

# Journal of the Senate

SECOND REGULAR SESSION

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**THIRTY-NINTH DAY—TUESDAY, MARCH 23, 2010**

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The Senate met pursuant to adjournment.

President Kinder in the Chair.

Reverend Carl Gauck offered the following prayer:

“Who rise from prayer better persons, their prayer is answered.” (Gates of Prayer)

Heavenly Father, we experience the stress of this time and are aware of the difficult decisions that we face and know at many levels that we need to pray and know Your presence in our lives. May we find time for prayer and may it make us better persons so our actions, thoughts and words are integrated in what we decide and do here. In Your Holy Name we pray. Amen.

The Pledge of Allegiance to the Flag was recited.

A quorum being established, the Senate proceeded with its business.

The Journal of the previous day was read and approved.

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

Present—Senators

Barnitz	Bartle	Bray	Callahan	Champion	Clemens	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.

President Pro Tem Shields assumed the Chair.

### **RESOLUTIONS**

Senator Bartle offered Senate Resolution No. 1926, regarding Kevin P. Hubbard, D.O., F.A.C.O.I., which was adopted.

Senator Bartle offered Senate Resolution No. 1927, regarding Susanne Mitko, Lee's Summit, which was adopted.

Senator Bartle offered Senate Resolution No. 1928, regarding the Fifteenth Anniversary of Blue Ridge Church of Christ, Kansas City, which was adopted.

Senator Bartle offered Senate Resolution No. 1929, regarding Ryan Anthony DeWitt, Blue Springs, which was adopted.

Senators Cunningham and Rupp offered Senate Resolution No. 1930, regarding Robert P. "Bob" Cutt, Lake St. Louis, which was adopted.

Senator McKenna offered Senate Resolution No. 1931, regarding the Seventieth Wedding Anniversary of Mr. and Mrs. Oliver S. Huskey, Hillsboro, which was adopted.

Senator Crowell offered Senate Resolution No. 1932, regarding Oran High School, which was adopted.

Senator Crowell offered Senate Resolution No. 1933, regarding the Fortieth Birthday of Scott B. Smith, Cape Girardeau, which was adopted.

### **REPORTS OF STANDING COMMITTEES**

Senator Rupp, Chairman of the Committee on Small Business, Insurance and Industry, submitted the following report:

Mr. President: Your Committee on Small Business, Insurance and Industry, to which was referred **SB 747**, begs leave to report that it has considered the same and recommends that the bill do pass.

### **REFERRALS**

President Pro Tem Shields referred **HCR 16** and **HCR 52** to the Committee on Rules, Joint Rules, Resolutions and Ethics.

Senator Callahan assumed the Chair.

On motion of Senator Engler, the Senate recessed until 4:30 p.m.

### **RECESS**

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

### **RESOLUTIONS**

Senator Crowell offered Senate Resolution No. 1934, regarding the 2009-2010 Missouri State High School Activities Association Class 1 State Champion Scott County Central High School Braves basketball team, which was adopted.

Senator Purgason offered Senate Resolution No. 1935, regarding Norwood High School, which was adopted.

Senator Wilson offered Senate Resolution No. 1936, regarding the death of Billie Eugene Henry, Kansas

City, which was adopted.

Senator Wilson offered Senate Resolution No. 1937, regarding the Greater Kansas City Chapter of the Links, Incorporated, which was adopted.

Senator Bartle offered Senate Resolution No. 1938, regarding Eric Michael Rothmier, Blue Springs, which was adopted.

Senator Clemens offered Senate Resolution No. 1939, regarding Chadwick High School, which was adopted.

Senator Clemens offered Senate Resolution No. 1940, regarding Spokane Middle School, which was adopted.

Senator Clemens offered Senate Resolution No. 1941, regarding the One Hundredth Anniversary of Old Bruner School, 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 23, 2010

**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 B. Calvin, 2355 Albion Place Unit D, Saint Louis City, Missouri 63104, as a member of the Saint Louis City Board of Police Commissioners, for a term ending January 31, 2014, and until his successor is duly appointed and qualified; vice, Julius Hunter, term expired.

