# Journal of the Senate

### FIRST REGULAR SESSION

### TWENTY-SIXTH DAY—WEDNESDAY, FEBRUARY 23, 2011

The Senate met pursuant to adjournment.

President Kinder in the Chair.

Reverend Carl Gauck offered the following prayer:

"Difficult as it is really to listen to someone in affliction, it is just as difficult for him to know that compassion is listening to him." (Simone Weil)

Merciful God, we know that there is compassion within this body in the work that must be done to help those who are in need. Help us during our committee hearings to listen with ruth and kindness so we have understanding and grace to what is testified and help us be able to communicate our compassion and concern for what we have heard and what is required of each of us. In Your Holy Name we pray. Amen.

The Pledge of Allegiance to the Flag was recited.

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

The Journal of the previous day was read and approved.

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

Present—Senators

Brown	Callahan	Chappelle-Nadal	Crowell	Cunningham	Dempsey	Dixon	Engler
Goodman	Green	Justus	Keaveny	Kehoe	Kraus	Lager	Lamping
Lembke	Mayer	McKenna	Munzlinger	Nieves	Parson	Pearce	Purgason
Richard	Ridgeway	Rupp	Schaaf	Schaefer	Schmitt	Stouffer	Wasson
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Wright-Jones—33

Absent-Senators-None

Absent with leave-Senators-None

Vacancies-1

The Lieutenant Governor was present.

#### RESOLUTIONS

Senator Richard offered Senate Resolution No. 346, regarding Missouri City Clerks and Finance Officers Association of Missouri, which was adopted.

Senator Kehoe offered Senate Resolution No. 347, regarding Joseph Shawn Sommerer, Lohman, which was adopted.

Senator Kehoe offered Senate Resolution No. 348, regarding Larry Kolb and Steve Rollins, which was adopted.

Senator Kehoe offered Senate Resolution No. 349, regarding Twehous Excavating Company, Incorporated, Jefferson City, which was adopted.

Senator Richard offered Senate Resolution No. 350, regarding the Ninetieth Birthday of Dorothy K. Claxton, Joplin, which was adopted.

Senator Kraus offered Senate Resolution No. 351, regarding the Bank of Grain Valley, which was adopted.

Senator Kraus offered Senate Resolution No. 352, regarding Michelle Rusert, Blue Springs, which was adopted.

Senator Kraus offered Senate Resolution No. 353, regarding David Wildschuetz, Grain Valley, which was adopted.

Senator Kraus offered Senate Resolution No. 354, regarding Kevin Quinn, Grain Valley, which was adopted.

Senator Kraus offered Senate Resolution No. 355, regarding Gary D. Smith, Grain Valley, which was adopted.

Senator Kraus offered Senate Resolution No. 356, regarding Sarah Vaughn, Grain Valley, which was adopted.

Senator Kraus offered Senate Resolution No. 357, regarding Matthew Farlin, Grain Valley, which was adopted.

Senator Kraus offered Senate Resolution No. 358, regarding Alyssa N. Webb, Grain Valley, which was adopted.

Senator Engler offered Senate Resolution No. 359, regarding Teren Andrew Burns, Park Hills, which was adopted.

Senator Crowell offered Senate Resolution No. 360, regarding the Fortieth Wedding Anniversary of Mr. and Mrs. Laddie Bridwell, Chaffee, which was adopted.

## **RE-REFERRALS**

President Pro Tem Mayer re-referred SB 175 to the Committee on Small Business, Insurance and Industry.

## **INTRODUCTION OF BILLS**

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

SB 321–By Kehoe, Richard, Parson, Dempsey, McKenna, Engler, Schaefer, Stouffer, Lager, Wasson, Chappelle-Nadal, Nieves, Lembke, Cunningham, Green, Dixon, Schaaf, Rupp and Wright-Jones.

An Act to repeal section 393.135, RSMo, and to enact in lieu thereof one new section relating to site development for energy generation facilities.

