

Journal of the Senate

SECOND REGULAR SESSION

THIRTEENTH DAY—MONDAY, FEBRUARY 1, 2010

The Senate met pursuant to adjournment.

President Kinder in the Chair.

Reverend Carl Gauck offered the following prayer:

“Keep God’s word in this way. Let it enter into your very being, let it take possession of your desires and your whole way of life. (St. Bernard of Clarivaux)

Blessed God, we thank You for this new day and week and pray that we will always trust You for the wisdom we need to make correct, moral decisions in our lives as well as those that effect the lives of those we serve. We pray that we may live Your word with those with whom we work and those who work for 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 for Thursday, January 28, 2010 was read and approved.

Senator Engler requested unanimous consent of the Senate to correct the Senate Journal for Monday, January 25, 2010, Page 164, Line 19, to reflect the introduction and 1st reading of Senate Bill No. 816 and Senate Bill No. 817, which request was granted.

The following correction was made to the Journal for Monday, January 25, 2010:

“**SB 816**—By Lembke.

An Act to repeal section 143.811, RSMo, and to enact in lieu thereof one new section relating to interest on overpayments of taxes.

SB 817—By Lembke.

An Act to repeal section 137.106, RSMo, and to enact in lieu thereof one new section relating to the Missouri homestead preservation act.”

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	Keaveny

Lager	Lembke	Mayer	McKenna	Nodler	Pearce	Purgason	Ridgeway
Rupp	Schaefer	Schmitt	Scott	Shields	Shoemyer	Stouffer	Vogel
Wilson	Wright-Jones—34						

Absent—Senators—None

Absent with leave—Senators—None

Vacancies—None

The Lieutenant Governor was present.

RESOLUTIONS

Senator Lager offered Senate Resolution No. 1503, regarding the Fiftieth Wedding Anniversary of Mr. and Mrs. John McLarney, Savannah, which was adopted.

Senator Lager offered Senate Resolution No. 1504, regarding the One Hundredth Birthday of Patrick “Pat” Kelly, Maryville, which was adopted.

Senator Days offered Senate Resolution No. 1505, regarding the One Hundredth Birthday of Tessie Parks, St. Louis, which was adopted.

Senator Lager offered Senate Resolution No. 1506, regarding Helen V. Thompson, Cosby, which was adopted.

Senator Shoemyer offered Senate Resolution No. 1507, regarding Marvin McClanahan, Kirksville, which was adopted.

Senator Wright-Jones offered Senate Resolution No. 1508, regarding the American Heart Association, which was adopted.

Senator Wright-Jones offered Senate Resolution No. 1509, regarding the African Methodist Episcopal Zion Church, which was adopted.

Senator Wright-Jones offered Senate Resolution No. 1510, regarding Amanda L. Murphy, PhD, Saint Louis, which was adopted.

Senator Schmitt offered Senate Resolution No. 1511, regarding Matthew Richard Mueller, Fenton, which was adopted.

Senator Dempsey offered Senate Resolution No. 1512, regarding Charlie Beard, which was adopted.

Senator Dempsey offered Senate Resolution No. 1513, regarding Dave Tritz, which was adopted.

Senator Dempsey offered Senate Resolution No. 1514, regarding Kevin Schaefer, which was adopted.

Senator Dempsey offered Senate Resolution No. 1515, regarding Ted Creech, which was adopted.

Senator Dempsey offered Senate Resolution No. 1516, regarding Jerry Kohler, which was adopted.

Senator Dempsey offered Senate Resolution No. 1517, regarding Michael Reitmeyer, which was adopted.

Senator Dempsey offered Senate Resolution No. 1518, regarding Norman S. Fehl, which was adopted.

Senator Dempsey offered Senate Resolution No. 1519, regarding Donald A. Gibson, which was adopted.

Senator Dempsey offered Senate Resolution No. 1520, regarding Robert “Bob” Schulteheinrich, which was adopted.

Senator Crowell offered Senate Resolution No. 1521, regarding Branton Reeves, Cape Girardeau, which was adopted.

Senator Crowell offered Senate Resolution No. 1522, regarding Dr. Robert Gifford, Cape Girardeau, which was adopted.

Senator Wright-Jones offered Senate Resolution No. 1523, regarding Stephen Clemons, Saint Louis, which was adopted.

Senator Wright-Jones offered Senate Resolution No. 1524, regarding the Ninety-first Birthday of William Johnson, Sr., St. Louis, which was adopted.

