

# Journal of the Senate

FIRST REGULAR SESSION

FIRST EXTRA SESSION

---

**SECOND DAY THURSDAY, SEPTEMBER 6, 2001**

---

The Senate met pursuant to adjournment.

President Pro Tem Kinder in the Chair.

## **SECOND READING OF SENATE BILLS**

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

**SB 1** Public Health and Welfare.

**SB 2** Agriculture, Conservation, Parks and Tourism.

**SB 3** Ways and Means.

**SB 4** Public Health and Welfare.

**SB 5** Public Health and Welfare.

**SB 6** Public Health and Welfare.

**SB 7** Ways and Means.

**SB 8** Ways and Means.

**SB 9** Ways and Means.

On motion of Senator Kenney, the Senate recessed until 12:00 p.m.

## **RECESS**

The time of recess having expired, the Senate was called to order by President Maxwell.

Reverend Carl Gauck offered the following prayer:

"Lo, this is our God: we have waited for him...Let us be glad and rejoice in his salvation." (Isaiah 25:9)

Abba, Father, we call upon You this day as we wait upon the things we have been called to do this special session. Be with us and help us to appreciate the smallest details for they often make up our work and the very things that can help our people. And humble us with the vastness of Your creative Word so we can see our proper place within it. 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.

Photographers from KOMU-TV were given permission to take pictures in the Senate Chamber today.

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

### Present Senators

Bentley	Bland	Caskey	Cauthorn
Childers	DePasco	Dougherty	Foster
Gibbons	Goode	Gross	House
Jacob	Johnson	Kenney	Kinder
Klarich	Klindt	Loudon	Mathewson
Quick	Rohrbach	Russell	Schneider
Scott	Singleton	Staples	Steelman
Stoll	Wiggins	Yeckel 31	

### Absent with leave Senators

Carter	Sims	Westfall 3
--------	------	------------

The Lieutenant Governor was present.

Senator Rohrbach assumed the Chair.

**RESOLUTIONS**

Senator Stoll offered Senate Resolution No. 4, regarding the Mid-America Association for Institutional Research, which was adopted.

Senators Stoll and Staples offered Senate Resolution No. 5, regarding John "Bud" Skiadas, Crystal City, which was adopted.

Senators Stoll and Staples offered Senate Resolution No. 6, regarding Steve Siracusa, Crystal City, which was adopted.

Senator Kinder offered Senate Resolution No. 7, regarding Mrs. Phyllis Schlafly, which was adopted.

Senator Kinder offered Senate Resolution No. 8, regarding National Day of the Republic of China, which was adopted.

Senator Klarich offered Senate Resolution No. 9, regarding Corrections Officer I Herbert Krattli, New Haven, which was adopted.

Senator Klarich offered Senate Resolution No. 10, regarding Corrections Officer III Fred Elder, Villa Ridge, which was adopted.

Senator Klarich offered Senate Resolution No. 11, regarding Corrections Officer I Floyd Kean, Mineral Point, which was adopted.

Senators DePasco, Wiggins and Quick offered the following resolution, which was adopted:

**SENATE RESOLUTION NO. 12**

WHEREAS, the members of the Missouri Senate welcome each and every opportunity to acknowledge milestone events in the lives of Show-Me State residents who have garnered an exceptional reputation for the diversity and excellence of their community service record; and

WHEREAS, Goin' Dutch 2001 will be held on Thursday, September 6, 2001, at the Marriott-Muehlebach in Kansas City, Missouri, as a fund-raising dinner designed to provide the financial underpinnings necessary to create the "Dutch" Newman Voter Education and Scholarship Foundation; and

WHEREAS, honoring its namesake, Hila "Dutch" Newman, the Voter Education and Scholarship Foundation will function as a non-partisan, non-profit organization under the auspices of the Greater Kansas City Community Foundation in order to provide for innovative voter education and registration opportunities, scholarship funding, and the establishment of the Newman Fellows, a program focusing on the voting youth of today; and

WHEREAS, Dutch Newman has an enduring record of devotion to politics at the local, state, and national levels through her lifelong membership in the Democratic Party; and

WHEREAS, presently a member of the Democratic State Committee and its Executive Board and a Democratic Committeewoman for the Fifth Ward in Jackson County, Dutch Newman is also Chairperson of House District 38, Secretary for the Fifth Congressional District, and President of the Westport Landing Democratic Club; and

WHEREAS, Dutch Newman is a former President of the State of Missouri Federation of Women's Democratic Clubs who has represented the state at six National Democratic Conventions and enjoyed a considerable number of awards and honors, including being named a "Statesman" by then-Governor Joseph Teasdale and selected for the Harry S Truman Award and Woman of the Year Award by the Women's Fifth District:

NOW, THEREFORE, BE IT RESOLVED that we, the members of the Missouri Senate, Ninety-first General Assembly, join unanimously to applaud the impressive, ongoing legacy of community service so unselfishly developed by "Dutch" Newman and to convey to her this legislative body's heartiest congratulations and best wishes upon the establishment of the Dutch Newman Voter Education and Scholarship Foundation in her honor on September 6, 2001; and

BE IT FURTHER RESOLVED that the Secretary of the Senate be instructed to prepare a properly inscribed copy of this resolution in recognition of Hila "Dutch" Newman and her unstinting spirit of community service.

