

# Journal of the Senate

SECOND REGULAR SESSION

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**FIFTEENTH DAY—TUESDAY, FEBRUARY 4, 2014**

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The Senate met pursuant to adjournment.

President Kinder in the Chair.

Senator Wallingford offered the following prayer:

“Our lives begin to end the day we become silent about things that matter.” (Dr. Martin Luther King)

Father in Heaven, please grant us wisdom and courage to speak about the things that matter to You. Keep us from a spirit of timidity. Go before us to soften hearts and open minds to things that matter to You. We find rest in You alone. Our strength comes from You, God, You are our rock and our fortress, we will never be shaken because You are with us. Let us understand the mystery of Your will for us. Help us turn our ear to wisdom and apply our heart to understanding. 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.

Senator Richard announced photographers from KRCG-TV were given permission to take pictures in the Senate Chamber.

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

Present—Senators

Brown	Chappelle-Nadal	Cunningham	Curls	Dempsey	Dixon	Emery	Holsman
Justus	Keaveny	Kehoe	Kraus	Lager	Lamping	LeVota	Libla
Munzlinger	Nasheed	Nieves	Parson	Pearce	Richard	Romine	Sater
Schaaf	Schaefer	Schmitt	Sifton	Silvey	Wallingford	Walsh	Wasson—32

Absent—Senators—None

Absent with leave—Senator Rupp—1

Vacancies—1

The Lieutenant Governor was present.

**RESOLUTIONS**

Senator Lager offered Senate Resolution No. 1269, regarding the Fiftieth Wedding Anniversary of Mr. and Mrs. Richard Mires, Pickering, which was adopted.

Senator Lager offered Senate Resolution No. 1270, regarding Northwest Missouri State University, Maryville, which was adopted.

**CONCURRENT RESOLUTIONS**

Senator Parson offered the following concurrent resolution:

**SENATE CONCURRENT RESOLUTION NO. 31**

WHEREAS, insurance protects the United States economy from the adverse effects of the risks inherent in economic growth and development while also providing the resources necessary to rebuild physical and economic infrastructure, offer indemnification for business disruption, and provide coverage for medical and liability costs from injuries and loss of life in the event of catastrophic losses to persons or property; and

WHEREAS, the terrorist attack of September 11, 2001, produced injured losses larger than any natural or man-made event in history, with claims paid by insurers to their policyholders eventually totaling some \$32.5 billion, making this the second most costly insurance event in United States history; and

WHEREAS, the sheer enormity of the terrorist induced loss, combined with the possibility of future attacks, produced financial shockwaves that shook insurance markets causing insurers and reinsurers to exclude coverage arising from acts of terrorism from virtually all commercial property and liability policies; and

WHEREAS, the lack of terrorism risk insurance contributed to a paralysis in the economy, especially in construction, tourism, business travel, and real estate finance; and

WHEREAS, the United States Congress originally passed the Terrorism Risk Insurance Act of 2002, Pub. L. 107-297 (TRIA), in which the federal government agreed to provide terrorism reinsurance to insurers and reauthorized this arrangement via the Terrorism Risk Insurance Extension Act of 2005, Pub. L. 109-144, and the Terrorism Risk Insurance Program Reauthorization Act of 2007, Pub. L. 110-160 (TRIPRA); and

WHEREAS, under TRIPRA the federal government provides such reinsurance after industry-wide losses attributable to annual certified terrorism events exceed one hundred million dollars; and

WHEREAS, coverage under TRIPRA is provided to an individual insurer after the insurer has incurred losses related to terrorism equal to twenty percent of the insurer's previous year earned premium for property-casualty lines; and

WHEREAS, after an individual insurer has reached such a threshold, the insurer pays fifteen percent of residual losses and the federal government pays the remaining eighty-five percent; and

WHEREAS, the Terrorism Risk Insurance Program has an annual cap of one hundred billion dollars of aggregate insured losses, beyond which the federal program does not provide coverage; and

