

Journal of the Senate

FIRST REGULAR SESSION

TWELFTH DAY—TUESDAY, JANUARY 23, 2001

The Senate met pursuant to adjournment.

President Maxwell in the Chair.

Reverend Carl Gauck offered the following prayer:

“Whoever serves must do so with the strength that God supplies, so that God may be glorified...” (1 Peter 4:11)

Almighty God, we are thankful for the gift of health and strength You provide each of us so we might fully use the gifts You have given us as we go about our assigned tasks. Bless us today with the discipline we need to exercise regularly and do all things in moderation. 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.

Senator Kenney announced that photographers from KRCG-TV, KOMU-TV and the Associated Press had been given permission to take pictures in the Senate Chamber today.

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

Present—Senators

Bentley	Bland	Carter	Caskey
Childers	DePasco	Foster	Gibbons
Goode	Gross	House	Jacob
Johnson	Kenney	Kinder	Klarich
Loudon	Mathewson	Quick	Rohrbach

Russell	Schneider	Scott	Sims
Singleton	Staples	Steelman	Stoll
Westfall	Wiggins—30		

Absent with leave—Senator Yeckel—1

Vacancies—3

The Lieutenant Governor was present.

CONCURRENT RESOLUTIONS

Senator Staples offered the following concurrent resolution:

SENATE CONCURRENT RESOLUTION NO. 10

WHEREAS, the Railroad Retirement and Survivors Improvement Act of 2000 was approved in a bipartisan effort by 391 members of the United States House of Representatives in the 106th Congress, including the entire Missouri delegation to Congress; and

WHEREAS, more than 83 United States Senators, including both Missouri Senator Kit Bond and then Missouri Senator John Ashcroft, signed letters of support for this legislation in 2000; and

WHEREAS, the bill now before the 107th Congress modernizes the Railroad Retirement System for its 690,000 beneficiaries nationwide, including over 23,100 in Missouri; and

WHEREAS, railroad management, labor and retiree organizations have agreed to support this legislation; and

WHEREAS, this legislation provides tax relief to freight railroads, Amtrak and commuter lines; and

WHEREAS, this legislation provides benefit improvements for surviving spouses of rail workers, who currently suffer deep cuts in income when the rail retiree dies; and

WHEREAS, no outside contributions from taxpayers are needed to implement the changes called for in this legislation; and

WHEREAS, all changes will be paid for from within the railroad industry, including a full share by active employees:

NOW, THEREFORE, BE IT RESOLVED by the Missouri Senate, Ninety-first General Assembly, First Regular Session, the House of Representatives concurring therein, that the United States Congress are urged to support the Railroad Retirement and Survivors Improvement Act in the 107th Congress; 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 of the United States Senate, the Speaker of the United States House of Representatives, and all Missouri members of the Missouri Congressional delegation.

Senator Caskey offered the following concurrent resolution:

SENATE CONCURRENT RESOLUTION NO. 11

Consenting to Fee Payment Agreement of Master Settlement Agreement.

WHEREAS, on June 29, 1998, Missouri Attorney General Jay Nixon entered into a Contract Agreement for Legal Services with Thomas Strong as Lead Special Assistant Attorney General in the case of *State of Missouri ex rel. Nixon v. The American Tobacco Co., et al.* (hereinafter "the Tobacco case"); and

WHEREAS, on June 30, 1998, Thomas Strong entered into a Contract for Legal Services with certain subcontracting counsel to provide legal services in the Tobacco case; and

WHEREAS, pursuant to the terms of the Fee Payment Agreement between Mr. Strong and the State of Missouri, Mr. Strong was entitled to receive a certain percentage of the state's settlement if the settlement was obtained after January 1, 1999; and

WHEREAS, on November 23, 1998, the state entered into the Master Settlement Agreement in resolution of the Tobacco case, which was initially approved by the Circuit Court of the City of St. Louis on March 5, 1999; and

WHEREAS, the Master Settlement Agreement contained a Model Fee Payment Agreement, by which the Tobacco defendants paid the attorney's fees for the state;

WHEREAS, several parties that were denied intervention in the Tobacco case appealed to the Missouri Court of Appeals, Eastern District, and subsequently to the Supreme Court of Missouri; and