SB 322-By Schaefer.

An Act to repeal sections 190.839, 198.439, 208.437, 208.480, 338.550, and 633.401, RSMo, and to enact in lieu thereof six new sections relating to certain provider taxes.

SB 323–By Schaefer.

An Act to amend chapter 29, RSMo, by adding thereto one new section relating to audits.

SB 324–By Kraus and Nieves.

An Act to repeal sections 301.120, 301.130, and 301.144, RSMo, section 301.064 as enacted by house committee substitute for senate substitute for senate bill no. 3, eighty-eighth general assembly, first regular session, and section 301.064 as enacted by house bill no. 769, eighty-ninth general assembly, first regular session, and to enact in lieu thereof four new sections relating to the issuance of state license plates.

SB 325-By Wasson.

An Act to amend chapter 324, RSMo, by adding thereto one new section relating to notifying employers regarding the licensing status of employees.

SB 326-By Wasson.

An Act to amend chapter 537, RSMo, by adding thereto one new section relating to a peer review process for licensed architects, landscape architects, land surveyors, and engineers.

#### SB 327-By Richard.

An Act to repeal sections 643.151 and 644.076, RSMo, and to enact in lieu thereof two new sections relating to recycling companies that convert animal parts into petroleum, with penalty provisions.

#### SB 328-By Goodman.

An Act to repeal section 351.340, RSMo, and to enact in lieu thereof one new section relating to board meetings of corporations.

#### SB 329–By Nieves.

An Act to repeal section 162.1250, RSMo, and to enact in lieu thereof one new section relating to virtual schools.

#### SB 330-By Dixon.

An Act to repeal section 571.107, RSMo, and to enact in lieu thereof one new section relating to the carrying of concealed firearms in the state capitol building.

## SB 331–By Lamping and Goodman.

An Act to repeal sections 566.200, 566.203, 566.206, 566.209, 566.212, 566.213, 566.218, and

566.223, RSMo, and to enact in lieu thereof eight new sections relating to human trafficking, with penalty provisions.

SB 332-By Justus, Wright-Jones and Keaveny.

An Act to repeal section 170.015, RSMo, and to enact in lieu thereof one new section relating to sexual education.

SJR 21–By Lembke and Chappelle-Nadal.

Joint Resolution submitting to the qualified voters of Missouri, an amendment repealing section 32(a) of article VI of the Constitution of Missouri, and adopting one new section in lieu thereof relating to the city of St. Louis.

## SENATE BILLS FOR PERFECTION

Senator Lager moved that SB 187 be taken up for perfection, which motion prevailed.

Senator Pearce assumed the Chair.

Senator Schaaf offered SA 1:

## SENATE AMENDMENT NO. 1

Amend Senate Bill No. 187, Page 1, In the Title, Line 3, by striking the word "private"; and

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

## "67.402. 1. The governing body of **the following counties may enact nuisance abatement ordinances as provided in this section:**

(1) Any county of the first classification with more than one hundred thirty-five thousand four hundred but [less] **fewer** than one hundred thirty-five thousand five hundred inhabitants[,];

(2) Any county of the first classification with more than seventy-one thousand three hundred but [less] **fewer** than seventy-one thousand four hundred inhabitants[, and];

(3) Any county of the first classification without a charter form of government and with more than one hundred ninety-eight thousand but [less] **fewer** than one hundred ninety-nine thousand two hundred inhabitants;

(4) Any county of the first classification with more than eighty-five thousand nine hundred but fewer than eighty-six thousand inhabitants;

(5) Any county of the third classification without a township form of government and with more than sixteen thousand four hundred but fewer than sixteen thousand five hundred inhabitants;

(6) Any county of the third classification with a township form of government and with more than fourteen thousand five hundred but fewer than fourteen thousand six hundred inhabitants.