Senator Mayer offered Senate Resolution No. 1525, regarding the One Hundredth Birthday of Dolas Kennon, Doniphan, which was adopted.

Senator Barnitz offered Senate Resolution No. 1526, regarding Betty P. Turner, Rolla, which was adopted.

Senator Barnitz offered Senate Resolution No. 1527, regarding the Eighty-fifth Birthday of Billy Victor Timmerberg, Hermann, which was adopted.

Senator Barnitz offered Senate Resolution No. 1528, regarding Kayleigh Marie Jones, Sullivan, which was adopted.

Senator Lager offered Senate Resolution No. 1529, regarding the Summerville Insurance Agency, Chillicothe, which was adopted.

INTRODUCTION OF BILLS

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

SB 869—By Griesheimer.

An Act to repeal section 307.365, RSMo, and to enact in lieu thereof two new sections relating to the vehicle safety inspection program, with penalty provisions for a certain section.

SB 870—By Schaefer.

An Act to amend chapter 252, RSMo, by adding thereto one new section relating to conservation easements.

SB 871—By Schaefer.

An Act to repeal sections 50.660 and 50.783, RSMo, and to enact in lieu thereof two new sections relating to county purchases.

SB 872—By Bray.

An Act to repeal section 447.505, RSMo, and to enact in lieu thereof two new sections relating to gift certificates, with penalty provisions.

SB 873—By Wright-Jones.

An Act to repeal section 620.1210, RSMo, and to enact in lieu thereof one new section relating to the Missouri film commission.

SB 874—By Pearce.

An Act to repeal sections 204.300 and 204.569, RSMo, and to enact in lieu thereof two new sections relating to sewer districts.

SB 875—By Dempsey.

An Act to amend chapter 290, RSMo, by adding thereto one new section relating to minimum wage law.

SB 876—By Stouffer.

An Act to repeal section 41.216, RSMo, and to enact in lieu thereof one new section relating to the Missouri military family relief fund.

SB 877—By Keaveny.

An Act to repeal sections 452.340, 454.475, 454.517, 454.557, and 454.1003, RSMo, and to enact in lieu thereof five new sections relating to child support.

SB 878—By Lembke.

An Act to repeal section 143.790, RSMo, and to enact in lieu thereof two new sections relating to a debt setoff for unpaid healthcare expenses.

SJR 42—By Lembke.

Joint Resolution submitting to the qualified voters of Missouri an amendment repealing section 2 of article I of the Constitution of Missouri, and adopting one new section in lieu thereof relating to the protection of economic freedom.

MESSAGES FROM THE GOVERNOR

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

GOVERNOR OF MISSOURI
JEFFERSON CITY
65102
January 29, 2010

REORGANIZATION PLAN NO. 1

2010

TO THE SENATE AND HOUSE OF REPRESENTATIVES OF THE NINETY-FIFTH GENERAL ASSEMBLY OF THE STATE OF MISSOURI:

By virtue of the authority vested in me by the Constitution and laws of the State of Missouri, including the Omnibus State Reorganization Act of 1974 and Sections 26.500 through 26.540, RSMo, I hereby transmit Reorganization Plan No. 1 of 2010, by Executive Order 10-15, to transfer the Breath Alcohol Program from the Missouri Department of Transportation and assign it, and all of its responsibilities and functions, to the Department of Health and Senior Services. The Breath Alcohol Program will retain all functions and authority as provided by law. The

Missouri Department of Health and Senior Services shall furnish administrative support and staff as is necessary for the effective operation of the Breath Alcohol Program.

Respectfully submitted,
Jeremiah W. (Jay) Nixon
Governor

EXECUTIVE ORDER

10-15

WHEREAS, the Department of Health and Senior Services is established by Chapter 192, RSMo; and

WHEREAS, the Missouri Department of Transportation is established by Article IV, Section 12, of the Missouri Constitution and Chapter 226, RSMo; and

WHEREAS, Chapters 306 and 577, RSMo, require the Missouri Department of Health and Senior Services to license and regulate the chemical analysis used in determining the alcohol or drug content of motor vehicle and watercraft operators; and

WHEREAS, the Breath Alcohol Program is responsible for performing on-site inspection of breath analyzers, as well as approving permits to operate and maintain evidential breath analyzers; permits to analyze blood, urine, and saliva for drugs; and courses to instruct permit holders in the use of breath analyzer equipment; and

WHEREAS, the Breath Alcohol Program was established to ensure that alcohol and drug testing is conducted in a uniform way throughout the state; and

WHEREAS, pursuant to Sections 26.500-26.540, RSMo, Executive Order 07-05 and Reorganization Plan No. 1, providing for the transfer of the Breath Alcohol Program from the Department of Health and Senior Services to the Missouri Department of Transportation, were filed with the General Assembly and were not disapproved; and

WHEREAS, unforeseen administrative issues made the transfer inefficient and not cost effective; and

WHEREAS, the Department of Health and Senior Services has the necessary expertise to administer the Breath Alcohol Program.