WHEREAS, TRIPRA requires the federal government to recoup one hundred percent of the benefits provided under the program via policy holder surcharges to the extent the aggregate insured losses are less than twenty-seven billion five hundred million dollars and enables the government to recoup expenditures beyond that mandatory recoupment amount; and

WHEREAS, without question, TRIA and its successors are the principal reason for the continued stability in the insurance and reinsurance market for terrorism insurance to the benefit of our overall economy; and

WHEREAS, the presence of a robust private/public partnership has provided stability and predictability and has allowed insurers to actively participate in the market in a meaningful way; and

WHEREAS, without a program such as TRIPRA, many of our citizens who want and need terrorism coverage to operate their businesses all across the nation would be either unable to get insurance or unable to afford the limited coverage that would be available; and

WHEREAS, without federally provided reinsurance, property and casualty insurers will face less availability of terrorism reinsurance and will therefore be severely restricted in their ability to provide sufficient coverage for acts of terrorism to support our economy; and

WHEREAS, unfortunately, despite the hard work and dedication of this nation's counter terrorism agencies and the bravery of the men and women in uniform who fought and continue to fight battles abroad to keep us safe here at home, the threat from terrorist attacks in the United States is both real and substantial and will remain as such for the foreseeable future:

NOW THEREFORE BE IT RESOLVED that the members of the Missouri Senate, Ninety-seventh General Assembly, Second Regular Session, the House of Representatives concurring therein, hereby urge the United States Congress and the President of the United States to reauthorize the Terrorism Risk Insurance Program; and

BE IT FURTHER RESOLVED that the Secretary of the Missouri Senate be instructed to prepare properly inscribed copies of this resolution for the President of the United States, the President Pro tempore of the United States Senate, the Speaker of the United States House of Representatives, and each member of the Missouri Congressional delegation.

### **INTRODUCTION OF BILLS**

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

**SB 822**—By Parson.

An Act to amend chapter 227, RSMo, by adding thereto one new section relating to the designation of the James R. Ledbetter Memorial Bridge.

**SB 823**—By Dixon.

An Act to amend chapter 105, RSMo, by adding thereto one new section relating to retirement benefit forfeiture, with an emergency clause.

**SB 824**—By Dixon.

An Act to repeal sections 1.020, 56.010, 56.060, 56.265, 56.363, 56.430, 56.805, 56.816, and 211.411, RSMo, and to enact in lieu thereof ten new sections relating to prosecuting attorneys.

**SB 825**—By Chappelle-Nadal.

An Act to repeal section 163.011, RSMo, and to enact in lieu thereof one new section relating to state funding for elementary and secondary education.

### **SENATE BILLS FOR PERFECTION**

At the request of Senator Kraus, **SB 509** and **SB 496**, with **SCS**, were placed on the Informal Calendar.

Senator Lager moved that **SB 649** be taken up for perfection, which motion prevailed.

On motion of Senator Lager, **SB 649** was declared perfected and ordered printed.

Senator Pearce assumed the Chair.

Senator Lager moved that **SB 650**, with **SCS**, be taken up for perfection, which motion prevailed.

**SCS** for **SB 650**, entitled:

#### **SENATE COMMITTEE SUBSTITUTE FOR SENATE BILL NO. 650**

An Act to repeal sections 67.5090, 67.5092, 67.5094, 67.5096, 67.5098, 67.5100, 67.5102, and 67.5103, RSMo, and to enact in lieu thereof eight new sections relating to wireless communications infrastructure deployment.

Was taken up.

Senator Lager moved that **SCS** for **SB 650** be adopted.

Senator Lager offered **SS** for **SCS** for **SB 650**, entitled:

SENATE SUBSTITUTE FOR  
SENATE COMMITTEE SUBSTITUTE FOR  
SENATE BILL NO. 650

An Act to repeal sections 67.5090, 67.5092, 67.5094, 67.5096, 67.5098, 67.5100, 67.5102, and 67.5103, RSMo, and to enact in lieu thereof eight new sections relating to wireless communications infrastructure deployment.

Senator Lager moved that **SS** for **SCS** for **SB 650** be adopted.