Respectfully submitted,  
Jeremiah W. (Jay) Nixon  
Governor

Also,

GOVERNOR OF MISSOURI  
JEFFERSON CITY  
65102  
March 23, 2010

**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 L. Gerdine, 3865 Flora Place, Saint Louis City, Missouri 63110, as a member of the Saint Louis City Board of Police Commissioners, for a term ending January 31, 2011, and until his successor is duly appointed and qualified; vice, Vincent Bommarito, resigned.

Respectfully submitted,  
Jeremiah W. (Jay) Nixon  
Governor

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

### MESSAGES FROM THE HOUSE

The following message was received from the House of Representatives through its Chief Clerk:

Mr. President: I am instructed by the House of Representatives to inform the Senate that the House has taken up and adopted **HCR 46**.

HOUSE CONCURRENT RESOLUTION NO. 46

Whereas, energy policy and regulation are vital to Missouri's economy and which have a direct impact on Missouri families, farmers, businesses, and employees; and

Whereas, H.R. 2454, the American Clean Energy and Security Act of 2009, also known as the "Waxman-Markey" and "Cap and Trade", passed by the United States House of Representatives and now pending before the United States Senate, will have a dramatic effect on every American, increase the cost of supplying homes and businesses with electricity, cause job losses, and impose burdensome costs on the poor and families with incomes of less than \$10,000 annually for whom energy costs today make up 60% of their average family expenses, and for families with incomes of \$10,000 to \$25,000 annually, such costs make up 25% of their average family expenses; and

Whereas, on December 7, 2009, the Administrator for the Environmental Protection Agency (EPA) signed two distinct findings regarding greenhouse gases under Section 202(c) of the federal Clean Air Act:

(1) Endangerment Finding: the Administrator finds that the current and projected concentrations of the six key well-mixed greenhouse gases - carbon dioxide (CO<sub>2</sub>), methane (CH<sub>4</sub>), nitrous oxide (N<sub>2</sub>O), hydrofluorocarbons (HFCs), perfluorocarbons (PFCs), and sulfur hexafluoride (SF<sub>6</sub>) - in the atmosphere threaten the public health and welfare of current and future generations;

(2) Cause and Contribute Finding: the administrator finds that the combined emissions of these well-mixed greenhouse gases from new motor vehicles and new motor vehicle engines contribute to the greenhouse gas pollution which threatens public health and welfare; and

Whereas, this finding by the EPA, if implemented, will cost Missouri jobs and raise electric rates on families, farmers, businesses, and employees; and

Whereas, the people of Missouri are dependent on coal for their electricity, obtaining approximately 80 - 85% of electrical energy from coal for their homes, farms, and businesses. This heavy dependence on coal is common throughout the Midwestern states; and

Whereas, Missouri's electric rates consistently rank among the lowest cost states in the union, and is one of only three states in the United States to see electricity rates drop in the years 2000 to 2008, and by the largest percentage (6%), making Missouri attractive to business and industry, creating jobs, and making Missouri a low-cost place to live; and

Whereas, the technology of the 21st Century is providing cleaner yet still affordable baseload electrical generation from coal, including Super Critical Pulverized Coal (Prairie State in Illinois) and Ultra Supercritical Pulverized Coal (Turk in Arkansas) as well as developing options for coal to liquids, coal to gas, and carbon sequestration; and

Whereas, the focus in Missouri and throughout the coal-dependent Midwest should be on how to use technology to burn coal more cleanly and move towards cleaner burning options like Ultra Supercritical Pulverized Coal, rather than a punitive system that drives up costs, leads to lower baseload energy production, and inhibits or prevents progress on a fuel that the United States has in abundance within its own borders:

Now, therefore, be it resolved that the members of the House of Representatives of the Ninety-fifth General Assembly, Second Regular Session, the Senate concurring therein, hereby:

(1) Request that our elected statewide officials express their opposition to the further acceptance or approval of the Environmental Protection Agency formal endangerment finding on greenhouse gases;

(2) Convey that it is not well taken by and harmful to the State of Missouri;

(3) Urge the Environmental Protection Agency to rescind their recent formal endangerment finding on greenhouse gases; and

Be it further resolved that the Missouri General Assembly hereby urges our Missouri Congressional delegation to vote against H.R. 2454, the American Clean Energy Act of 2009, and further requests that our elected statewide officials express their respective positions on the passage of H.R. 2454 and send a unified message to our Missouri Congressional delegation; 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 Governor Jay Nixon, President Barack Obama, President of the United States Senate, Speaker of the United States House of Representatives, the Administrator of the Environmental Protection Agency, and each member of the Missouri Congressional delegation.

