospitals and health care facilities shall ensure that each person who provides care to sexual assault victims is provided with medically and factually accurate and objective information about emergency contraception.

3. The department of health and senior services shall develop, prepare, and produce informational materials relating to emergency contraception for the prevention of pregnancy for distribution in any hospital or health care facility in the state in quantities sufficient to comply with the requirements of this section. The director, in collaboration with community sexual assault programs, may also approve informational materials from other sources.

4. The information materials shall:

(1) Be medically and factually accurate and objective;

(2) Be clearly written and readily comprehensible in a culturally competent manner, as the department deems necessary to inform victims of sexual assault; and

(3) Explain the nature of emergency contraception, including its use, safety, efficacy, and availability, and that it does not cause abortion.

5. The department of health and senior services shall respond to complaints and shall periodically determine whether hospitals and health care facilities are complying with the provisions of this section. The department may use all investigative tools available to verify compliance. If the department determines that a hospital or health care facility is not in compliance, the department shall:

(1) Impose an administrative penalty of five thousand dollars per woman who is denied medically and factually accurate and objective information about emergency contraception or who is not offered or provided emergency contraception; and

(2) Impose an administrative penalty of five thousand dollars for failure to comply with the

provisions of this section and for every thirty days that a hospital or health care facility is not in compliance, an additional penalty of five thousand dollars shall be imposed.

6. The department shall promulgate rules to implement the provisions of sections 191.717 to 191.718.

7. 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, 2009, shall be invalid and void.

191.720. 1. This section shall be known and may be cited as the “Birth Control Protection Act”.

2. The general assembly of this state finds that:

(1) Citizens of this state have a protectable interest in freedom from unreasonable government intrusions into their private lives;

(2) This interest in freedom from unreasonable government intrusions into the private lives of citizens encompasses and protects the right of consenting individuals to obtain and use safe and effective methods of contraception without interference by governmental entities;

(3) It is the public policy of this state that the interest in freedom from unreasonable government intrusions into the private lives of citizens, and specifically the right of consenting individuals to obtain and use safe and effective methods of contraception without interference by governmental entities, shall be safeguarded and that the laws of this state shall be interpreted and construed to recognize and protect these rights.

3. Notwithstanding any other provisions of law, no governmental actor or entity, whether state, county, municipal, or otherwise, within the state of Missouri, shall:

(1) Be authorized to act in any fashion so as to deprive consenting individuals of the right to obtain and use safe and effective methods of contraception; or

(2) Interfere with or discriminate against, in the regulation or provision of benefits, facilities, services, or information, the right of consenting individuals to obtain and use safe and effective methods of contraception.

4. Nothing in this section shall be interpreted to prevent implementation of laws, rules, ordinances, taxes, or regulations affecting the method and manner of sale or distribution of contraceptives, provided such laws, rules, ordinances, taxes, or regulations are reasonably designed to promote public health and safety, and do not have the effect of unreasonably hindering public access to contraceptives.

192.970. 1. Subject to appropriation, the department of health and senior services shall implement a women's health services program by July 1, 2010. Initial funding for the program shall be in the amount of five million dollars. Such program shall have the goal of reducing the number of unintended pregnancies in Missouri by providing women's health services through qualified health providers, as determined by the department.

2. For purposes of this section, women's health services shall include, but not be limited to:

(1) Breast and cervical cancer checks;

(2) Screening and treatment for sexually transmitted diseases;

(3) HIV screening;

(4) Voluntary choice of contraception, including natural family planning;

(5) Infertility treatment;

(6) Patient education and pre-pregnancy counseling on the dangers of smoking, alcohol, and drug use during pregnancy;

(7) Education on sexual coercion and violence in relationships; and

(8) Prenatal and other health care referrals.

3. Pursuant to section 23.253, RSMo, of the Missouri sunset act:

(1) The provisions of the new program authorized under this section shall sunset automatically six years after the effective date of this section unless reauthorized by an act of the general assembly; and

(2) If such program is reauthorized, the program authorized under this section shall sunset automatically twelve years after the effective date of the reauthorization of this section; and

(3) This section shall terminate on September first of the calendar year immediately following the calendar year in which the program authorized under this section is sunset.

338.012. 1. Upon receipt of a valid and lawful prescription, a licensed pharmacy shall dispense any prescribed drug or device in stock without delay, consistent with the normal time frame for filling any other prescription.