WHEREAS, the Supreme Court of Missouri issued an opinion on December 12, 2000, approving the settlement but allowing the General Assembly until December 31, 2001, to disapprove the attorney's fees arrangement contained in the Master Settlement Agreement in accordance with Missouri Supreme Court Rule 4-1.8(f), which requires counsel to obtain the client's consent if fees are to be paid by an outside source;

WHEREAS, if no legislation is enacted by that date, the MSA fee arrangement, by which certain Tobacco case defendants pay any attorneys' fees, becomes final, but if the fee arrangement is disapproved, the original contract with Mr. Strong, requiring his payment from the state's settlement proceeds, remains in effect and enforceable;

NOW THEREFORE BE IT RESOLVED that the members of the Missouri Senate, Ninety-First General Assembly, First Regular Session, the House of Representatives concurring therein, in accordance with Missouri Supreme Court Rule 4-1.8(f) hereby consent on behalf of the state of Missouri to the recovery of costs and attorneys' fees contained in the Model Fee Payment Agreement of the Master Settlement Agreement, and further direct that Lead Special Assistant Attorney General Thomas Strong and any subcontracting counsel receive no state funds in payment of attorney's fees or costs if such fees or costs are paid pursuant to the terms of the Master Settlement Agreement; and

BE IT FURTHER RESOLVED that this resolution be sent to the Governor for his approval or rejection pursuant to the Missouri Constitution.

INTRODUCTION OF BILLS

The following Bills were read the 1st time and 1,000 copies ordered printed:

SB 346—By Caskey.

An Act to repeal sections 287.812, 287.815, 287.825, 287.830 and 622.020, RSMo 2000, relating to benefits of administrative law judges, and to enact in lieu thereof five new sections relating to the same subject.

SB 347—By Caskey.

An Act to amend chapter 137, RSMo, by adding thereto one new section relating to assessment of real property.

SB 348—By Sims.

An Act to repeal section 475.083, RSMo 2000, relating to guardianship of children, and to enact in lieu thereof one new section relating to the same subject.

SB 349—By Sims, Carter, Bland, Bentley and Steelman.

An Act to repeal section 376.1209, RSMo 2000, relating to breast cancer, and to enact in lieu thereof one new section relating to the same subject.

SB 350—By Sims.

An Act to amend chapter 316, RSMo, by adding thereto three new sections relating to the regulation of hay rides, with penalty provisions.

SB 351—By Singleton and Scott.

An Act to repeal sections 488.5336, 590.100,

590.101, 590.105, 590.110, 590.112, 590.115, 590.117, 590.120, 590.121, 590.123, 590.125, 590.130, 590.131, 590.135, 590.150 and 590.180, RSMo 2000, relating to selection and training of peace officers, and to enact in lieu thereof sixteen new sections relating to the same subject, with penalty provisions.

SB 352—By Johnson.

An Act to amend chapter 94, RSMo, by adding thereto one new section relating to capital improvements.

SB 353—By Johnson.

An Act to repeal section 163.011, RSMo 2000, relating to recalculated tax rates for school districts, and to enact in lieu thereof one new section relating to the same subject.

SB 354—By Johnson and Scott.

An Act to amend chapter 105, RSMo, by adding thereto two new sections relating to Missouri commission on total compensation.

SB 355—By Steelman.

An Act to repeal section 407.020, RSMo 2000, relating to merchandising practices, and to enact in lieu thereof one new section relating to the same subject.

SB 356—By Schneider.

An Act to repeal section 303.041 as enacted in house bill no. 1797 by the ninetieth general assembly, second regular session and as enacted in senate bill no. 19 by the ninetieth general assembly, first regular session, relating to administrative procedure, and to enact in lieu thereof one new section relating to the same subject.

SB 357—By Schneider.

An Act to repeal section 337.029 as enacted by conference committee substitute for senate committee substitute for house substitute for house committee substitute for house bills nos. 1601, 1591, 1592, 1479, 1615 and house committee substitute for house bills nos. 1094, 1213, 1311 & 1428, eighty-ninth general assembly, second regular session, section 337.029 as enacted by house committee substitute for senate committee substitute for senate bill no. 732 of the eighty-ninth

general assembly, second regular session, and section 337.510, RSMo 2000, relating to professional services, and to enact in lieu thereof two new sections relating to the same subject, with an emergency clause.