In which the concurrence of the Senate is respectfully requested.

**SENATE BILLS FOR PERFECTION**

Senator Schaefer moved that **SB 829**, with **SCS**, be taken up for perfection, which motion prevailed.

**SCS for SB 829**, entitled:

SENATE COMMITTEE SUBSTITUTE FOR  
SENATE BILL NO. 829

An Act to repeal sections 67.402 and 71.285, RSMo, and to enact in lieu thereof two new sections relating to nuisance abatement ordinances.

Was taken up.

Senator Schaefer moved that **SCS for SB 829** be adopted, which motion prevailed.

On motion of Senator Schaefer, **SCS for SB 829** was declared perfected and ordered printed.

Senator Barnitz moved that **SB 849** be taken up for perfection, which motion prevailed.

On motion of Senator Barnitz, **SB 849** was declared perfected and ordered printed.

Senator Wilson moved that **SB 1002** be taken up for perfection, which motion prevailed.

On motion of Senator Wilson, **SB 1002** was declared perfected and ordered printed.

Senator Bray moved that **SB 945** be taken up for perfection, which motion prevailed.

On motion of Senator Bray, **SB 945** was declared perfected and ordered printed.

At the request of Senator Stouffer, **SB 606** was placed on the Informal Calendar.

Senator Days moved that **SB 893** be taken up for perfection, which motion prevailed.

At the request of Senator Days, **SB 893** was placed on the Informal Calendar.

Senator Goodman moved that **SB 833** be taken up for perfection, which motion prevailed.

On motion of Senator Goodman, **SB 833** was declared perfected and ordered printed.

At the request of Senator Green, **SB 797** was placed on the Informal Calendar.

Senator Rupp moved that **SB 787**, with **SCS**, be taken up for perfection, which motion prevailed.

**SCS for SB 787**, entitled:

SENATE COMMITTEE SUBSTITUTE FOR  
SENATE BILL NO. 787

An Act to repeal sections 595.036, 595.037, and 595.060, RSMo, and to enact in lieu thereof four new sections relating to crime victims' compensation fund claims.

Was taken up.

Senator Rupp moved that **SCS for SB 787** be adopted, which motion prevailed.

On motion of Senator Rupp, **SCS for SB 787** was declared perfected and ordered printed.

Senator Rupp moved that **SB 757** be taken up for perfection, which motion prevailed.

Senator Rupp offered **SS** for **SB 757**, entitled:

SENATE SUBSTITUTE FOR  
SENATE BILL NO. 757

An Act to repeal sections 37.850 and 55.030, RSMo, and to enact in lieu thereof three new sections relating to the oversight of public funds, with an expiration date for a certain section.

Senator Rupp moved that **SS** for **SB 757** be adopted, which motion prevailed.

On motion of Senator Rupp, **SS** for **SB 757** was declared perfected and ordered printed.

At the request of Senator Crowell, **SB 714** was placed on the Informal Calendar.

At the request of Senator Keaveny, **SB 877** was placed on the Informal Calendar.

Senator Goodman moved that **SB 985** be taken up for perfection, which motion prevailed.

Senator Days assumed the Chair.

On motion of Senator Goodman, **SB 985** was declared perfected and ordered printed.

Senator Griesheimer moved that **SB 1001** be taken up for perfection, which motion prevailed.

On motion of Senator Griesheimer, **SB 1001** was declared perfected and ordered printed.

Senator Rupp moved that **SB 979**, with **SCS**, be taken up for perfection, which motion prevailed.

**SCS** for **SB 979**, entitled:

SENATE COMMITTEE SUBSTITUTE FOR  
SENATE BILL NO. 979

An Act to amend chapter 376, RSMo, by adding thereto one new section relating to the approval or disapproval of long-term care insurance rates by the director of the department of insurance, financial institutions and professional registration.

Was taken up.