NOW THEREFORE, I, JEREMIAH W. (JAY) NIXON, GOVERNOR OF THE STATE OF MISSOURI, by virtue of the authority vested in me by the Constitution and laws of the State of Missouri, do hereby order the Missouri Department of Transportation and the Department of Health and Senior Services to cooperate to:

1. Transfer all the authority, powers, duties, functions, records, personnel, property, contracts, budgets, matters pending, and other pertinent vestiges of the Breath Alcohol Program from the Missouri Department of Transportation to the Department of Health and Senior Services, by Type I transfer as defined under the Reorganization Act of 1974; and
2. Develop mechanisms and processes necessary to effectively transfer the Breath Alcohol Program to the Department of Health and Senior Services; and
3. Transfer the responsibility for staff support for the Breath Alcohol Program from the Missouri Department of Transportation to the Department of Health and Senior Services; and
4. Take the steps necessary to maintain compliance with federal requirements, so as not to jeopardize federal financial participation with this transfer.

This Order shall become effective August 28, 2010, unless disapproved within sixty days of its submission to the Second Regular Session of the 95th General Assembly.

Seal

IN WITNESS WHEREOF, I have hereunto set my hand and caused to be affixed the Great Seal of the State of Missouri, in the City of Jefferson, on this 29th day of January, 2010.

Jeremiah W. (Jay) Nixon
Governor

ATTEST:

Robin Carnahan
Secretary of State

Also,

GOVERNOR OF MISSOURI
JEFFERSON CITY
65102

January 29, 2010

REORGANIZATION PLAN NO. 2

2010

TO THE SENATE AND HOUSE OF REPRESENTATIVES OF THE NINETY-FIFTH GENERAL ASSEMBLY OF THE STATE OF MISSOURI:

By virtue of the authority vested in me by the Constitution and laws of the State of Missouri, including the Omnibus State Reorganization Act of 1974 and Sections 26.500 through 26.540, RSMo, I hereby transmit Reorganization Plan No. 2 of 2010, by Executive Order 10-16, to transfer the scholarship portion of the A+ Schools Program from the Department of Elementary and Secondary Education and assign it, and all of its responsibilities and functions, to the Department of Higher Education. The A+ Schools Program will retain all functions and authority as provided by law. The Missouri Department of Higher Education shall furnish administrative support and staff as is necessary for the effective operation of the scholarship portion of the A+ Schools Program.

Respectfully submitted,
Jeremiah W. (Jay) Nixon
Governor

EXECUTIVE ORDER

10-16

WHEREAS, the Department of Elementary and Secondary Education is established by Chapter 161, RSMo; and

WHEREAS, the Department of Higher Education is established by Article IV, Section 52 of the Missouri Constitution, and Chapter 173, RSMo; and

WHEREAS, the State of Missouri has many higher education grant and scholarship programs administered by several government agencies; and

WHEREAS, this causes difficulty for Missouri students and parents trying to determine how much state aid is available to assist them with higher education expenses; and

WHEREAS, the A+ Schools Program is established by Section 160.545, RSMo, and is currently administered by the Department of Elementary and Secondary Education; and

WHEREAS, the A+ Schools Program (1) provides a mechanism to improve public schools in Missouri and (2) grants scholarships to qualifying Missouri students at community colleges and vocational or technical schools; and

WHEREAS, the functions of executive departments may be reassigned using the procedure set forth in Sections 26.500 through 26.540, RSMo; and

WHEREAS, the public school improvement portion of the A+ Schools Program should continue to be administered by the Department of Elementary and Secondary Education; and

WHEREAS, the Department of Higher Education currently administers the vast majority of state educational grants and scholarships and has significant expertise in all areas of higher education funding; and

WHEREAS, centralizing state grant and scholarship programs in the Department of Higher Education simplifies the process for parents and students applying for various types of financial aid and seeking information about post-secondary education; and

WHEREAS, I am committed to promoting new pathways to higher education and consolidating executive branch operations to ensure that the state delivers vital services as efficiently and effectively as possible.

