

# Journal of the Senate

SECOND REGULAR SESSION

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**TWELFTH DAY—WEDNESDAY, JANUARY 25, 2012**

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The Senate met pursuant to adjournment.

President Kinder in the Chair.

Senator Stouffer offered the following prayer:

“Your thunder was heard in the whirlwind,  
your lightning lit up the world;  
the earth trembled and quaked.  
Your path led through the sea,  
your way through the mighty waters,  
though your footprints were not seen.” (Psalm 77:18-19)

Father in heaven, as we move through these troubled times, let us look to You for guidance. Give us strength to follow Your will in the name of Jesus Christ our Lord and Savior. 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	Curls	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	Wright-Jones—34						

Absent—Senators—None

Absent with leave—Senators—None

Vacancies—None

The Lieutenant Governor was present.

**RESOLUTIONS**

Senator Crowell offered Senate Resolution No. 1303, regarding McDonald's of Fredericktown, which was adopted.

Senator Crowell offered Senate Resolution No. 1304, regarding Harold Thomas, Fredericktown, which was adopted.

Senator Crowell offered Senate Resolution No. 1305, regarding Barbara Hargiss, Fredericktown, which was adopted.

Senator Crowell offered Senate Resolution No. 1306, regarding the Madison Medical Center, Fredericktown, which was adopted.

Senator Crowell offered Senate Resolution No. 1307, regarding Hull Trucking, Inc., Old Appleton, which was adopted.

**INTRODUCTION OF BILLS**

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

**SB 700**—By Lamping.

An Act to repeal section 36.390, RSMo, and to enact in lieu thereof one new section relating to appeal procedures for nonmerit employees.

**SB 701**—By Mayer.

An Act to repeal section 142.932, RSMo, and to enact in lieu thereof one new section relating to operating a motor vehicle with dyed motor fuel, with penalty provisions in existing language.

**SB 702**—By Pearce.

An Act to repeal section 620.515, RSMo, and to enact in lieu thereof one new section relating to members of the military and their families.

**SB 703**—By Wright-Jones.

An Act to repeal section 313.270, RSMo, and to enact in lieu thereof one new section relating to lottery commission contracting requirements.

**SB 704**—By Wright-Jones.

An Act to repeal sections 508.050 and 523.010, RSMo, and to enact in lieu thereof two new sections relating to condemnation proceedings.

**SB 705**—By Wright-Jones.

An Act to repeal sections 143.1009 and 301.3084, RSMo, and to enact in lieu thereof two new sections relating to breast cancer awareness.

**REPORTS OF STANDING COMMITTEES**

Senator Dempsey, Chairman of the Committee on Rules, Joint Rules, Resolutions and Ethics, submitted the following report:

Mr. President: Your Committee on Rules, Joint Rules, Resolutions and Ethics, to which was referred

**SS** for **SB 464**, begs leave to report that it has examined the same and finds that the bill has been truly perfected and that the printed copies furnished the Senators are correct.

Senator Stouffer assumed the Chair.

### **SENATE BILLS FOR PERFECTION**

Senator Lager moved that **SB 592**, with **SCS** and **SA 1** (pending), be called from the Informal Calendar and again taken up for perfection, which motion prevailed.

**SA 1** was again taken up.

Senator Schmitt assumed the Chair.

Senator Pearce assumed the Chair.

At the request of Senator Lager, **SB 592**, with **SCS** and **SA 1** (pending), 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 passed **HB 1135**, entitled:

An Act to repeal section 536.041, RSMo, and to enact in lieu thereof three new sections relating to the review of state administrative rules.

In which the concurrence of the Senate is respectfully requested.

Read 1st time.

Also,

Mr. President: I am instructed by the House of Representatives to inform the Senate that the House has taken up and passed **HCS** for **HB 1140**, entitled:

An Act to amend chapter 37, RSMo, by adding thereto three new sections relating to the Missouri accountability portal.

In which the concurrence of the Senate is respectfully requested.

Read 1st time.