Senator Rupp moved that **SCS** for **SB 979** be adopted, which motion prevailed.

On motion of Senator Rupp, **SCS** for **SB 979** was declared perfected and ordered printed.

**REFERRALS**

President Pro Tem Shields referred **SCS** for **SB 944** and **SB 816** to the Committee on Governmental Accountability and Fiscal Oversight.

**SENATE BILLS FOR PERFECTION**

Senator Dempsey moved that **SB 894** be taken up for perfection, which motion prevailed.

On motion of Senator Dempsey, **SB 894** was declared perfected and ordered printed.

Senator Stouffer moved that **SB 987** be taken up for perfection, which motion prevailed.

At the request of Senator Stouffer, **SB 987** was placed on the Informal Calendar.

Senator Schaefer moved that **SB 784** be taken up for perfection, which motion prevailed.

At the request of Senator Schaefer, **SB 784** was placed on the Informal Calendar.

Senator Shoemyer moved that **SB 963**, with **SCS**, be taken up for perfection, which motion prevailed.

**SCS** for **SB 963**, entitled:

SENATE COMMITTEE SUBSTITUTE FOR  
SENATE BILL NO. 963

An Act to repeal section 640.240, RSMo, and to enact in lieu thereof one new section relating to the minority and underrepresented environmental literacy program.

Was taken up.

Senator Shoemyer moved that **SCS** for **SB 963** be adopted.

Senator Rupp offered **SA 1**:

SENATE AMENDMENT NO. 1

Amend Senate Committee Substitute for Senate Bill No. 963, Page 1, In the Title, Line 3, by striking all of said line and inserting in lieu thereof the following: “to scholarships to be administered by the department of higher education”; and

Further amend said bill and page, section A, line 2, by inserting immediately after said line the following:

“161.415. 1. Within the limits of amounts appropriated therefor, the department of [elementary and secondary] **higher** education shall make available up to one hundred one-year, renewable scholarships in an amount of two thousand dollars to minority students for the purpose of encouraging minority students to enter teaching. Such scholarships shall be available to minority high school graduates and college students who are residents of Missouri, and who enter and make a commitment to pursue a teacher education program approved by the department of elementary and secondary education and offered by a four-year college or university located in Missouri, or who after the completion of their baccalaureate degree enter teacher education and make a commitment to teach science or mathematics, and who have:

(1) Achieved scores on an accepted standardized test of academic ability, including, but not limited to, the SAT, ACT, SCAT, which place them at or above the seventy-fifth percentile; and

(2) A high school rank at or above the seventy-fifth percentile.

2. If the number of applicants exceeds the number of scholarships or revenues available, the department of [elementary and secondary] **higher** education may consider the financial needs of the applicant.

3. Any college or university located in Missouri which offers a teacher education program approved by the department of elementary and secondary education, and wishes to have the scholarships provided pursuant to this section made available to eligible applicants for admittance to such college or university, must provide matching funds to match one dollar for every two dollars made available by the state pursuant to this section for students attending the college or university. Such matching funds shall not be taken from money made available to the college or university from state funds. The total scholarship available to any one student from state and from college and university sources pursuant to such match program shall be three thousand dollars per year.

4. A recipient shall be eligible for a renewed scholarship for a maximum of three additional years. Eligibility for renewed scholarships shall be based on criteria established by the colleges of education and the department of [elementary and secondary] **higher** education.

5. As used in this section the term “minority” includes Asian Americans, Hispanic Americans, Native Americans and African Americans.

6. The scholarships provided in subsection 1 of this section shall be available to otherwise eligible students who are currently enrolled in a community college and make a commitment to pursue a teacher education program approved by the department of elementary and secondary education and offered by a four-year college or university located in Missouri.”; and

Further amend the title and enacting clause accordingly.

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

Senator Pearce assumed the Chair.

Senator Shoemyer moved that **SCS** for **SB 963**, as amended, be adopted, which motion prevailed.

On motion of Senator Shoemyer, **SCS** for **SB 963**, as amended, was declared perfected and ordered printed.

Senator Days moved that **SB 893** be called from the Informal Calendar and again taken up for perfection, which motion prevailed.

On motion of Senator Days, **SB 893** was declared perfected and ordered printed.

