

Journal of the Senate

SECOND REGULAR SESSION

FORTY-NINTH DAY—WEDNESDAY, APRIL 9, 2014

The Senate met pursuant to adjournment.

President Kinder in the Chair.

Reverend Carl Gauck offered the following prayer:

“Then you will understand righteousness and justice and equity, every good path; for wisdom will come into your heart, and knowledge will be pleasant to your soul, prudence will watch over you; and understanding will guard you.” (Proverbs 9-11)

Wondrous God, strengthen our resolve to be near You. Give us discipline to study Your Word all of our lives. We give thanks for all those who teach us and understand Your teachings and the world in which we live. 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	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—Senators—None

Vacancies—2

The Lieutenant Governor was present.

RESOLUTIONS

Senator Lager offered Senate Resolution No. 1809, regarding the Seventieth Wedding Anniversary of Mr. and Mrs. Wesley Harms, Weatherby, which was adopted.

Senator Lager offered Senate Resolution No. 1810, regarding the Fiftieth Wedding Anniversary of Mr. and Mrs. Gary Jarman, Unionville, which was adopted.

Senator Keaveny offered Senate Resolution No. 1811, regarding California Pizza Kitchen, which was adopted.

Senator Keaveny offered Senate Resolution No. 1812, regarding Starbucks, which was adopted.

Senator Pearce assumed the Chair.

CONCURRENT RESOLUTIONS

Senator LeVota offered the following concurrent resolution:

SENATE CONCURRENT RESOLUTION NO. 42

Whereas, twenty-eight million United States citizens have cognitive disabilities such as intellectual disability; severe, persistent mental illness; brain injury; stroke; and neurodegenerative disorders such as Alzheimer's disease;

Whereas, people with cognitive disabilities are entitled to inclusion in our democratic society under federal laws such as the Americans with Disabilities Act, the Developmental Disabilities Assistance and Bill of Rights Act, the Individuals with Disabilities Act, Section 504 of the Rehabilitation Act, and under state and local laws;

Whereas, the disruptive convergence of computing and communication technologies has substantially altered how people acquire, utilize, and disseminate knowledge and information;

Whereas, access to comprehensible information and usable communication technologies is necessary for all people in our society, particularly for people with cognitive disabilities, to promote self-determination and to engage meaningfully in major aspects of life such as education, health promotion, employment, recreation, and civic participation;

Whereas, the vast majority of people with cognitive disabilities have limited or no access to comprehensible information and usable communication technologies;

Whereas, people with cognitive disabilities must have access to commercially available devices and software that incorporate principles of universal design such as flexibility and ease of use for all;

Whereas, technology and information access by people with cognitive disabilities must be guided by standards and best-practices, such as personalization and compatibility across devices and platforms, and through the application of innovations including automated and predictive technologies;

Whereas, security and privacy must be assured and managed to protect civil rights and personal dignity of people with cognitive disabilities;

Whereas, enhanced public and private funding is urgently required to allow people with cognitive disabilities to utilize technology and access information as a natural consequence of their rights to inclusion in our society;

Whereas, ensuring access to technology and information for the 28 million people with cognitive disabilities in the United States will create new markets and employment opportunities; decrease dependency on public services; reduce health care costs; and improve the independence, productivity, and quality of life of people with cognitive disabilities:

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 a commitment to equal rights for people with cognitive disabilities to technology and information access and call for implementation of such rights with deliberate speed.

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

SS for **SCS** for **SB 491**; **SB 500**; **SB 695**; **SCS** for **SB 809**; and **SCS** for **SB 892**, 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.

REFERRALS

President Pro Tem Dempsey referred **SS** for **SCS** for **SB 491** and **SCS** for **SB 892** to the Committee on Governmental Accountability and Fiscal Oversight.

SENATE BILLS FOR PERFECTION

Senator Kehoe moved that **SB 890** be taken up for perfection, which motion prevailed.

On motion of Senator Kehoe, **SB 890** was declared perfected and ordered printed.

HOUSE BILLS ON THIRD READING

HB 1173, introduced by Representative Burlison, et al, entitled:

An Act to repeal sections 1.010 and 538.210, RSMo, and to enact in lieu thereof two new sections relating to claims arising out of the rendering of or failure to render health care services.

Was taken up by Senator Brown.

The Senate observed a moment of silence in memory of Representative Rory Ellinger.

Senator Lager assumed the Chair.