SB 358—By Schneider.

An Act to repeal section 517.011, RSMo 2000, relating to procedure before certain associate circuit judges, and to enact in lieu thereof one new section relating to the same subject.

SB 359—By Schneider.

An Act to repeal section 516.500, RSMo 2000, relating to court procedures.

SB 360—By Schneider.

An Act to repeal sections 302.535 and 479.500, RSMo 2000, relating to court procedures, and to enact in lieu thereof two new sections relating to the same subject.

SB 361—By Bentley.

An Act to amend chapter 476, RSMo, by adding thereto one new section relating to the Missouri CASA fund.

MESSAGES FROM THE GOVERNOR

The following message was received from the Governor:

OFFICE OF THE GOVERNOR

State of Missouri

Jefferson City, Missouri

January 23, 2001

TO THE SENATE OF THE 91st GENERAL ASSEMBLY
OF THE STATE OF MISSOURI:

I hereby withdraw from your consideration the following appointment to office made by Governor Mel Carnahan and submitted to you on January 3, 2001 for your advice and consent:

Lawrence Kahn, M.D., Democrat, 21 Midpark Lane, Ladue, St. Louis County, Missouri 63124, as a member of the Missouri Citizen's Commission on Compensation for Elected Officials, for a term ending February 1, 2004, and until his successor is duly appointed and qualified; vice, Susanne B. Hoffmann, term expired.

Respectfully submitted,

BOB HOLDEN

Governor

President Pro Tem Quick moved that the above appointment be returned to the Governor pursuant to his request, which motion prevailed.

SECOND READING OF SENATE BILLS

The following Bills were read the 2nd time and referred to the Committees indicated:

SB 181—Civil and Criminal Jurisprudence.

SB 182—Financial and Governmental Organization, Veterans' Affairs and Elections.

SB 183—Judiciary.

SB 184—Aging, Families and Mental Health.

SB 185—Transportation.

SB 186—Financial and Governmental Organization, Veterans' Affairs and Elections.

SB 187—Judiciary.

SB 188—Ways and Means.

SB 189—Financial and Governmental Organization, Veterans' Affairs and Elections.

SB 190—Commerce and Environment.

SB 191—Financial and Governmental Organization, Veterans' Affairs and Elections.

SB 192—Judiciary.

SB 193—Insurance and Housing.

SB 194—Insurance and Housing.

SB 195—Ways and Means.

SB 196—Local Government and Economic Development.

SB 197—Local Government and Economic Development.

SB 198—Local Government and Economic Development.

SB 199—Civil and Criminal Jurisprudence.

SB 200—Financial and Governmental Organization, Veterans' Affairs and Elections.

**SECOND READING OF
CONCURRENT RESOLUTIONS**

The following concurrent resolution was read the 2nd time and referred to the Committee indicated:

SCR 8—Rules, Joint Rules, Resolutions and Ethics.

REFERRALS

President Pro Tem Quick referred **SCR 9** to the Committee on Rules, Joint Rules, Resolutions and Ethics.

INTRODUCTION OF BILLS

The following Bill was read the 1st time and 1,000 copies ordered printed:

SB 362—By House, Kenney, Bentley, Stoll and Foster.

An Act to amend chapter 196, RSMo, by adding thereto one new section relating to the establishment of the Missouri tobacco settlement trust fund.

CONCURRENT RESOLUTIONS

Senator Singleton moved that **SCR 2** be taken up for 3rd reading and final passage, which motion prevailed.

Senator Singleton moved that **SCR 2** be 3rd read and finally passed.

Senator Schneider was recognized to inquire of Senator Jacob.

Senator Singleton rose, under the provisions of Senate Rule 78, stating that he had taken exception to the statement made by Senator Schneider referring to him as a star and also to the statement that the hearing on **SCR 2** was held at 3:00 p.m. in order to have television coverage present.

At the request of Senator Singleton, the motion for 3rd reading and final passage was withdrawn, placing the concurrent resolution on the calendar.

RESOLUTIONS

Senator House offered Senate Resolution No. 92, regarding Mr. And Mrs. J. William "Bill" Crouch, Wellsville, which was adopted.