Senator Stouffer moved that **SB 987** be called from the Informal Calendar and again taken up for perfection, which motion prevailed.

On motion of Senator Stouffer, **SB 987** was declared perfected and ordered printed.

## COMMUNICATIONS

President Pro Tem Shields submitted the following:

March 23, 2010

Ms. Terry Spieler  
Secretary of the Senate  
201 West Capitol Avenue  
Room 323  
Jefferson City, MO 65101

Dear Ms. Spieler,

I respectfully request that the *Financial and Governmental Organizations and Elections Committee* move the Monday meeting time from 2:30 p.m. to 2:00 p.m.

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

Sincerely,

/s/ Charlie Shields  
Charles W. Shields

## INTRODUCTIONS OF GUESTS

Senator Ridgeway introduced to the Senate, Director Stacie Bratcher, staff and residents, Tia, Liz, Julie,

Keera, Peggy, Jessica, Christina, Rose, Mary and Stacey from Immacolata Manor, Liberty.

The President introduced to the Senate, Carrie Edwards, St. Louis.

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

## SENATE CALENDAR

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FORTIETH DAY—WEDNESDAY, MARCH 24, 2010

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## FORMAL CALENDAR

### THIRD READING OF SENATE BILLS

- |   |  |
|---|--|
| 1. SB 627-Justus (In Fiscal Oversight)          | 6. SB 845-Barnitz                      |
| 2. SJR 20-Bartle (In Fiscal Oversight)          | 7. SB 816-Lembke (In Fiscal Oversight) |
| 3. SB 779-Bartle (In Fiscal Oversight)          | 8. SCS for SB 777-Pearce               |
| 4. SS for SB 786-Rupp (In Fiscal Oversight)     | 9. SB 741-Griesheimer                  |
| 5. SCS for SB 944-Shields (In Fiscal Oversight) | 10. SB 628-Dempsey                     |

### SENATE BILLS FOR PERFECTION

SB 747-Rupp, et al

### HOUSE BILLS ON THIRD READING

HB 1442-Jones (89), et al, with SCS (Nodler)

## INFORMAL CALENDAR

### SENATE BILLS FOR PERFECTION

SB 579-Shields, with SCS	SB 792-Dempsey and Rupp, with SS (pending)
SB 587-Nodler and Cunningham, with SCS & SA 1 (pending)	SB 793-Mayer, et al, with SCS, SA 1 & SA 1 to SA 1 (pending)
SB 596-Callahan, with SCS (pending)	SB 797-Green
SB 606-Stouffer	SB 818-Lembke, with SCS (pending)
SBs 607, 602, 615 & 725-Stouffer, with SCS & SA 1 (pending)	SB 839-Wright-Jones, with SCS
SB 625-Justus and Keaveny, with SCS	SB 852-Lager, et al, with SS, SA 1 & SSA 1 for SA 1 (pending)
SB 698-Griesheimer, with SCS (pending)	SB 877-Keaveny
SB 714-Crowell	SB 878-Lembke, with SCS (pending)
SB 738-Crowell, with SCS	SBs 880, 780 & 836-Schaefer, with SCS
SB 784-Schaefer and Pearce	

SBs 895, 813, 911, 924, 922 &  
 802-Dempsey, et al, with SCS (pending)  
 SB 896-Shields and Crowell  
 SB 905-Bray, et al, with SCS (pending)  
 SB 928-Lager  
 SBs 991 & 645-Scott, with SCS (pending)  
 SJR 22-Callahan  
 SJR 25-Cunningham, et al, with SCS

SJR 29-Purgason and Cunningham,  
 with SCS & SS for SCS (pending)  
 SJR 31-Scott  
 SJR 33-Bartle, with SA 1 (pending)  
 SJR 34-Goodman, et al, with SA 1 (pending)  
 SJR 38-Ridgeway  
 SJR 40-Goodman, with SA 1 (pending)

## RESOLUTIONS

### Reported from Committee

SCR 42-Bray, with SCA 1  
 HCS for HCR 18, with SA 1 (pending) (Rupp)  
 SCR 33-Nodler

SCR 46-Stouffer  
 HCR 38-Icet, et al, with SCA 1

### To be Referred

HCR 46-Funderburk, et al

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