2. Nothing herein shall prohibit a licensed pharmacy from refusing to dispense a prescribed drug or device in accordance with standard pharmacy practice if:

(1) There is a valid medical concern that such drug or device will cause problems due to therapeutic duplications, drug-disease contraindications, drug interactions, including serious interactions with prescription or over-the-counter medications, incorrect dosage or duration of drug treatment, drug-allergy interactions, drug abuse, or drug misuse; or

(2) The customer is unable to pay for the drug or device.

3. When a customer requests a prescribed drug or device not in stock, the pharmacy shall offer the customer the following options:

(1) The pharmacy shall obtain the drug or device under standard procedures for expedited ordering of any prescription drug or device not in stock and promptly notify the customer when the pharmacy receives the drug or device; or

(2) The pharmacy shall locate a pharmacy of the customer's choice or the closest pharmacy that has the drug or device in stock and transfer the customer's prescription to that pharmacy under standard procedures for transferring prescriptions.

The pharmacy shall perform the customer's chosen option in a timely fashion and return the prescription order to the customer upon request at any time prior to dispensing.

4. Every licensed pharmacy shall ensure that it does not intimidate, threaten, or harass its customers in the delivery of services.

338.014. 1. A licensed pharmacy shall fulfill all lawful requests for contraception approved for over-the-counter use in a timely fashion.

2. Where a customer lawfully requests contraception approved for over-the-counter use, and that drug is not in stock, the pharmacy shall offer the customer the following options:

(1) The pharmacy will obtain the contraception under the pharmacy's standard procedures for expedited ordering of over-the-counter drugs not in stock and promptly notify the customer when the pharmacy receives the contraception; or

(2) The pharmacy will locate a pharmacy of the customer's choice or the closest pharmacy that has the contraception in stock and refer the customer to that pharmacy.

The pharmacy shall perform the customer's chosen option in a timely fashion.

3. Every licensed pharmacy shall ensure that it does not intimidate, threaten, or harass its customers in the delivery of services.”; and

Further amend the title and enacting clause accordingly.

Senator Bray moved that the above amendment be adopted.

Senator Mayer raised the point of order that **SA 1** is out of order as it goes beyond the scope of the underlying legislation.

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

Senator Stouffer assumed the Chair.

Senator Dempsey assumed the Chair.

At the request of Senator Mayer, **SB 264** was placed on the Informal Calendar.

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 adopted **HCS** for **HCRs 22** and **25**.

HOUSE COMMITTEE SUBSTITUTE FOR HOUSE CONCURRENT RESOLUTION NOS. 22 AND 25

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, Whiteman Air Force Base is one of the most important joint military installations in the United States and has the distinction of being the only Air Force Base in the United States to have three separate Wings located on such installation; and

Whereas, one of the Wings is the 509th Bomb Wing, which is the only Air Force Wing to operate and maintain the Air Force's premier weapon system, the B-2 Bomber, a multi-role bomber capable of delivering both conventional and nuclear munitions; and

Whereas, state and local organizations, including the Missouri Military Preparedness and Enhancement Commission, the Warrensburg City Council, the Knob Noster City Council, the Whiteman Area Leadership Council, the Whiteman Air Force Base Community Council, the Military Affairs Committee of the Warrensburg Chamber of Commerce, the Knob Noster Chamber of Commerce, the Daily Star-Journal, the Missouri Department of Economic Development, and the Governor of the State of Missouri, all 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 House of Representatives, Ninety-fifth General Assembly, First Regular Session, the Senate 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 Chief Clerk of the Missouri House of Representatives 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.

In which the concurrence of the Senate is respectfully requested.

Also,

Mr. President: I am instructed by the House of Representatives to inform the Senate that the House has taken up and adopted **HCR 13**.

HOUSE CONCURRENT RESOLUTION NO. 13

Whereas, the Tenth Amendment to the Constitution of the United States reads as follows:

“The powers not delegated to the United States by the Constitution, nor prohibited by it to the States, are reserved to the States respectively, or to the people.”; and

Whereas, the Tenth Amendment defines the total scope of federal power as being that specifically granted by the Constitution of the United States and no more; and

Whereas, the scope of power defined by the Tenth Amendment means that the federal government was created by the states specifically to be an agent of the states; and

Whereas, today, in 2009, the states are demonstrably treated as agents of the federal government; and

Whereas, many federal laws are directly in violation of the Tenth Amendment to the Constitution of the United States; and

Whereas, the Tenth Amendment assures that we, the people of the United States of America and each sovereign state in the Union of States, now have, and have always had, rights the federal government may not usurp; and

Whereas, Article IV, Section 4 says, “The United States shall guarantee to every State in the Union a Republican Form of Government”, and the Ninth Amendment states that “The enumeration in the Constitution, of certain rights, shall not be construed to deny or disparage others retained by the people”; and