Senator Kenney offered Senate Resolution No. 13, regarding Ryan Lewis Simcosky, Independence, which was adopted.

**REPORTS OF STANDING COMMITTEES**

Senator Foster, Chairman of the Committee on Agriculture, Conservation, Parks and Tourism, submitted the following report:

Mr. President: Your Committee on Agriculture, Conservation, Parks and Tourism, to which was referred **SB 2**, begs leave to report that it has considered the same and recommends that the bill do pass.

President Pro Tem Kinder assumed the Chair.

Senator Kenney requested unanimous consent of the Senate to suspend Senate Rule 52 for the purpose of taking up **SB 2** for perfection, which request was granted.

**SENATE BILLS FOR PERFECTION**

Senator Cauthorn moved that **SB 2** be taken up for perfection, which motion prevailed.

Senator Cauthorn moved that **SB 2** be declared perfected and ordered printed.

Senator House requested a roll call vote be taken on the perfection of **SB 2** and was joined in his request by Senators Childers, Gross, Johnson and Mathewson.

**SB 2** was declared perfected and ordered printed by the following vote:

YEAS Senators

Bentley	Bland	Caskey	Cauthorn
Childers	DePasco	Dougherty	Foster
Gibbons	Goode	Gross	House
Jacob	Johnson	Kenney	Kinder
Klarich	Klindt	Loudon	Mathewson
Quick	Russell	Scott	Singleton
Staples	Steelman	Stoll	Wiggins
Yeckel	29		

NAYS Senators None

Absent Senators

Rohrbach Schneider 2

Absent with leave Senators

Carter Sims Westfall 3

Senator Klarich assumed the Chair.

**REFERRALS**

President Pro Tem Kinder referred the Gubernatorial Appointments appearing on pages 4-26 of the Senate Journal for Wednesday, September 5, 2001, to the Committee on Gubernatorial Appointments.

**COMMUNICATIONS**

Senator Schneider submitted the following:

Legislative Power

*State Auditor v. Joint Committee on Legislative Research*, 956 S.W.2d 228 (Mo. banc 1997)("All the power to make laws in the name and with the authority of its constituent elements - its citizens en masse - is lodged in the...Legislature, subject only to the restraining clauses of the Constitutions of the state and nation. The power of the legislature to make laws is plenary within its sphere of responsibility.")

*The Board of Education of the City of St. Louis v. The City of*

*St. Louis*, 879 S.W.2d 530 (Mo. banc 1994)("Unlike the Congress of the United States, which has only that power delegated by the United States Constitution, the legislative power of Missouri's General Assembly, under Article III, Section 1 of the Missouri Constitution, is plenary, unless, of course, it is limited by some other provision of the constitution. Any constitutional limitation, therefore, must be strictly construed in favor of the power of the General Assembly.")

*Bergman v. Mills*, 988 S.W.2d 84 (Mo. App. 1999)("The Missouri constitution, unlike the federal constitution, does not grant legislative power to the General Assembly, but rather is a limitation thereon. Thus, except for restrictions imposed by the Missouri constitution and statutes enacted by the General Assembly, the power of the state legislature is unlimited and practically absolute.")

Senator Klarich submitted the following:

*Missouri Constitution*

**Article III**

**LEGISLATIVE DEPARTMENT**

**Section 20**

**December 7, 2000**

**Regular sessions of assembly--quorum--compulsory attendance --public sessions--limitation on power to adjourn.**

Section 20. The general assembly shall meet on the first Wednesday after the first Monday in January following each general election. The general assembly may provide by law for the introduction of bills during the period between the first day of December and the first Wednesday after the first Monday of January.

The general assembly shall reconvene on the first Wednesday after the first Monday of January after adjournment at midnight on May thirtieth of the preceding year. A majority of the elected members of each house shall constitute a quorum to do business, but a smaller number may adjourn from day to day, and may compel the attendance of absent members in such manner and under such penalties as each house may provide. The sessions of each house shall be held with open doors, except in cases which may require secrecy but not including the final vote on bills, resolutions and confirmations. Neither house shall, without the consent of the other, adjourn for more than ten days at any one time, nor to any other place than that in which the two houses may be sitting.