Senator Keaveny offered **SA 1**:

SENATE AMENDMENT NO. 1

Amend House Bill No. 1173, Page 2, Section 538.210, Line 9, by striking “three hundred fifty thousand” and inserting in lieu thereof the following: “**one million**”; and further amend line 36, by inserting after all of said line the following:

“8. The limitation on awards for noneconomic damages provided for in this section shall be increased or decreased on an annual basis effective January first of each year in accordance with the Implicit Price Deflator for Personal Consumption Expenditures as published by the Bureau of Economic Analysis of the United States Department of Commerce. The value of the limitation shall be calculated by the director of the department of insurance, financial institutions and professional registration, who shall submit that value to the secretary of state, to publish in the Missouri Register as soon after each January first as practicable. Publication of the value shall be exempt from the provisions of section 536.021.”.

Senator Keaveny moved that the above amendment be adopted.

Senator Kehoe assumed the Chair.

At the request of Senator Brown, **HB 1173**, with **SA 1** (pending), was placed on the Informal Calendar.

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 **HJR 68**, entitled:

Joint Resolution submitting to the qualified voters of Missouri an amendment repealing section 30(d) of article IV of the Constitution of Missouri, and adopting two new sections in lieu thereof relating to a temporary tax to improve the state highway system, city streets, county roads, and the state transportation system.

In which the concurrence of the Senate is respectfully requested.

Read 1st time.

On motion of Senator Richard, the Senate recessed until 3:30 p.m.

RECESS

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

HOUSE BILLS ON THIRD READING

Senator Brown moved that **HB 1173**, with **SA 1** (pending), be called from the Informal Calendar and again taken up for 3rd reading and final passage, which motion prevailed.

SA 1 was again taken up.

Senator Keaveny offered **SA 1** to **SA 1**:

SENATE AMENDMENT NO. 1 TO SENATE AMENDMENT NO. 1

Amend Senate Amendment No. 1 to House Bill No. 1173, Page 1, Line 1, by striking "line 9," and inserting in lieu thereof the following "lines 4-6,

by striking all of said lines and inserting in lieu thereof the following: "**of such cause of action are that the defendant health care provider failed to use such care as a reasonably prudent and careful health care provider would have under similar circumstances and that such failure to use such reasonable care directly caused or directly contributed to cause the damages claimed in the petition.**"; and further amend line 9".

Senator Keaveny moved that the above amendment be adopted.

Senator Brown raised the point of order that **SA 1** to **SA 1** is out of order in that it goes beyond the scope of the subject matter of the underlying bill.

The point of order was referred to the President Pro Tem who took it under advisement, which placed **HB 1173**, with **SA 1**, **SA 1** to **SA 1** and the point of order (pending), on the Informal Calendar.

SENATE BILLS FOR PERFECTION

Senator Lager moved that **SJR 25** be called from the Informal Calendar and taken up for perfection, which motion prevailed.

Senator Lager offered **SS** for **SJR 25**, entitled:

SENATE SUBSTITUTE FOR
SENATE JOINT RESOLUTION NO. 25

Joint Resolution submitting to the qualified voters of Missouri, an amendment repealing section 22(a) of article I of the Constitution of Missouri, and adopting one new section in lieu thereof relating to noneconomic damage awards in civil cases.

Senator Lager moved that **SS** for **SJR 25** be adopted.

Senator Lager offered **SA 1**:

SENATE AMENDMENT NO. 1

Amend Senate Substitute for Senate Joint Resolution No. 25, Page 2, Section 22(a), Line 5, by inserting immediately at the end of said line the following:

“In any action against a health care provider for damages for personal injury or death arising out of the rendering or the failure to render health care services, no plaintiff shall recover more than five hundred thousand dollars for noneconomic damages irrespective of the number of defendants.”; and

Further amend said resolution and page, section B, line 13 by inserting immediately after the word “law” the following:

“and the amount of noneconomic damages that a plaintiff can recover in a medical malpractice action is limited to five hundred thousand dollars”.

Senator Lager moved that the above amendment be adopted.

Senator Keaveny offered **SA 1** to **SA 1**, which was read:

SENATE AMENDMENT NO. 1 TO
SENATE AMENDMENT NO. 1

Amend Senate Amendment No. 1 to Senate Substitute for Senate Joint Resolution No. 25, Page 1, Line 6, by striking the words “five hundred thousand” and inserting in lieu thereof the following: “**one million**”; and further amend lines 11-12 by striking the words “five hundred thousand” and inserting in lieu thereof the following “**one million**”.

Senator Keaveny moved that the above amendment be adopted.

At the request of Senator Lager, **SA 1** was withdrawn which rendered **SA 1** to **SA 1** moot.