Whereas, the United States Supreme Court has rules in *New York v. United States*, 112 S.Ct. 2408 (1992), that Congress may not simply commandeer the legislative and regulatory processes of the states; and

Whereas, a number of proposals from previous administrations and some now pending from the present administration and from Congress may further violate the Constitution of the United States:

Now, therefore, be it resolved that the members of the House of Representatives of the Ninety-fifth General Assembly, First Regular Session, the Senate concurring therein, hereby claims sovereignty under the Tenth Amendment to the Constitution of the United States over all powers not otherwise enumerated and granted to the federal government by the Constitution of the United States; and

Be it further resolved that this concurrent resolution serve as Notice and Demand to the federal government, as our agent, to cease and desist, effective immediately, mandates that are beyond the scope of these constitutionally delegated powers; and

Be it further resolved that all compulsory federal legislation which directs states to comply under threat of civil or criminal penalties or sanctions or requires states to pass legislation or lose federal funding be prohibited or repealed; and

Be it further resolved that the Chief Clerk of the Missouri House of Representatives be instructed to prepare a properly inscribed copy of this resolution for the President of the United States, the President of the United States Senate, the Speaker of the United States House of Representatives, the Speaker of the House of Representatives and President of the Senate of each state's legislature, and each member of the Missouri Congressional delegation.

In which the concurrence of the Senate is respectfully requested.

REPORTS OF STANDING COMMITTEES

Senator Engler, Chairman of the Committee on Rules, Joint Rules, Resolutions and Ethics, submitted the following reports:

Mr. President: Your Committee on Rules, Joint Rules, Resolutions and Ethics, after examination of **SB 304**, respectfully requests that it be removed from the Senate Consent Calendar in accordance with the provisions of Senate Rule 45.

Also,

Mr. President: Your Committee on Rules, Joint Rules, Resolutions and Ethics, after examination of **SB 155**, respectfully requests that it be removed from the Senate Consent Calendar in accordance with the provisions of Senate Rule 45.

Also,

Mr. President: Your Committee on Rules, Joint Rules, Resolutions and Ethics, after examination of **SB 258**, with **SCS**, respectfully requests that it be removed from the Senate Consent Calendar in accordance with the provisions of Senate Rule 45.

Also,

Mr. President: Your Committee on Rules, Joint Rules, Resolutions and Ethics, after examination of **SB 354**, respectfully requests that it be removed from the Senate Consent Calendar in accordance with the provisions of Senate Rule 45.

REFERRALS

President Pro Tem Shields referred **SS** for **SB 58** to the Committee on Governmental Accountability and Fiscal Oversight.

President Pro Tem Shields referred **SCR 25** to the Committee on Rules, Joint Rules, Resolutions and Ethics.

COMMUNICATIONS

Senator Bray submitted the following:

March 23, 2009

Terry Spieler
Senate Secretary
Missouri State Senate
State Capitol Building, Room 325
Jefferson City, MO 65101

Dear Ms. Spieler,

In accordance with Rule 45, I am writing to object to the placement of SB 512 on the Consent Calendar. This bill is too controversial to

qualify as a consent bill and therefore should be removed as such and returned to the Veterans' Affairs, Pensions and Urban Affairs Committee.

Sincerely,
/s/ Joan Bray
Joan Bray

Also,

March 23, 2009

Terry Spieler
Senate Secretary
Missouri State Senate
State Capitol Building, Room 325
Jefferson City, MO 65101

Dear Ms. Spieler,

In accordance with Rule 45, I am writing to object to the placement of SB 67 on the Consent Calendar. This bill is too controversial to qualify as a consent bill and therefore should be removed as such and returned to the Jobs, Economic Development and Local Government Committee.

Sincerely,
/s/ Joan Bray
Joan Bray

INTRODUCTIONS OF GUESTS

Senator Engler introduced to the Senate, his son, Joe.