Source: Const. of 1875, Art. IV §§ 18, 19, 20, 23. (Amended November 3, 1970) (Amended November 8, 1988)

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

**RECESS**

The time of recess having expired, the Senate was called to order by President Maxwell.

## REPORTS OF STANDING COMMITTEES

Senator Kenney, 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 **SB 2**, 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 Gibbons, Chairman of the Committee on Ways and Means, submitted the following report:

Mr. President: Your Committee on Ways and Means, to which were referred **SB 3**, **SB 8** and **SB 9**, begs leave to report that it has considered the same and recommends that the Senate Committee Substitute, hereto attached, do pass.

Senator Kenney requested unanimous consent of the Senate to suspend Senate Rule 52 for the purpose of taking up **SB 3**, **SB 8** and **SB 9**, with **SCS**, for perfection, which request was granted.

### SENATE BILLS FOR PERFECTION

Senator Gibbons moved that **SB 3**, **SB 8** and **SB 9**, with **SCS**, be taken up for perfection, which motion prevailed.

**SCS** for **SBs 3, 8** and **9**, entitled:

#### SENATE COMMITTEE SUBSTITUTE FOR SENATE BILLS NOS. 3, 8 and 9

An Act relating to individual income tax treatment of federal credit or advance refund of federal credit allowed to individual taxpayers under section 6428 of the Internal Revenue Code for tax year 2001, with an emergency clause.

Was taken up.

President Pro Tem Kinder assumed the Chair.

Senator Gibbons moved that **SCS** for **SBs 3, 8** and **9** be adopted.

Senator Schneider offered **SA 1**:

### SENATE AMENDMENT NO. 1

Amend Senate Committee Substitute for Senate Bills Nos. 3, 8 and 9, Page 1, Section 1, Line 9, by inserting after the period "." on said line the following: "**An individual with an adjusted gross income of more than thirty-one thousand dollars and those filing a combined return with an adjusted gross income of more than sixty-two thousand dollars shall not be eligible for the deduction authorized in this section.**"

Senator Schneider moved that the above amendment be adopted and requested a roll call vote be taken. He was joined in his request by Senators Klarich, Mathewson, Stoll and Wiggins.

Senator Klarich assumed the Chair.

**SA 1** failed of adoption by the following vote:

#### YEAS Senators

Bland	Caskey	Dougherty	Goode
Jacob	Schneider 6		

#### NAYS Senators

Bentley	Cauthorn	Childers	Gibbons
Gross	House	Johnson	Kenney
Kinder	Klarich	Klindt	Mathewson
Quick	Rohrbach	Russell	Scott
Staples	Steelman	Stoll	Wiggins
Yeckel 21			

#### Absent Senators

Loudon	Singleton 2
--------	-------------

#### Absent with leave Senators

Carter	DePasco	Foster	Sims
Westfall 5			

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

### SENATE AMENDMENT NO. 2

Amend Senate Committee Substitute for Senate Bills Nos. 3, 8 and 9, Page 1, Section 1, Line 2, by striking the phrase: "for all tax years" and substitute "for the tax year".

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

Senator Schneider offered **SA 3**:

SENATE AMENDMENT NO. 3

Amend Senate Committee Substitute for Senate Bills Nos. 3, 8 and 9, Page 1, In the Title, Line 2, by inserting immediately before said line the following: "To repeal sections 143.111 and 143.171, RSMo,"; and further amend line 5 of said title, by inserting immediately after "2001," the following: "and to enact in lieu thereof three new sections relating to the same subject,"; and

Further amend said bill and page, section 1, line 1 of said section, inserting immediately before said line the following:

"Section A. Sections 143.111 and 143.171, RSMo, are repealed and three new sections enacted in lieu thereof, to be known as sections 143.111, 143.171 and 1, to read as follows:

**143.111. 1. For all tax years ending on or before December 31, 2001,** the Missouri taxable income of a resident shall be such resident's Missouri adjusted gross income less:

- (1) Either the Missouri standard deduction or the Missouri itemized deduction;
- (2) The Missouri deduction for personal exemptions;
- (3) The Missouri deduction for dependency exemptions;
- (4) The deduction for federal income taxes provided in section 143.171; and
- (5) The deduction for a self-employed individual's health insurance costs provided in section 143.113.