### **REPORTS OF STANDING COMMITTEES**

Senator Mayer, Chairman of the Committee on Gubernatorial Appointments, submitted the following reports, reading of which was waived:

Mr. President: Your Committee on Gubernatorial Appointments, to which were referred the following appointments and reappointments, begs leave to report that it has considered the same and recommends that the Senate do give its advice and consent to the following:

Gus S. Wetzel II, Republican, as a member of the University of Central Missouri Board of Governors;

Also,

Christine Grace, as a member of the Missouri Task Force on Prematurity and Infant Mortality;

Also,

Roger L. Worthington, Democrat, as a member of the Missouri Commission on Human Rights;

Also,

Donald L. Yost Jr., Janice T. Unger and Michael S. Levitt, as members of the Missouri Board of Nursing Home Administrators;

Also,

Susan L. Venable, Richard D. Orr and John C. Hanneke, Democrats, as members of the Credit Union Commission;

Also,

Pamela Q. Henrickson, Republican, as a member of the University of Missouri Board of Curators;

Also,

Lori L. Glasscock, as a member of the Board of Cosmetology and Barbers Examiners;

Also,

Jerome D. Lee, as Director of the Department of Public Safety;

Also,

Thomas M. Meyer, Democrat, as a member of the Southeast Missouri State University Board of Regents;

Also,

David W. Sigars, as the student representative to the Missouri Southern State University Board of Governors;

Also,

Charles Surface, Republican, as a member of the Missouri Southern State University Board of Governors;

Also,

Constance Gully, as a member of the Bi-State Development Agency of the Missouri-Illinois Metropolitan District;

Also,

Sherry Jones, Republican, as a member of the State Fair Commission;

Also,

Debra Stenger, as a member of the Advisory Committee for 911 Service Oversight;

Also,

Erin Burlison-Huss, as a member of the Missouri Consolidated Health Care Plan Board of Trustees;

Also,

Carrie T. Hruza, as a member of the State Board of Optometry;

Also,

Stephen Roling, as a member of the Mental Health Commission;

Also,

Charles R. Giessing, as a member of the Board of Private Investigator and Private Fire Investigator Examiners;

Also,

Jennifer Gundy, as a member of the Missouri Quality Home Care Council;

Also,

Linda Duffy, Republican, as a member of the Missouri Community Service Commission;

Also,

Deron L. Cherry, Republican, as a member of the Jackson County Sports Complex Authority.

Senator Mayer requested unanimous consent of the Senate to vote on the above reports in one motion. There being no objection, the request was granted.

Senator Mayer moved that the committee reports be adopted, and the Senate do give its advice and consent to the above appointments and reappointments, which motion prevailed.

### **REFERRALS**

President Pro Tem Mayer referred **SS** for **SB 464** to the Committee on Ways and Means and Fiscal Oversight.

President Pro Tem Mayer referred **SCR 16**, **SCR 17** and **SCR 18** to the Committee on Rules, Joint Rules, Resolutions and Ethics.

On motion of Senator Dempsey, the Senate recessed until 4:00 p.m.

### **RECESS**

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

### **CONCURRENT RESOLUTIONS**

Senators Munzlinger, Purgason, Brown, Crowell and Parson offered the following concurrent resolution:

#### **SENATE CONCURRENT RESOLUTION NO. 19**

Relating to the disapproval of the Missouri State Tax Commission's recommendations regarding the value for each grade of agricultural and horticultural land based on productive capability.