NOW THEREFORE, I, JEREMIAH W. (JAY) NIXON, GOVERNOR OF THE STATE OF MISSOURI, by virtue of the authority vested in me by the Constitution and laws of the State of Missouri, do hereby order the Department of Elementary and Secondary Education and the Department of Higher Education to cooperate to:

1. Transfer all the authority, powers, duties, functions, records, personnel, property, contracts, budgets, matters pending, and other pertinent vestiges of the scholarship portion of the A+ Schools Program from the Department of Elementary and Secondary Education to the Department of Higher Education, by Type I transfer as defined under the Reorganization Act of 1974.
2. Develop mechanisms and processes necessary to effectively transfer the scholarship portion of the A+ Schools Program to the Department of Higher Education;
3. Transfer the responsibility for staff support for the scholarship portion of the A+ Schools Program from the Department of Elementary and Secondary Education to the Department of Higher Education;
4. Ensure the continued administration of the school improvement portion of the A+ Schools Program by the Department of Elementary and Secondary Education.
5. Take the steps necessary to maintain compliance with federal requirements, so as not to jeopardize federal financial participation.

This Order shall become effective August 28, 2010, unless disapproved within sixty days of its submission to the Second Regular Session of the 95th General Assembly.

Seal

IN WITNESS WHEREOF, I have hereunto set my hand and caused to be affixed the Great Seal of the State of Missouri, in the City of Jefferson, on this 29th day of January, 2010.

Jeremiah W. (Jay) Nixon
Governor

ATTEST:

Robin Carnahan
Secretary of State

President Pro Tem Shields assumed the Chair.

REPORTS OF STANDING COMMITTEES

Senator Griesheimer, Chairman of the Committee on Jobs, Economic Development and Local Government, submitted the following report:

Mr. President: Your Committee on Jobs, Economic Development and Local Government, to which was referred **SB 580**, begs leave to report that it has considered the same and recommends that the Senate Committee Substitute, hereto attached, do pass.

Senator Bartle, Chairman of the Committee on the Judiciary and Civil and Criminal Jurisprudence, submitted the following report:

Mr. President: Your Committee on the Judiciary and Civil and Criminal Jurisprudence, to which were referred **SB 586** and **SB 617**, begs leave to report that it has considered the same and recommends that the Senate Committee Substitute, hereto attached, do pass.

Senator Clemens, Chairman of the Committee on Agriculture, Food Production and Outdoor Resources, submitted the following report:

Mr. President: Your Committee on Agriculture, Food Production and Outdoor Resources, to which was referred **SB 604**, begs leave to report that it has considered the same and recommends that the Senate Committee Substitute, hereto attached, do pass.

SECOND READING OF CONCURRENT RESOLUTIONS

The following concurrent resolution was read the 2nd time and referred to the Committee indicated:

HCS for HCRs 7, 3 and 17—Rules, Joint Rules, Resolutions and Ethics.

COMMITTEE APPOINTMENTS

President Pro Tem Shields appointed the following committee to act with a like committee from the House pursuant to **HCR 2**: Senators Bartle, Schmitt, Goodman, Griesheimer, Pearce, Justus, Days, Keaveny, Bray and Shoemyer.

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

SENATE CALENDAR

FOURTEENTH DAY—TUESDAY, FEBRUARY 2, 2010

FORMAL CALENDAR

SECOND READING OF SENATE BILLS

SB 848-Barnitz	SB 865-Wilson and Keaveny
SB 849-Barnitz	SB 866-Wright-Jones
SB 850-Barnitz	SB 867-Mayer
SB 851-Schmitt, et al	SB 868-Shields
SB 852-Lager, et al	SB 869-Griesheimer
SB 853-Keaveny and Wright-Jones	SB 870-Schaefer
SB 854-Keaveny and Wright-Jones	SB 871-Schaefer
SB 855-Schaefer	SB 872-Bray
SB 856-Schaefer	SB 873-Wright-Jones
SB 857-Schaefer	SB 874-Pearce
SB 858-Schaefer	SB 875-Dempsey
SB 859-Schaefer	SB 876-Stouffer
SB 860-Bray	SB 877-Keaveny
SB 861-Dempsey	SB 878-Lembke
SB 862-Callahan	SJR 40-Goodman
SB 863-Callahan	SJR 42-Lembke
SB 864-Lembke	

SENATE BILLS FOR PERFECTION

SB 618-Rupp, et al	SBs 586 & 617-Bartle, with SCS
SB 580-Griesheimer, with SCS	SB 604-Mayer, with SCS

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