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

SENATE CALENDAR

FORTIETH DAY—TUESDAY, MARCH 24, 2009

FORMAL CALENDAR

HOUSE BILLS ON SECOND READING

HCS for HB 96
HB 744-Icet
HB 287-Day, et al
HB 86-Sutherland
HCS for HB 242
HB 65-Wilson (119), et al
HCS for HB 580
HCS for HB 82
HCS for HB 310

HCS for HB 459
HCS for HB 111
HB 289-Wallace
HB 682-Swinger, et al
HCS for HB 286
HCS for HBs 46 & 434
HB 678-Wasson
HCS for HB 359
HB 239-Jones (89), et al

HCS for HB 740
HCS for HJR 23
HCS for HB 247
HCS for HB 236
HB 91-Pollock, et al
HCS for HBs 93 & 216
HB 269-Parson, et al
HB 488-Schad, et al
HB 490-Schad, et al
HB 83-Wood
HCS for HB 148

HCS for HB 154
HB 376-Hobbs, et al
HB 395-Nance, et al
HB 218-Ervin
HB 400-Nasheed, et al
HB 506-Funderburk, et al
HCS for HB 251
HB 259-Tilley
HCS for HB 124
HB 69-Storch

THIRD READING OF SENATE BILLS

SCS for SB 176-Stouffer

SS for SB 58-Stouffer (In Fiscal Oversight)

SENATE BILLS FOR PERFECTION

1. SB 291-Shields
2. SB 130-McKenna, et al, with SCS
3. SB 167-Rupp, with SCS
4. SBs 65 & 43-Rupp, et al, with SCS
5. SB 188-Dempsey, et al, with SCS
6. SB 272-Lager
7. SJR 5-Schmitt and Lembke, with SCS
8. SB 363-Griesheimer, with SCS
9. SB 355-Dempsey, with SCS
10. SB 256-Schaefer
11. SB 307-Dempsey and Rupp
12. SB 306-Dempsey, et al, with SCS
13. SJR 3-Crowell
14. SB 409-Stouffer, with SCS
15. SB 364-Clemens and Schaefer
16. SB 527-Nodler and Bray
17. SB 539-Schaefer, with SCS
18. SB 321-Days, et al, with SCS
19. SB 117-Green, with SCS
20. SB 94-Justus, et al, with SCS
21. SB 477-Wright-Jones
22. SB 141-Smith and Wright-Jones, with SCS
23. SB 267-Mayer and Green
24. SBs 335 & 16-Rupp, with SCS
25. SBs 207 & 245-Rupp, with SCS
26. SB 172-Green and Cunningham

HOUSE BILLS ON THIRD READING

HCS for HB 191, with SCS
(Griesheimer) (In Fiscal Oversight)

INFORMAL CALENDAR

SENATE BILLS FOR PERFECTION

SB 5-Griesheimer, with SCS, SS for SCS
& SA 2 (pending)

SB 7-Griesheimer, with SS (pending)
SB 18-Bray, et al, with SCS & SS for SCS

(pending)
 SB 29-Stouffer
 SBs 45, 212, 136, 278, 279, 285 & 288-Pearce,
 with SCS, SS for SCS & SA 1 (pending)
 SB 57-Stouffer, with SCS
 SB 72-Stouffer, with SCS
 SB 89-Stouffer, with SCS, SA 1 & SSA 1
 for SA 1 (pending)
 SB 174-Griesheimer and Goodman, with
 SCS, SS#2 for SCS & SA 2 (pending)

SCS for SB 189-Shields
 SB 216-Scott, with SCS
 SBs 223 & 226-Goodman, with SCS (pending)
 SB 236-Lembke
 SBs 261, 159, 180 & 181-Bartle and Goodman,
 with SCS, SS#3 for SCS & SA 1 (pending)
 SB 264-Mayer
 SB 284-Lembke, et al

CONSENT CALENDAR

Senate Bills

Reported 3/11

SB 513-Dempsey
 SB 396-Justus
 SB 421-Pearce
 SB 435-Lembke
 SB 296-Scott
 SB 276-Barnitz
 SB 337-Rupp
 SB 468-Justus, with SCS
 SB 338-Rupp, with SCS
 SB 318-Lembke, with SCS
 SB 398-Barnitz
 SB 357-Purgason

SB 485-Pearce
 SB 480-Shoemyer
 SB 394-Ridgeway, with SCS
 SB 464-Stouffer
 SB 447-Pearce
 SB 399-Justus
 SB 387-Barnitz
 SB 386-Lager
 SB 377-Rupp
 SB 266-Mayer
 SB 253-Justus, with SCS
 SB 526-Clemens

Reported 3/12

SB 507-Callahan
 SB 563-Smith, with SCS

SB 411-Crowell, with SCS
 SB 161-Crowell

RESOLUTIONS

Reported from Committee

SR 141-Engler, with point of order (pending)
 SCR 7-Pearce

SR 207-Lembke and Smith, with SCS &
 SS for SCS (pending)

SCR 11-Bartle, et al
SCR 14-Schmitt

SCR 21-Clemens
SCR 10-Rupp

To be Referred

HCS for HCRs 22 & 25

HCR 13-Guest, et al

✓