Senator Schaaf offered **SA 1**:

SENATE AMENDMENT NO. 1

Amend Senate Substitute for Senate Committee Substitute for Senate Bill No. 650, Page 3, Section 67.5092, Line 9, by striking the words “existing structure” and inserting in lieu thereof the following:

**“a structure that already has an existing wireless facility”.**

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

Senator Silvey offered **SA 2**, which was read:

SENATE AMENDMENT NO. 2

Amend Senate Substitute for Senate Committee Substitute for Senate Bill No. 650, Page 4, Section 67.5092, Line 27, by striking the words “two thousand five hundred” and inserting in lieu thereof the following: **“one thousand two hundred fifty”**.

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

Senator Chappelle-Nadal offered **SA 3**:

SENATE AMENDMENT NO. 3

Amend Senate Substitute for Senate Committee Substitute for Senate Bill No. 650, Page 6, Section 67.5094, Line 18, by inserting after all of said line the following, **“For collocation to any certified historic structure as defined in section 253.545, in addition to all other applicable time requirements, there shall be a thirty day time period before approval of an application. During such time period, an authority shall hold one or more public hearings on collocation to a certified historic structure.”**

Senator Chappelle-Nadal moved that the above amendment be adopted, which motion prevailed.

Senator Lager moved that **SS** for **SCS** for **SB 650**, as amended, be adopted, which motion prevailed.

On motion of Senator Lager, **SS** for **SCS** for **SB 650**, as amended, was declared perfected and ordered printed.

Senator Lager moved that **SB 651**, with **SCS**, be taken up for perfection, which motion prevailed.

**SCS for SB 651**, entitled:

SENATE COMMITTEE SUBSTITUTE FOR  
SENATE BILL NO. 651

An Act to repeal sections 392.415, 392.461, and 392.611, RSMo, and to enact in lieu thereof three new sections relating to communications services.

Was taken up.

Senator Lager moved that **SCS for SB 651** be adopted, which motion prevailed.

On motion of Senator Lager, **SCS for SB 651** was declared perfected and ordered printed.

Senator Lager moved that **SB 652** be taken up for perfection, which motion prevailed.

On motion of Senator Lager, **SB 652** was declared perfected and ordered printed.

Senator Lager moved that **SB 653**, with **SCS**, be taken up for perfection, which motion prevailed.

**SCS for SB 653**, entitled:

SENATE COMMITTEE SUBSTITUTE FOR  
SENATE BILL NO. 653

An Act to repeal sections 67.1830 and 67.5104, RSMo, and to enact in lieu thereof two new sections relating to municipal utility poles.

Was taken up.

Senator Lager moved that **SCS for SB 653** be adopted.

Senator Lager offered **SS for SCS for SB 653**, entitled:

SENATE SUBSTITUTE FOR  
SENATE COMMITTEE SUBSTITUTE FOR  
SENATE BILL NO. 653

An Act to repeal sections 67.1830 and 67.5104, RSMo, and to enact in lieu thereof two new sections relating to municipal utility poles.

Senator Lager moved that **SS for SCS for SB 653** be adopted.

Senator Dixon offered **SA 1**, which was read:

SENATE AMENDMENT NO. 1

Amend Senate Substitute for Senate Committee Substitute for Senate Bill No. 653, Page 7, Section 67.5104, Lines 16-18 of said page, by striking said lines and inserting in lieu thereof the following: “**controlled** by a municipal utility **or municipality**, but not a wireless antenna attachment or an attachment by a wireless communications provider to a pole. **A municipal utility or municipality**”.