Senators House and Gross offered Senate Resolution No. 93, regarding Harlan A. Pals, St. Charles County, which was adopted.

Senators House and Gross offered Senate Resolution No. 94, regarding James Rasmussen, St. Peters, which was adopted.

Senator Gibbons offered Senate Resolution No. 95, regarding William (Bill) Combs, Kirkwood, which was adopted.

Senator Gibbons offered Senate Resolution No. 96, regarding Fred W. Ruegg, Kirkwood, which was adopted.

Senator Gibbons offered Senate Resolution No. 97, regarding Franklin McCallie, Kirkwood, which was adopted.

Senator Gibbons offered Senate Resolution No. 98, regarding Pam McIntyre, Kirkwood, which was adopted.

COMMUNICATIONS

Senator DePasco and Senator Kenney submitted the following:

January 22, 2001

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

Dear Ms. Spieler:

The Rules, Joint Rules, Resolutions and Ethics Committee met today in Senate Committee Room 1. All members were present and voted unanimously to approve the St. Louis/Kansas City Regional Transportation Caucus. (See attached list)

Sincerely,

/s/ Ronnie DePasco
Ronnie DePasco, Co-Chairman

/s/ Bill Kenney
Bill Kenney, Co-Chairman
Rules, Joint Rules, Resolutions and Ethics Committee

St. Louis/Kansas City Regional Transportation Caucus Members:

Senator Anita Yeckel, District 1	Senator Steve Stoll, District 22
Senator Ted House, District 2	Senator Chuck Gross, District 23
Senator John Scott, District 3	Senator Betty Sims, District 24
Senator Paula Carter, District 5	Senator David Klarich, District 26
Senator John Loudon, District 7	Senator Harold Caskey, District 31
Senator Bill Kenney, District 8	Rep. Bill Skaggs, District 31
Senator Mary Bland, District 9	Rep. Tom Hoppe, District 46
Senator Harry Wiggins, District 10	Rep. Joan Bray, District 84
Senator Ronnie DePasco, District 11	Rep. Bill Boucher, District 48
Senator Wayne Goode, District 13	Rep. David Levin, District 82
Senator John Schneider, District 14	Rep. John Griesheimer, District 109
Senator Mike Gibbons, District 15	Rep. Cindy Ostmann, District 14
Senator Ed Quick, District 17	Rep. Carson Ross, District 55
Senator Jim Mathewson, District 21	

Senator Kinder submitted the following:

January 23, 2001

The Honorable Michael Gibbons
MO Senate
State Capitol
Jefferson City, MO 65101

Dear Senator Gibbons:

Please be advised that I have appointed you as a member of the Joint Committee on Administrative Rules (Chapter 536, RSMo). You will replace Senator Steve Ehlmann.

If I can be of any assistance please do not hesitate to contact me.

Sincerely,

/s/ Peter Kinder
PETER D. KINDER
Co-President Pro Tem

INTRODUCTIONS OF GUESTS

Senator Westfall introduced to the Senate, Brent Mendenhall, Nevada.

Senator DePasco introduced to the Senate, Emily Smith, Kansas City.

Senator Russell introduced to the Senate, David Franklin, Camden County; and Robert C. Walters, Richland.

Senator Carter introduced to the Senate, Jared Swanegan, Kirksville.

Senator Bland introduced to the Senate, Mike Wood, Angie Witt, Warren Brodine, Ben Pettus and Samuel Rodger, Kansas City.

The President introduced to the Senate, the Physician of the Day, Dr. Robert W. Jackson, D.O., Kirksville.