**2. The governing body of any county described in subsection 1 of this section** may enact ordinances to provide for the abatement of a condition of any lot or land that has the presence of rubbish and trash, lumber, bricks, tin, steel, parts of derelict motorcycles, derelict cars, derelict trucks, derelict construction equipment, derelict appliances, broken furniture, or overgrown or noxious weeds in residential subdivisions

or districts which may endanger public safety or which is unhealthy or unsafe and declared to be a public nuisance.

[2.] 3. Any ordinance enacted pursuant to this section shall:

(1) Set forth those conditions which constitute a nuisance and which are detrimental to the health, safety, or welfare of the residents of the county;

(2) Provide for duties of inspectors with regard to those conditions which may be declared a nuisance, and shall provide for duties of the building commissioner or designated officer or officers to supervise all inspectors and to hold hearings regarding such property;

(3) Provide for service of adequate notice of the declaration of nuisance, which notice shall specify that the nuisance is to be abated, listing a reasonable time for commencement, and may provide that such notice be served either by personal service or by certified mail, return receipt requested, but if service cannot be had by either of these modes of service, then service may be had by publication. The ordinances shall further provide that the owner, occupant, lessee, mortgagee, agent, and all other persons having an interest in the property as shown by the land records of the recorder of deeds of the county wherein the property is located shall be made parties;

(4) Provide that upon failure to commence work of abating the nuisance within the time specified or upon failure to proceed continuously with the work without unnecessary delay, the building commissioner or designated officer or officers shall call and have a full and adequate hearing upon the matter before the county commission, giving the affected parties at least ten days' written notice of the hearing. Any party may be represented by counsel, and all parties shall have an opportunity to be heard. After the hearings, if evidence supports a finding that the property is a nuisance or detrimental to the health, safety, or welfare of the residents of the county, the county commission shall issue an order making specific findings of fact, based upon competent and substantial evidence, which shows the property to be a nuisance and detrimental to the health, safety, or welfare of the residents of the county and ordering the nuisance abated. If the evidence does not support a finding that the property is a nuisance or detrimental to the health, safety, or welfare of the residents of the county, no order shall be issued.

[3.] **4.** Any ordinance authorized by this section may provide that if the owner fails to begin abating the nuisance within a specific time which shall not be longer than seven days of receiving notice that the nuisance has been ordered removed, the building commissioner or designated officer shall cause the condition which constitutes the nuisance to be removed. If the building commissioner or designated officer causes such condition to be removed or abated, the cost of such removal shall be certified to the county clerk or officer in charge of finance who shall cause the certified cost to be included in a special tax bill or added to the annual real estate tax bill, at the county collector's option, for the property and the certified cost shall be collected by the county collector in the same manner and procedure for collecting real estate taxes. If the certified cost is not paid, the tax bill shall be considered delinquent, and the collection of the delinquent bill shall be governed by the laws governing delinquent and back taxes. The tax bill from the date of its issuance shall be deemed a personal debt against the owner and shall also be a lien on the property until paid.

226.720. 1. No junkyard shall be established, maintained or operated within two hundred feet of any other state or county road in this state unless such junkyard is **fully** screened from the **state or county** road by a **permanent** tight board or other screen fence not less than ten feet high, or of sufficient height to **fully** screen the wrecked or disabled automobiles or junk kept therein from the view of persons using the **state** 

**or county** road on foot or in vehicles in the ordinary manner, except that nothing in this section shall apply to any junkyard located in any incorporated town, village or city. The provisions of sections 226.650 through 226.710 shall not apply to this section except the definitions appearing in section 226.660.

2. Any person, firm or corporation who establishes, conducts, owns, maintains or operates a junkyard without complying with the provisions of this section shall, [on] **upon their first** conviction, be guilty of a **class C** misdemeanor **and shall be ordered to either remove the junk from the property or build a fence as described in this section. Any person, firm, or corporation who establishes, conducts, owns, maintains, or operates a junkyard without complying with the provisions of this section shall, upon their second or subsequent violation, be guilty of a class A misdemeanor and shall be ordered to either remove the junk from the property or build a** 

Further amend the title and enacting clause accordingly.