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

Senator Lager offered **SA 2**:

## SENATE AMENDMENT NO. 2

Amend Senate Substitute for Senate Committee Substitute for Senate Bill No. 653, Page 10, Section 67.5104, Line 10, by inserting after all of said line the following:

**“6. A municipal utility or municipality may, after reasonable notice and an opportunity to cure, revoke a pole attachment permit granted to an attaching entity and require removal of the attachment, with or without fee refund, and impose a penalty as established by the municipal utility or municipality for breach of the pole attachment agreement or permit until the breach is cured, but only in the event of a substantial breach of the terms and material conditions of the pole attachment agreement or permit. A substantial breach by an attaching entity shall be limited to:**

**(1) A material violation of a provision of the pole attachment agreement or permit;**

**(2) An evasion or attempt to evade any material provision of a pole attachment agreement or permit, or the perpetration or attempt to perpetrate any fraud or deceit upon the municipal utility or municipality;**

**(3) A material misrepresentation of fact in the pole attachment agreement or permit application;**

**(4) A failure to complete work by the date specified in the pole attachment agreement or permit, unless an extension is obtained or unless the failure to complete the work is due to reasons beyond the attaching entity’s control; or**

**(5) A failure to correct, within the time specified by the municipal utility or municipality, work that does not conform to applicable national safety codes, industry construction standards, or local safety codes that are not more stringent than national safety codes, upon inspection and notification by the municipal utility or municipality of the faulty condition.”**

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

Senator Lager moved that **SS for SCS for SB 653**, as amended, be adopted, which motion prevailed.

On motion of Senator Lager, **SS for SCS for SB 653**, as amended, was declared perfected and ordered printed.

Senator Dixon moved that **SJR 30** be called from the Informal Calendar and taken up for perfection, which motion prevailed.

Senator Dixon offered **SA 1**:

## SENATE AMENDMENT NO. 1

Amend Senate Joint Resolution No. 30, Page 2, Section 51, Line 8, by inserting immediately after the word “law” the following: “, **unless this constitution or law provides otherwise**”; and further amend line 15, by striking “as provided by law” and inserting in lieu thereof the following: “**unless this constitution or law provides otherwise**”; and further amend line 16, by inserting immediately after the word “vacancy” the following: “**or expiration of term of office**”.

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

Senator Kraus assumed the Chair.

Senator Schmitt offered **SA 2**:

**SENATE AMENDMENT NO. 2**

Amend Senate Joint Resolution No. 30, Page 1, Section A, Line 3, by inserting immediately after said line the following:

“Section 4. **(1)** The governor shall fill all vacancies in public offices unless otherwise provided by law, and his appointees **for elective office** shall serve until their successors are duly elected [or appointed] and qualified. **For any vacancy in the office of lieutenant governor, the governor shall, within thirty days, issue a writ of election to fill the vacancy for the remainder of the term in which such vacancy occurred and until the successor is elected, commissioned, and qualified. Such election shall be held at the next general election.**

**(2) All officers appointed by the governor for non-elective offices shall hold office until their term ends and for up to sixty days after the expiration of the term of the office. If no successor is appointed, then the non-elective office shall become vacant sixty days after the expiration of the officer’s term and remain vacant until such time as a successor is appointed.”; and**

Further amend the title and enacting clause accordingly.

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

Senator Keaveny offered **SA 3**:

**SENATE AMENDMENT NO. 3**

Amend Senate Joint Resolution No. 30, Page 2, Section 51, Line 23, by striking the word “thirty” and inserting in lieu thereof the following: **“forty-five”**.

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

On motion of Senator Dixon, **SJR 30**, as amended, was declared perfected and ordered printed.

**SB 613**, with **SCS**, was placed on the Informal Calendar.

President Pro Tem Dempsey assumed the Chair.

**REPORTS OF STANDING COMMITTEES**

Senator Richard, 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 **SCS** for **SB 651**; **SB 649** and **SB 652**, 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.

On behalf of Senator Lamping, Chairman of the Committee on Seniors, Families and Pensions, Senator Richard submitted the following reports:

Mr. President: Your Committee on Seniors, Families and Pensions, to which was referred **SB 530**, begs leave to report that it has considered the same and recommends that the Senate Committee Substitute, hereto attached, do pass.

Also,

Mr. President: Your Committee on Seniors, Families and Pensions, to which was referred **SB 518**, begs leave to report that it has considered the same and recommends that the Senate Committee Substitute, hereto attached, do pass.