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

SENATE CALENDAR

 THIRTEENTH DAY—WEDNESDAY, JANUARY 24, 2001

FORMAL CALENDAR

SECOND READING OF SENATE BILLS

SB 201-Sims	SB 236-Sims
SB 202-Wiggins	SB 237-Westfall
SB 203-Scott	SB 238-Staples, et al
SB 204-House	SB 239-Stoll
SB 205-Bland	SB 240-Stoll and Bentley
SB 206-Wiggins	SB 241-Rohrbach
SB 207-Klarich	SB 242-Kenney
SB 208-Sims	SB 243-DePasco
SB 209-DePasco	SB 244-Staples
SB 210-DePasco	SB 245-Caskey
SB 211-DePasco	SB 246-Caskey
SB 212-Gross, et al	SB 247-Westfall and Staples
SB 213-Gross, et al	SB 248-Wiggins and DePasco
SB 214-Gross, et al	SB 249-Wiggins
SB 215-Gross	SB 250-Bentley and Johnson
SB 216-Scott	SB 251-Kinder
SB 217-Russell	SB 252-Singleton
SB 218-Russell	SB 253-Gross
SB 219-Mathewson	SB 254-Gross and Foster
SB 220-Kinder and Gross	SB 255-Gross, et al
SB 221-Westfall	SB 257-Caskey
SB 222-Caskey	SB 258-Rohrbach and Schneider
SB 223-Caskey	SB 259-Childers, et al
SB 224-Russell	SB 260-Gross and Stoll
SB 225-Mathewson	SB 262-Stoll
SB 226-Goode, et al	SB 263-Stoll
SB 227-Jacob	SB 264-Steelman
SB 228-Jacob	SB 265-Schneider and Caskey
SB 229-Jacob	SB 266-Bland, et al
SB 230-Childers	SB 267-Klarich and Schneider
SB 231-Gross	
SB 232-Gross	
SB 233-Wiggins	
SB 234-Wiggins	
SB 235-Sims	

SB 268-Schneider
SB 269-Schneider
SB 270-Schneider
SB 271-Schneider
SB 272-DePasco
SB 273-Caskey
SB 274-Caskey
SB 275-Sims
SB 276-Sims
SB 277-Sims
SB 278-Westfall
SB 279-Staples
SB 280-Yeckel, et al
SB 281-Yeckel
SB 282-Klarich
SB 283-Steelman
SB 284-Steelman
SB 285-Steelman
SB 287-Klarich
SB 288-Klarich
SB 289-Sims
SB 290-Wiggins and
DePasco
SB 291-Westfall
SB 292-Singleton
SB 293-Steelman
SB 294-Steelman
SB 295-Stoll and Staples
SB 296-Gross
SB 297-DePasco
SB 298-Quick
SB 299-Quick
SB 300-Rohrbach
SB 301-Johnson
SB 302-Johnson, et al
SB 303-Johnson
SB 304-Klarich
SB 305-Jacob
SB 306-Jacob
SB 307-Jacob
SB 308-Jacob
SB 309-Steelman
SB 310-Quick
SB 311-Mathewson
SB 312-Caskey
SB 313-Caskey
SB 314-Steelman
SB 315-Childers
SB 316-Stoll
SB 317-Stoll
SB 318-Sims
SB 319-Carter
SB 320-Goode
SB 321-Westfall
SB 322-Gross and Gibbons
SB 323-Childers, et al
SB 324-Childers
SB 325-Foster, et al
SB 326-Bland, et al
SB 327-Yeckel and Carter
SB 328-Yeckel and DePasco
SB 329-Yeckel and Stoll
SB 330-Jacob, et al
SB 331-DePasco, et al
SB 332-Westfall
SB 333-DePasco
SB 334-Kinder
SB 335-Kinder
SB 336-Caskey and House
SB 337-House and Kinder
SB 338-House
SB 339-Stoll and Childers
SB 340-Stoll and Childers
SB 341-Jacob
SB 342-Jacob
SB 343-Scott
SB 344-Rohrbach and Jacob
SB 345-House
SB 346-Caskey
SB 347-Caskey
SB 348-Sims
SB 349-Sims, et al
SB 350-Sims
SB 351-Singleton and Scott
SB 352-Johnson
SB 353-Johnson
SB 354-Johnson and Scott
SB 355-Steelman
SB 356-Schneider
SB 357-Schneider

SB 358-Schneider
SB 359-Schneider
SB 360-Schneider
SB 361-Bentley

SB 362-House, et al
SJR 10-Quick
SJR 11-Yeckel

RESOLUTIONS

SR 58-Singleton

HCR 3-Crump (DePasco)

Unofficial

To be Referred

SCR 10-Staples

SCR 11-Caskey

Reported from Committee

SCR 2-Singleton

Journal

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