WHEREAS, Section 137.021, RSMo, provides that on or before December thirty-first of each odd-numbered year the State Tax Commission is required to promulgate by regulation a value for each grade of agricultural and horticultural land based on productive capability; and

WHEREAS, the State Tax Commission, in accordance with Section 137.021, RSMo, did on December 23, 2011, propose a value for each of the eight grades of agricultural and horticultural land for the 2013 and 2014 assessment years, with changes to grades 1 through 4; and

WHEREAS, the members of the General Assembly believe that the proposed amendment to 12 CSR 30-4.010 increases the values of various agricultural grades beyond the level which the General Assembly considers to be fair and reasonable; and

WHEREAS, Section 137.021, RSMo, permits the General Assembly to disapprove within the first sixty days of the next Regular Session of the General Assembly the agricultural and horticultural values as proposed by the State Tax Commission:

NOW THEREFORE BE IT RESOLVED that the members of the Missouri Senate, Ninety-sixth General Assembly, Second Regular Session, the House of Representatives concurring therein, hereby disapprove the new agricultural land productive values contained in the proposed amendment to 12 CSR 30-4.010; and

BE IT FURTHER RESOLVED that the Secretary of the Missouri Senate be instructed to prepare properly inscribed copies of this resolution for Governor Jay Nixon and the Missouri State Tax Commission.

Read 1st time.

**SENATE BILLS FOR PERFECTION**

Senator Lager moved that **SB 592**, with **SCS** and **SA 1** (pending), be called from the Informal Calendar and again taken up for perfection, which motion prevailed.

**SA 1** was again taken up.

Senator Kraus assumed the Chair.

Senator Callahan moved that **SA 1** be adopted, which motion failed by the following vote:

YEAS—Senators

Callahan	Chappelle-Nadal	Curls	Green	Justus	Keaveny	McKenna	Wright-Jones—8
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NAYS—Senators

Brown	Crowell	Cunningham	Dempsey	Dixon	Engler	Goodman	Kehoe
Kraus	Lager	Lamping	Lembke	Mayer	Munzlinger	Nieves	Parson
Pearce	Purgason	Richard	Ridgeway	Rupp	Schaaf	Schmitt	Stouffer

Wasson—25

Absent—Senator Schaefer—1

Absent with leave—Senators—None

Vacancies—None

Senator Dixon offered **SA 2**:

**SENATE AMENDMENT NO. 2**

Amend Senate Committee Substitute for Senate Bill No. 592, Page 1, Section 213.010, Line 12, by inserting immediately after “**factor**”, the following: “**unless the decision or action has an adverse impact on the protected criterion. In which case, courts shall rely heavily upon judicial interpretations of Title VII of the Civil Rights Act of 1964, 42 U.S.C. 2000e, et seq., as amended; the Age Discrimination Employment Act of 1967, 29 U.S.C. 621, et seq., as amended; and the Americans With Disabilities Act, 42 U.S.C. 12101, et seq., as amended**”; and

Further amend said bill, section 213.101, page 5, line 26, by inserting immediately after said line, the following:

**“(3) When the action alleges adverse impact discrimination, subdivisions (1) and (2) of this subsection shall not apply. In such cases, courts shall rely heavily upon judicial interpretations of Title VII of the Civil Rights Act of 1964, 42 U.S.C. 2000e, et seq., as amended; the Age Discrimination Employment Act of 1967, 29 U.S.C. 621, et seq., as amended; and the Americans With Disabilities Act, 42 U.S.C. 12101, et seq., as amended.”.**

Senator Dixon moved that the above amendment be adopted.

Senator Stouffer assumed the Chair.

Senator Justus offered **SSA 1** for **SA 2**:

SENATE SUBSTITUTE AMENDMENT NO. 1 FOR  
SENATE AMENDMENT NO. 2

Amend Senate Committee Substitute for Senate Bill No. 592, Page 1, Section 213.010, Lines 11-13, by striking all of the bold-faced language from said lines; and further amend said section by renumbering the remaining subdivisions accordingly.

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

**SA 2** was again taken up.

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

Senator Lager offered **SA 3**:

SENATE AMENDMENT NO. 3

Amend Senate Committee Substitute for Senate Bill No. 592, Page 7, Section 213.111, Line 73, by inserting after all of said line, the following:

**“8. Subsections 4, 5, and 6 of this section shall not apply when there is an alleged violation of sections 213.040, 213.045, or 213.050. Subsections 4, 5, and 6 of this section shall apply when there is an alleged violation of section 213.070 against an employer, but not otherwise.”.**

Senator Lager moved that the above amendment be adopted.