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

Senator Callahan offered SA 2:

## SENATE AMENDMENT NO. 2

Amend Senate Bill No. 187, page 2, section 537.296, Line 42 by inserting immediately after all of said line the following

"7. A copy of the final judgement in any action alleging a private nuisance shall be filed with the recorder of deeds in the county in which the final judgment was issued and shall operate as notice to any purchaser of the claimant's property that the property was related to a previous claim and judgment for nuisance."

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

Senator Justus offered **SA 3**:

## SENATE AMENDMENT NO. 3

Amend Senate Bill No. 187, Page 2, Section 537.296, Line 42, by inserting after all of said line the following:

# **"7.** The provisions of this section shall not apply to any claim for private nuisance by a plaintiff whose property ownership precedes the defendant's activities giving rise to the cause of action."

Senator Justus moved that the above amendment be adopted and requested a roll call vote be taken. She was joined in her request by Senators Crowell, Green, Keaveny and Mayer.

Senator Schmitt assumed the Chair.

SA 3 failed of adoption by the following vote:

YEAS—Senators

Callahan	Chappelle-Nadal	Crowell	Dixon	Green	Justus	Keaveny	McKenna
Wright-Jones—9							

NAYS—Senators

Brown	Cunningham
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Kraus

Lager

Lamping	Lembke	Mayer	Munzlinger	Nieves	Parson	Pearce	Purgason
Richard	Ridgeway	Rupp	Schaaf	Schmitt	Stouffer	Wasson—23	

Absent—Senators—None

Absent with leave—Senator Schaefer—1

Vacancies-1

On motion of Senator Lager, SB 187, as amended, was declared perfected and ordered printed.

### **REPORTS OF STANDING COMMITTEES**

Senator Dempsey, 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, to which were referred **SB 174** and **SS** for **SCS** for **SB 13**, begs leave to report that it has examined the same and finds that the bills have been truly perfected and that the printed copies furnished the Senators are correct.

#### **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 passed **HB 71**, entitled:

An Act to repeal section 84.010, RSMo, and to enact in lieu thereof eight new sections relating to the St. Louis police force with penalty provisions.

In which the concurrence of the Senate is respectfully requested.

Read 1st time.

#### COMMUNICATIONS

President Pro Tem Mayer submitted the following:

February 17, 2011

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

Dear Ms. Spieler:

I am appointing Senator Tom Dempsey to the following committee:

Joint Committee on Gaming and Wagering

Please feel free to contact me should you have any questions.

Sincerely, /s/ Robert N. Mayer Robert N. Mayer President Pro Tem

#### Journal of the Senate

Also,

February 17, 2011

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

Dear Ms. Spieler:

I am reappointing Senator Tom Dempsey to the following commission:

Mississippi River Parkway Commission

Please feel free to contact me should you have any questions.

Sincerely, /s/ Robert N. Mayer Robert N. Mayer President Pro Tem

Also,

February 17, 2011

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

Dear Ms. Spieler:

I am appointing Senator Brad Lager to the following committees/board:

Joint Committee on Corrections Joint Committee on Legislative Research Joint Committee on Tax Policy Missouri Investment Trust Board of Trustees Please feel free to contact me should you have any questions.

> Sincerely, /s/ Robert N. Mayer Robert N. Mayer President Pro Tem

Also,

February 17, 2011

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

Dear Ms. Spieler:

I am accepting appointment to the following committee/board: Joint Committee on Wetlands

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#### Board of Public Buildings

Please feel free to contact me should you have any questions.

Sincerely, /s/ Robert N. Mayer Robert N. Mayer President Pro Tem

Also,

February 17, 2011

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

Dear Ms. Spieler:

I am accepting reappointment to the following commissions:

Missouri Commission on the Delta Regional Authority

Seismic Safety Commission

Please feel free to contact me should you have any questions.