Senator Lager offered **SA 2**:

SENATE AMENDMENT NO. 2

Amend Senate Substitute for Senate Joint Resolution No. 25, Page 2, Section 22(a), Line 5, by inserting immediately after the word “law.” the following:

“In no case shall an attorney collect fees, charges, or any other costs which in the aggregate total more than ten percent of the total damages awarded in a civil action.”; and

Further amend said resolution and page, section B, line 13 by inserting immediately after the word “law” the following:

“and to limit attorney's fees in civil actions to ten percent of the total damages awarded in a civil action”.

Senator Lager moved that the above amendment be adopted.

Senator Lager offered **SA 1** to **SA 2**:

SENATE AMENDMENT NO. 1 TO
SENATE AMENDMENT NO. 2

Amend Senate Amendment No. 2 to Senate Substitute for Senate Joint Resolution No. 25, Page 1, Line 5, by inserting immediately after the word “action.” the following:

“In any action against a health care provider for damages for personal injury or death arising out of the rendering or the failure to render health care services, no plaintiff shall recover more than three hundred thousand dollars for noneconomic damages irrespective of the number of defendants.”; and further amend line 6-9 by striking all of said lines and inserting in lieu thereof the following:

“Further amend said resolution and page, section B, lines 11-13 by striking all of said lines and inserting in lieu thereof the following:

“Shall the Missouri Constitution be amended to limit noneconomic damage awards in medical malpractice cases, provide that in all civil cases noneconomic damages may be limited as prescribed by law, and limit an attorney's fees in civil actions?””.

Senator Lager moved that the above amendment be adopted.

Senator Keaveny raised the point of order that **SA 2** is out of order in that it goes beyond the scope of the underlying subject matter of the bill.

The point of order was referred to the President Pro Tem who ruled it not well taken.

SA 1 to **SA 2** was again taken up.

Senator Dixon assumed the Chair.

Senator Pearce assumed the Chair.

Senator Kraus assumed the Chair.

At the request of Senator Lager, **SJR 25**, with **SS**, **SA 2** and **SA 1** to **SA 2** (pending), was placed on the Informal Calendar.

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 **SS** for **SCS** for **SB 774**; **SS** for **SCS** for **SB 706**; **SS** for **SB 575**; and **SB 890**, 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.

REFERRALS

President Pro Tem Dempsey referred **SS** for **SB 575** to the Committee on Governmental Accountability

and Fiscal Oversight.

COMMUNICATIONS

President Pro Tem Dempsey submitted the following:

April 9, 2014

The Honorable Tom Dempsey
President Pro Tem
State Capitol Building, Room 326
Jefferson City, Mo 65101

Dear Senator Dempsey:

Please accept this letter as my resignation as a member of the Governmental Accountability and Fiscal Oversight Committee. If you have any questions or need additional information, please do not hesitate to contact me.

Sincerely,
/s/ Jay Wasson
Jay Wasson
State Senator, 20th District

Also,

April 9, 2014

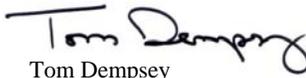
Terry Spieler
Secretary of the Senate
State Capitol, Room 325
Jefferson City, MO 65101

Dear Ms. Spieler,

Due to the resignation of Senator Jay Wasson from the Senate Standing Committee on Governmental Accountability and Fiscal Oversight, I have appointed Senator David Sater in his stead.

Please do not hesitate to contact me should you have any questions.

Sincerely,



Tom Dempsey

Also,

April 9, 2014

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

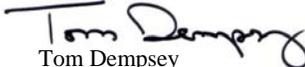
Dear Ms. Spieler:

In accordance with SCR 19, I am appointing the following to the Missouri Lead Industry Employment, Economic Development and Environmental Remediation Task Force:

Senator Gary Romine, Chair
Senator Doug Libla
Senator Gina Walsh
Matt Wohl, Industry Representative

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

Sincerely,



Tom Dempsey

RESOLUTIONS

Senator Schmitt offered Senate Resolution No. 1813, regarding Alexander C. Roberds, which was adopted.

Senator Schaefer offered Senate Resolution No. 1814, regarding the One Hundredth Anniversary of the University of Missouri-Columbia Trulaske College of Business, which was adopted.

Senator Brown offered Senate Resolution No. 1815, regarding the Honorable Gary Brown, Salem, which was adopted.

Senator Wasson offered Senate Resolution No. 1816, regarding Zachary Montana Lee Fry, which was adopted.