At the request of Senator Lager, **SB 592**, with **SCS** and **SA 3** (pending), was placed on the Informal Calendar.

**RESOLUTIONS**

Senator Parson offered Senate Resolution No. 1308, regarding the Fiftieth Wedding Anniversary of Mr. and Mrs. James William Howe, Bolivar, which was adopted.

Senator Lamping offered Senate Resolution No. 1309, regarding Gail Kramer, St. Louis, which was adopted.

Senator Crowell offered Senate Resolution No. 1310, regarding the Sixtieth Wedding Anniversary of Mr. and Mrs. Bobby G. Hensley, Scott City, which was adopted.

Senator Crowell offered Senate Resolution No. 1311, regarding the Fiftieth Wedding Anniversary of Mr. and Mrs. Richard Roth, Scott City, which was adopted.

Senator Crowell offered Senate Resolution No. 1312, regarding the Fiftieth Wedding Anniversary of Mr. and Mrs. Darrell W. Sander, Jackson, which was adopted.

Senator Green offered Senate Resolution No. 1313, regarding Maureen Rone, St. Louis, which was adopted.

### **INTRODUCTIONS OF GUESTS**

Senator Dixon introduced to the Senate, Reverend Don McClintock, Springfield.

Senator Schaefer introduced to the Senate, Dean Hainsworth, M.D., Columbia.

Senator Schaefer introduced to the Senate, students with National History Day in Missouri: Justin Hamilton, Jacob Schwenneker, William Chlanda, Brandon Splitter, Benjamin Croy, Jason Ogle, Skyler Adams, Lauren Grundberg, Tyler Hurt, John Swift and Emily Duncan.

Senator Wasson introduced to the Senate, the Physician of the Day, Ben Lampert, M.D., Springfield.

Senator Richard introduced to the Senate, David Sigars, Neosho.

Senator Richard introduced to the Senate, Aaron and Louis Surgi, Webb City; and Luke Seidl, Joplin.

Senator Richard introduced to the Senate, Chuck and Sherry Surface, Webb City; and their granddaughter, Lauren Smith; and Lauren was made an honorary page.

Senator Cunningham introduced to the Senate, Dr. John Holds and Dr. Elliot Korn, St. Louis.

Senator Schmitt introduced to the Senate, Sondra DePriest, Steve York, Pat Reuter, John Crouch, Bob Letterman, Justin Howe, John Lindbloom, Kathy Meyer and Gary Johnson.

Senator Kehoe introduced to the Senate, Head Coach Craig Miller, Principal Heath Waters, Superintendent Jerry Hobbs and members of the Class 1 State Champion 2011 Russellville High School Girls Cross Country team: Cassandra Carter, Izzy Michitsch, Miranda Hill, Grace Young, Taylor Young, Hannah Michitsch, Erica Miller, Justice Miller and Molly Amos.

Senator Lamping introduced to the Senate, Heather Schmeimeier, St. Louis; and Cody Baker, Festus.

Senator Rupp introduced to the Senate, David Schlager, St. Charles.

Senator Ridgeway introduced to the Senate, Vicky Ward, Elise Bennett and members of Youth With Vision: Isaac Hamilton, Nicole Futch, Samantha Linard, Abbey McKern, Heather Harms, Jennifer Tsai, Jared Koller, Samantha Watts, Justin Berlesen, Megan Jeffries, Eva Schmidt, Brittany Mitchell, Michelle Anderson, Katy Plogher, Amanda Sarver, Jenna Abbott, Ashley Henry, Andrea Kluhsman, Elaina Nuetzman and Taylor Schmidt.

Senator Pearce introduced to the Senate, Richard Orr, Warrensburg.

Senator Mayer introduced to the Senate, Gary and LeVeda Scates and Lisa Thrower, Dexter.

Senator Brown introduced to the Senate, his grandchildren, Maya and Rio Sherrell, Rolla; and Maya and Rio were made honorary pages.