Sincerely, /s/ Robert N. Mayer Robert N. Mayer President Pro Tem

Also,

February 17, 2011

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

Dear Ms. Spieler:

I am appointing Senator Mike Parson to the following board/committees:

Missouri Fire Education Trust Fund Board of Trustees

Joint Committee on Legislative Research

Joint Committee on Terrorism, Bioterrorism and Homeland Security

Joint Committee on Wetlands

Please feel free to contact me should you have any questions.

Sincerely, /s/ Robert N. Mayer Robert N. Mayer President Pro Tem

#### Journal of the Senate

February 17, 2011

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

Dear Ms. Spieler:

I am appointing Senator Chuck Purgason to the following committee:

Joint Committee on Government Accountability

Please feel free to contact me should you have any questions.

Sincerely, /s/ Robert N. Mayer Robert N. Mayer President Pro Tem

Also,

February 17, 2011

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

Dear Ms. Spieler:

I am reappointing Senator Scott Rupp to the following committee/commissions:

Joint Committee on Public Employees Retirement

Children's Services Commission

Missouri Commission on Autism Spectrum Disorders

Please feel free to contact me should you have any questions.

Sincerely, /s/ Robert N. Mayer Robert N. Mayer President Pro Tem

Also,

February 17, 2011

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

Dear Ms. Spieler:

I am appointing Senator Scott Rupp to the following committees:

Small Business Compliance Advisory Committee

Joint Committee on Gaming and Wagering

Please feel free to contact me should you have any questions.

Sincerely, /s/ Robert N. Mayer Robert N. Mayer President Pro Tem

Also,

February 17, 2011

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

Dear Ms. Spieler:

I am appointing Senator Kurt Schaefer to the following committees:

Joint Legislative Committee on Court Automation

Joint Committee on Government Accountability

Linked Deposits Review Committee

Joint Committee on Legislative Research

Joint Committee on MO Healthnet

Please feel free to contact me should you have any questions.

Sincerely, /s/ Robert N. Mayer Robert N. Mayer President Pro Tem

Also,

February 17, 2011

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

Dear Ms. Spieler:

I am appointing Senator Jay Wasson to the following committees:

Advisory Committee on Tobacco Securitization

Joint Committee on County Salaries

Joint Committee on Corrections

Joint Committee on the Life Sciences

Missouri Job Training Joint Legislative Oversight Committee

Joint Committee on Transportation Oversight

Please feel free to contact me should you have any questions.

Sincerely, /s/ Robert N. Mayer Robert N. Mayer President Pro Tem

#### RESOLUTIONS

Senator Wright-Jones offered Senate Resolution No. 361, regarding the death of Max Starkloff, Saint Louis, which was adopted.

Senator Wright-Jones offered Senate Resolution No. 362, regarding M.D. "Pete" Rothschild, II, Saint Louis, which was adopted.

#### **INTRODUCTIONS OF GUESTS**

The President introduced to the Senate, representatives of the Missouri Dermatological Society.

Senator Pearce introduced to the Senate, Allison Mollenhour, Harrisonville; Rusty Sproat and Julie Akers, Warrensburg; Micaela Fisk, Knob Noster; Allyson Smith, Centerview; Jim Spencer, Cass County; and Jordan Ryerson, Brianna Jackson and Amy Franklin, Pleasant Hill.

Senator Schaefer introduced to the Senate, Marissa Tierney, Norborne; Christy Blakemore, Boone County Circuit Clerk; and the Physician of the Day, Dr. Nicholas Golda, M.D., Columbia.

Senator Munzlinger introduced to the Senate, Jordan Henry, Mexico; and Alyssa Talkington, Bowling Green.

Senator Brown introduced to the Senate, Jodi Minor, Chamois; Butch O'Riley, Waynesville; and Cindy Rumpf and John McColloch, Salem.

Senator Kehoe introduced to the Senate, Kimberlie Koechner, Tipton; and Josey Stevens, Prairie Home.