Senator Silvey offered Senate Resolution No. 1817, regarding Cathy Swenson, which was adopted.

Senator Chappelle-Nadal offered Senate Resolution No. 1818, regarding the death of Joyce P. Woolfork Mosley, St. Louis, which was adopted.

INTRODUCTIONS OF GUESTS

Senator Emery introduced to the Senate, the Physician of the Day, Curtis Long, M.D., Butler.

Senator Schmitt introduced to the Senate, Jeanne Marshall and her son, Logan, Wildwood; and Logan was made an honorary page.

Senator Parson introduced to the Senate, Class 3 State Champion El Dorado Springs Lady Bulldogs Basketball team.

Senator Kehoe introduced to the Senate, Laney Clemens, Tyler Clark and students from Simonsen Ninth Grade Center, Jefferson City.

Senator Wallingford introduced to the Senate, Pachyderms from St. Charles County, Greater Ozark, St. Louis, Jefferson County and Salt Fork.

On behalf of Senator Pearce, the President introduced to the Senate, Nora Faris, Concordia.

Senator Schaaf introduced to the Senate, Jerry Henson, Parkville; and Dewey Riehn, Ashland.

Senator Dempsey introduced to the Senate, Boys and Girls Clubs from throughout the state.

Senator Munzlinger introduced to the Senate, teacher Phylis McCollum and fourth grade students from Macon County R-4 School.

Senator Kehoe introduced to the Senate, Mike Pratt, Deputy Superintendent Gary Leimkuehler, Principal Kent Sherrow, Coaches Linda Lampkin, Allen Speckhals, Phil Landolt, Jennifer Wulff and members of the 2013 Class 2 State Volleyball Championship team from Hermann High School.

Senator Schaefer introduced to the Senate, State Youth of the Year Miles Gibson, Chareon Hickem, Joe Miller, Bob Drainer, Wally Pfeffer, Valorie Livingston, Devonne Wilson and Thomeana Porter, Boone County Boys and Girls Club.

Senator Silvey introduced to the Senate, students from St. Andrews School, Gladstone.

Senator Schmitt introduced to the Senate, teachers Kim Drury and Lynn Lopez; and fourth grade students

from St. Peters Elementary School, Kirkwood; and Hannah Lifka, Jared Thornberry, Kathryn Thomas, Sam Orlando and Cillian Deisner were made honorary pages.

Senator Schmitt introduced to the Senate, Jim Wright, Chris Pickel, Hardy Washington, Gene Maggard and David Burliss, members of Kirkwood/Des Peres Chamber of Commerce.

Senator Pearce introduced to the Senate, John Donnell, Bates City.

Senator Schmitt introduced to the Senate, fourth grade students from Our Lady of the Pillar, St. Louis.

Senator Pearce introduced to the Senate, Sarah McGoldrick; and Boys and Girls Club members Kim O'Brien and Donovan McGoldrick.

Senator Richard introduced to the Senate, Melanie Boon and her son, Mason, St. Louis.

Senator Richard introduced to the Senate, Superintendent Dr. Phil Cook and teachers Lisa Northup, Mandy Lybeck, Missy Nelson, Michelle Duley, Margaret Murty, Natalie Fletcher, Anna Passley, Joyce Blackburn, Dave Rice and Ryan Churchill, Carl Junction School District.

Senator Curls introduced to the Senate, Stacey Sedler, Mozetta Dyer and Cozetta Jenkins, St. Louis University.

Senator Wallingford introduced to the Senate, Kevin Teegarden, Jackson.

Senator Holsman introduced to the Senate, Bill Lenz and Lynne Rees, Kansas City.

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

SENATE CALENDAR

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FIFTIETH DAY—THURSDAY, APRIL 10, 2014