**2. For all tax years beginning on or after January 1, 2002, the Missouri taxable income of a resident shall be such resident's Missouri adjusted gross income less:**

- (1) Either the Missouri standard deduction or the Missouri itemized deduction;**
- (2) The Missouri deduction for personal exemptions;**
- (3) The Missouri deduction for dependency exemptions; and**
- (4) The deduction for a self-employed individual's health insurance costs provided in**

**section 143.113.**

143.171. 1. For all tax years beginning before January 1, 1994, for an individual taxpayer and for all tax years beginning before September 1, 1993, for a corporate taxpayer, the taxpayer shall be allowed a deduction for his federal income tax liability under chapter 1 of the Internal Revenue Code for the same taxable year for which the Missouri return is being filed after reduction for all credits thereon, except the credit for payments of federal estimated tax, the credit for the overpayment of any federal tax, and the credits allowed by the Internal Revenue Code by section 31 (tax withheld on wages), section 27 (tax of foreign country and United States possessions), and section 34 (tax on certain uses of gasoline, special fuels, and lubricating oils).

2. For all tax years beginning on or after January 1, 1994, **and ending on or before December 31, 2001,** an individual taxpayer shall be allowed a deduction for his federal income tax liability under chapter 1 of the Internal Revenue Code for the same taxable year for which the Missouri return is being filed, not to exceed five thousand dollars on a single taxpayer's return or ten thousand dollars on a combined return, after reduction for all credits thereon, except the credit for payments of federal estimated tax, the credit for the overpayment of any federal tax, and the credits allowed by the Internal Revenue Code by section 31 (tax withheld on wages), section 27 (tax of foreign country and United States possessions), and section 34 (tax on certain uses of gasoline, special fuels, and lubricating oils).

3. For all tax years beginning on or after September 1, 1993, **and ending on or before December 31, 2001,** a corporate taxpayer shall be allowed a deduction for fifty percent of its federal income tax liability under chapter 1 of the Internal Revenue Code for the same taxable year for which the Missouri return is being filed after reduction for all credits thereon, except the credit for payments of federal estimated tax, the credit for the overpayment of any federal tax, and the credits allowed by the Internal Revenue Code by section 31 (tax withheld on wages), section 27 (tax of foreign country and United States possessions), and

section 34 (tax on certain uses of gasoline, special fuels and lubricating oils).

4. If a federal income tax liability for a tax year prior to the applicability of sections 143.011 to 143.996 for which he was not previously entitled to a Missouri deduction is later paid or accrued, he may deduct the federal tax in the later year to the extent it would have been deductible if paid or accrued in the prior year."; and

Further amend said bill, page 1, section A, line 1 of said section, by striking "Section A" and inserting in lieu thereof the following: "Section B".

Senator Schneider moved that the above amendment be adopted.

Senator Singleton assumed the Chair.

Senator Gibbons raised the point of order that **SA 3** is out of order in that the amendment goes beyond the scope of the pending legislation.

The point of order was referred to the President Pro Tem, who ruled it well taken.

Senator Gibbons moved that **SCS** for **SBs 3, 8** and **9**, as amended, be adopted.

Senator Schneider requested a roll call vote be taken on the adoption of **SCS** for **SBs 3, 8** and **9**, as amended, and was joined in his request by Senators Goode, Klarich, Mathewson and Wiggins.

**SCS** for **SBs 3, 8** and **9**, as amended, was adopted by the following vote:

YEAS Senators

Bentley	Caskey	Cauthorn	Childers
Gibbons	Gross	House	Johnson

Kenney	Kinder	Klarich	Klindt
Loudon	Mathewson	Quick	Rohrbach
Russell	Scott	Singleton	Staples
Steelman	Stoll	Wiggins	Yeckel 24

NAYS Senators

Dougherty	Goode	Schneider 3
-----------	-------	-------------

Absent Senators

Bland	Jacob 2
-------	---------

Absent with leave Senators

Carter	DePasco	Foster	Sims
Westfall 5			

Senator Klarich assumed the Chair.

On motion of Senator Gibbons, **SCS** for **SBs 3, 8** and **9**, as amended, was declared perfected and ordered printed.

Senator Gross assumed the Chair.

### REPORTS OF STANDING COMMITTEES

Senator Singleton, Chairman of the Committee on Public Health and Welfare, submitted the following report:

Mr. President: Your Committee on Public Health and Welfare, to which were referred **SBs 4, 1, 5** and **6**, begs leave to report that it has considered the same and recommends that the Senate Committee Substitute, hereto attached, do pass.

On motion of Senator Kenney, the Senate adjourned until 9:30 a.m., Friday, September 7, 2001.

### SENATE CALENDAR

---

THIRD DAY FRIDAY, SEPTEMBER 7, 2001

---

### FORMAL CALENDAR

THIRD READING OF SENATE BILLS

SB 2-Cauthorn, et al

SENATE BILLS FOR PERFECTION

SBs 4, 1, 5 & 6-Singleton, et al,  
with SCS

Unofficial

Journal

Copy