Senator Engler introduced to the Senate, Keila Nesler, Bonne Terre.

On behalf of Senator Wasson and himself, Senator Dixon introduced to the Senate, Steve Helms, Greene County Circuit Clerk; and students from Missouri State University School of Social Work.

Senator Stouffer introduced to the Senate, Rebecca Felten, Pilot Grove.

Senator Goodman introduced to the Senate, Brit Isbell, LeeAnn Morris and Marlena Heimer, Monett.

Senator Justus introduced to the Senate, Jackie Pottier, Gower.

Senator Parson introduced to the Senate, Vicki Hillsman, Rachel Lusk, Samantha Clark, Megan Purdom, Brooke Monge', Jill Carter, Janell Allred and Micah Melling, El Dorado.

Senator Purgason introduced to the Senate, Alexis Duncan, West Plains.

Senator Lager introduced to the Senate, Haley Creason, Trenton.

Senator Mayer introduced to the Senate, Jade Peel, Clarkton; and April Hager, Holcomb.

Senator Ridgeway introduced to the Senate, Sarah Jackson.

Senator Wright-Jones introduced to the Senate, Darion Austell and Imani Bennett, St. Louis.

Senator Crowell introduced to the Senate, Jennifer Brown, Jackson.

Senator Chappelle-Nadal introduced to the Senate, representatives of Hispanic Days.

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

#### SENATE CALENDAR

#### TWENTY-SEVENTH DAY-THURSDAY, FEBRUARY 24, 2011

#### FORMAL CALENDAR

#### SECOND READING OF SENATE BILLS

SB 291-Pearce SB 292-Schaaf SB 293-Schaaf SB 294-Keaveny SB 295-Keaveny SB 296-Schmitt, et al SB 297-Munzlinger SB 298-Munzlinger SB 299-Munzlinger SB 300-Munzlinger SB 301-Mayer SB 302-Engler SB 303-Engler SB 304-Rupp SB 305-Parson SB 306-Wasson SB 307-Justus SB 308-Nieves SB 309-Kehoe SB 310-Justus SB 311-Pearce SB 312-Keaveny SB 313-Schaaf

SB 314-Chappelle-Nadal SB 315-Chappelle-Nadal SB 316-McKenna SB 317-Stouffer SB 318-Dixon SB 319-Dixon SB 320-Lamping, et al SB 321-Kehoe, et al SB 322-Schaefer SB 323-Schaefer SB 324-Kraus and Nieves SB 325-Wasson SB 326-Wasson SB 327-Richard SB 328-Goodman SB 329-Nieves SB 330-Dixon SB 331-Lamping and Goodman SB 332-Justus, et al SJR 18-Munzlinger SJR 19-Chappelle-Nadal SJR 20-Lager SJR 21-Lembke and Chappelle-Nadal

#### HOUSE BILLS ON SECOND READING

HB 162-Fisher, et al HCS for HB 46

HB 71-Nasheed, et al

#### THIRD READING OF SENATE BILLS

SCS for SB 11-McKenna (In Fiscal Oversight) SB 33-Stouffer (In Fiscal Oversight) SJR 2-Stouffer (In Fiscal Oversight) SCS for SB 108-Schmitt, et al SB 71-Parson SS for SCS for SB 58-Stouffer SB 174-Dempsey SS for SCS for SB 13-Pearce

## INFORMAL CALENDAR

## THIRD READING OF SENATE BILLS

SCS for SB 18-Schmitt

### SENATE BILLS FOR PERFECTION

SBs 1 & 206-Ridgeway, with SCS SBs 7, 5, 74 & 169-Goodman, with SCS SB 8-Goodman, with SCS & SS for SCS (pending)

SB 28-Brown SBs 113 & 95-Parson and Engler, with SCS

## CONSENT CALENDAR

Senate Bills

Reported 2/17

SB 57-Callahan, with SCS SB 97-Engler

SB 96-Engler

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