### INTRODUCTIONS OF GUESTS

On behalf of Senator Pearce, the President introduced to the Senate, Carol Gregg, Missouri Arts Council.

Senator Lamping introduced to the Senate, the Physician of the Day, Robb Hicks, M.D., St. Louis.

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

### SENATE CALENDAR

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SIXTEENTH DAY—WEDNESDAY, FEBRUARY 5, 2014

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### FORMAL CALENDAR

#### SECOND READING OF SENATE BILLS

SB 725-Nieves	SB 745-Munzlinger
SB 726-Chappelle-Nadal	SB 746-Munzlinger
SB 727-Chappelle-Nadal	SB 748-Walsh
SB 728-Sifton	SB 749-Walsh
SB 729-Romine	SB 750-Walsh
SB 730-Nasheed	SB 751-LeVota
SB 731-Nasheed	SB 752-LeVota
SB 732-Keaveny	SB 753-Keaveny
SB 733-Schaefer	SB 754-Sater and Justus
SB 734-Cunningham	SB 755-Wallingford
SB 735-Brown	SB 756-Schaefer
SB 736-Sater	SB 757-Justus, et al
SB 737-Walsh	SB 758-Justus
SB 738-Walsh	SB 759-Sifton
SB 739-Romine	SB 760-Chappelle-Nadal
SB 740-Lamping, et al	SB 761-Wallingford
SB 741-Rupp	SB 762-Schaefer
SB 742-Schmitt	SB 763-Schaefer
SB 743-Schmitt	SB 764-Lager
SB 744-Nieves	SB 765-Chappelle-Nadal

SB 766-Keaveny	SB 799-Emery
SB 767-Schmitt, et al	SB 800-Romine
SB 768-Pearce	SB 801-Holsman
SB 769-Pearce	SB 802-Dixon
SB 770-Wallingford	SB 803-Justus
SB 771-Sater	SB 804-Schaaf
SB 772-Lamping	SB 805-Justus
SB 773-Rupp	SB 806-LeVota
SB 774-Dempsey	SB 807-LeVota and Curls
SB 775-Walsh	SB 808-Wasson
SB 776-Nieves	SB 809-Wasson
SB 777-Nieves	SB 810-Holsman
SB 778-Nieves	SB 811-Schaaf
SB 779-Munzlinger	SB 812-Parson
SB 780-LeVota	SB 813-LeVota
SB 781-LeVota	SB 814-Brown
SB 782-Romine	SB 815-Pearce
SB 783-Romine	SB 816-Sater
SB 784-Romine	SB 817-Sifton
SB 785-Kehoe	SB 818-Kehoe
SB 786-Schmitt	SB 819-Wallingford
SB 787-Justus	SB 820-Schaefer
SB 788-Brown	SB 821-Schaefer
SB 789-Dixon	SB 822-Parson
SB 790-Dixon	SB 823-Dixon
SB 791-Parson and Schaaf	SB 824-Dixon
SB 792-Parson	SB 825-Chappelle-Nadal
SB 793-Dixon	SJR 44-Schaefer
SB 794-Chappelle-Nadal	SJR 45-Silvey
SB 795-Lager	SJR 46-Emery
SB 796-Parson	SJR 47-Lager
SB 797-Nieves	SJR 48-Kehoe
SB 798-Emery	

THIRD READING OF SENATE BILLS

SS for SB 507-Dixon  
SCS for SB 651-Lager

SB 649-Lager  
SB 652-Lager

SENATE BILLS FOR PERFECTION

SB 530-Libla, with SCS

SB 518-Sater, with SCS

INFORMAL CALENDAR

SENATE BILLS FOR PERFECTION

SB 492-Pearce, with SCS (pending)

SB 613-Nieves, et al, with SCS

SBs 509 & 496-Kraus, with SCS

CONSENT CALENDAR

Senate Bills

Reported 1/30

SB 506-Munzlinger

SB 630-Wallingford, with SCS

SB 591-Sater

SB 639-Brown, with SCS

RESOLUTIONS

To be Referred

SCR 31-Parson

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