Senator Dixon introduced to the Senate, his wife, Amanda, Springfield.

On behalf of Senator Pearce, the President introduced to the Senate, Vicki Hughes.

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



SENATE CALENDAR

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THIRTEENTH DAY—THURSDAY, JANUARY 26, 2012

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FORMAL CALENDAR

SECOND READING OF SENATE BILLS

SB 597-Dempsey	SB 631-Parson
SB 598-Dempsey	SB 632-Stouffer
SB 599-Schaefer	SB 633-Engler
SB 600-Lembke	SB 634-Pearce
SB 601-Lembke	SB 635-Pearce
SB 602-Green	SB 636-Keaveny
SB 603-Green	SB 637-Brown
SB 604-Green	SB 638-Lamping
SB 605-Green	SB 639-Schaaf
SB 606-Schmitt	SB 640-Schaaf
SB 607-Stouffer	SB 641-Pearce
SB 608-Wasson and Richard	SB 642-Wasson
SB 609-Lembke	SB 643-Keaveny
SB 610-Lembke	SB 644-Schaefer
SB 611-Lembke	SB 645-Schaefer
SB 612-Lembke	SB 646-Engler
SB 613-Kehoe, et al	SB 647-Richard
SB 614-Kehoe and Lamping	SB 648-Dempsey
SB 615-McKenna	SB 649-Ridgeway
SB 616-Wasson	SB 650-Ridgeway
SB 617-Schaaf	SB 651-Schaefer
SB 618-Schaaf	SB 652-Lager
SB 619-Richard	SB 653-Lager
SB 620-Rupp	SB 654-Lager
SB 621-Brown	SB 655-Green, et al
SB 622-Cunningham	SB 656-Lager and Dixon
SB 623-Cunningham	SB 657-Rupp
SB 624-Lembke	SB 658-Rupp
SB 625-Kehoe	SB 659-Dempsey and Rupp
SB 626-Kehoe	SB 660-Schmitt
SB 627-Schaefer	SB 661-Schmitt
SB 628-Schaefer	SB 662-Schmitt
SB 629-Schaefer	SB 663-Chappelle-Nadal
SB 630-Parson	SB 664-Chappelle-Nadal

SB 665-Stouffer	SB 688-Schmitt
SB 666-Keaveny	SB 689-Engler and Schmitt
SB 667-Wasson	SB 690-Engler
SB 668-Lembke	SB 691-Engler and Callahan
SB 669-Lembke	SB 692-Stouffer
SB 670-Green	SB 693-Crowell
SB 671-Parson	SB 694-Nieves
SB 672-Brown	SB 695-Parson
SB 673-Brown	SB 696-Kraus
SB 674-Schaaf	SB 697-Wasson
SB 675-Crowell	SB 698-Richard
SB 676-Nieves	SB 699-Goodman, et al
SB 677-Pearce	SB 700-Lamping
SB 678-Schaaf	SB 701-Mayer
SB 679-Dixon	SB 702-Pearce
SB 680-Nieves	SB 703-Wright-Jones
SB 681-Lager	SB 704-Wright-Jones
SB 682-Dempsey, et al	SB 705-Wright-Jones
SB 683-Crowell	SJR 43-Green
SB 684-Crowell	SJR 44-Green
SB 685-Crowell	SJR 45-Nieves
SB 686-Schaaf	SJR 46-Lager
SB 687-Schmitt	SJR 47-Rupp

#### HOUSE BILLS ON SECOND READING

HCS for HJR 43  
 HB 1135-Smith (150), et al

HCS for HB 1140

#### THIRD READING OF SENATE BILLS

SS for SCS for SB 443-Stouffer  
 (In Fiscal Oversight)

SS for SCS for SB 467-Munzlinger  
 SS for SB 464-Schaaf (In Fiscal Oversight)

#### INFORMAL CALENDAR

#### SENATE BILLS FOR PERFECTION

SB 592-Lager, with SCS & SA 3 (pending)

RESOLUTIONS

To be Referred

SCR 19-Munzlinger, et al

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