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FORMAL CALENDAR

HOUSE BILLS ON SECOND READING

HB 1897-Kolkmeyer

HB 1968-Gosen

HCS for HB 2040

HB 1380-Peters and Ellington

HCS for HB 1605

HB 2028-Peters, et al

HB 1670-Dunn, et al

HB 1744-Walton Gray, et al

HCS for HB 1745

HB 1775-Colona and Hodges

HCS for HB 1302

HCS for HB 1326

HB 1617-Rehder, et al

HCS for HB 1439

HCS for HB 1237

HCS for HBs 1235 & 1214

HCS for HB 1303

HB 1305-Phillips, et al

HB 1138-Rowland

HJR 68-Hinson and Schatz

THIRD READING OF SENATE BILLS

- | | |
|--|---|
| 1. SS for SCS for SB 666-Schmitt
(In Fiscal Oversight) | 9. SB 500-Keaveny |
| 2. SCS for SB 729-Romine | 10. SB 695-Keaveny |
| 3. SCS for SB 785-Kehoe | 11. SCS for SB 809-Wasson |
| 4. SB 812-Parson (In Fiscal Oversight) | 12. SCS for SB 892-Kraus
(In Fiscal Oversight) |
| 5. SB 818-Kehoe | 13. SS for SCS for SB 774-Dempsey |
| 6. SCS for SB 854-Wasson | 14. SS for SCS for SB 706-Cunningham |
| 7. SB 734-Cunningham | 15. SS for SB 575-Dixon
(In Fiscal Oversight) |
| 8. SS for SCS for SB 491-Justus and
Dixon (In Fiscal Oversight) | 16. SB 890-Kehoe |

SENATE BILLS FOR PERFECTION

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|-------------------------------------|--|
| 1. SB 754-Sater and Justus | 23. SB 819-Wallingford, with SCS |
| 2. SB 617-Rupp and Parson, with SCS | 24. SBs 836 & 800-Munzlinger, with SCS |
| 3. SB 755-Wallingford | 25. SB 842-Parson |
| 4. SB 769-Pearce, with SCS | 26. SB 860-Cunningham |
| 5. SB 830-Parson | 27. SB 891-Kehoe |
| 6. SB 841-Wasson, with SCS | 28. SB 762-Schaefer, with SCS |
| 7. SB 919-Justus | 29. SB 875-Sater, with SCS |
| 8. SBs 787 & 804-Justus, with SCS | 30. SB 671-Sater |
| 9. SB 795-Lager | 31. SB 634-Parson, with SCS |
| 10. SB 887-Schaefer | 32. SB 642-Romine, with SCS |
| 11. SB 538-Keaveny and Holsman | 33. SB 848-LeVota, with SCS |
| 12. SB 786-Schmitt | 34. SB 566-Sifton |
| 13. SBs 638 & 647-Romine, with SCS | 35. SB 992-Dempsey |
| 14. SB 578-Kraus | 36. SB 966-Lager |
| 15. SB 655-Kraus | 37. SB 852-Schmitt, with SCS |
| 16. SB 659-Wallingford, with SCS | 38. SB 704-Lager, with SCS |
| 17. SB 717-Brown | 39. SB 758-Justus |
| 18. SB 794-Chappelle-Nadal | 40. SB 873-Brown, with SCS |
| 19. SB 866-Wasson and Cunningham | 41. SB 844-Dixon |
| 20. SB 824-Dixon, with SCS | 42. SB 641-Emery |
| 21. SB 724-Parson | 43. SB 869-Schmitt |
| 22. SB 550-Sater, with SCS | |

INFORMAL CALENDAR

SENATE BILLS FOR PERFECTION

SB 490-Lager and Kehoe, with SCS	SB 712-Walsh, with SCS & SS for SCS
SB 501-Keaveny	(pending)
SB 518-Sater, with SCS, SA 2 & SA 1 to SA 2 (pending)	SB 739-Romine, with SCS, SS for SCS, SA 1 & SA 1 to SA 1 (pending)
SB 519-Sater, with SS & SA 1 (pending)	SB 790-Dixon, with SA 3 & point of order (pending)
SS for SB 543-Munzlinger	SB 814-Brown
SB 553-Emery, with SCS (pending)	SB 846-Richard
SB 555-Nasheed, with SS & SA 1 (pending)	SB 850-Munzlinger and Holsman, with SCS & SS for SCS (pending)
SB 573-Munzlinger, with SCS	SJR 25-Lager, with SS, SA 2 & SA 1 to SA 2 (pending)
SB 589-Brown, with SCS, SA 2 & SA 1 to SA 2 (pending)	SJR 26-Lager, with SS & SA 1 (pending)
SB 599-Kraus, with SCS & SA 2 (pending)	SJR 34-Emery
SB 644-LeVota	SJR 42-Schmitt, with SS (pending)
SB 663-Munzlinger, with SCS	
SB 692-Wasson, with SA 1 (pending)	

HOUSE BILLS ON THIRD READING

HB 1173-Burlison, et al (Brown), with
SA 1, SA 1 to SA 1 & point of order
(pending)

RESOLUTIONS

Reported from Committee

SCR 34-LeVota	HCR 11-Walton Gray, et al (Walsh)
HCR 5-English, et al (Walsh)	HCS for HCR 20 (Munzlinger)

To be Referred

SCR 42-LeVota

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