

Journal of the Senate

SECOND REGULAR SESSION

FIFTY-FIRST DAY—WEDNESDAY, APRIL 10, 2002

The Senate met pursuant to adjournment.

President Maxwell in the Chair.

Reverend Carl Gauck offered the following prayer:

“A nation is molded by the test that its peoples meet and master.” (President Lyndon B. Johnson, 3/20/1965)

Gracious God, we pray for Your presence in our lives as we deal with the tests that confront us. These Senators wrestle with what they believe can help the most people recognizing that each cut in the budget affects the lives of people who are entrusted to their care. Abide with them and guide their hearts and minds, as You would have them meet the test that confronts them. 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

| | | | |
|----------|---------|---------|-----------|
| Bentley | Bland | Caskey | Cauthorn |
| Childers | Coleman | DePasco | Dougherty |
| Foster | Gibbons | Goode | Gross |

| | | | |
|---------|-----------|---------|-----------|
| House | Jacob | Johnson | Kennedy |
| Kenney | Kinder | Klarich | Klindt |
| Loudon | Mathewson | Quick | Rohrbach |
| Russell | Schneider | Sims | Singleton |
| Staples | Steelman | Stoll | Westfall |
| Wiggins | Yeckel—34 | | |

Absent with leave—Senators—None

The Lieutenant Governor was present.

Senator Gibbons assumed the Chair.

CONCURRENT RESOLUTIONS

Senator Staples moved that **HCR 20** be taken up for adoption, which motion prevailed.

On motion of Senator Staples, **HCR 20** was adopted by the following vote:

YEAS—Senators

| | | | |
|-----------|---------|-----------|-----------|
| Bentley | Bland | Caskey | Cauthorn |
| Childers | Coleman | DePasco | Dougherty |
| Foster | Gibbons | Gross | House |
| Johnson | Kennedy | Kenney | Kinder |
| Klarich | Klindt | Loudon | Mathewson |
| Rohrbach | Russell | Schneider | Sims |
| Singleton | Staples | Steelman | Stoll |
| Westfall | Wiggins | Yeckel—31 | |

NAYS—Senators—None

Absent—Senators

Goode Jacob Quick—3

Absent with leave—Senators—None

Senator Klarich requested unanimous consent of the Senate for the Committee on Judiciary to meet while the Senate is in session, which request was granted.

THIRD READING OF SENATE BILLS

SS for **SCS** for **SBs 969, 673 and 855**, introduced by Senator Westfall, entitled:

**SENATE SUBSTITUTE FOR
SENATE COMMITTEE SUBSTITUTE FOR
SENATE BILLS NOS. 969, 673 and 855**

An Act to repeal sections 43.540, 217.690, 556.061, 589.400, 589.410, 589.417 and 632.483, RSMo, relating to sexual offenses, and to enact in lieu thereof thirteen new sections relating to the same subject, with penalty provisions and an emergency clause.

Was taken up.

On motion of Senator Westfall, **SS** for **SCS** for **SBs 969, 673 and 855** was read the 3rd time and passed by the following vote:

YEAS—Senators

| | | | |
|----------|-----------|-----------|-----------|
| Bentley | Bland | Caskey | Cauthorn |
| Childers | Coleman | DePasco | Dougherty |
| Foster | Gibbons | Goode | Gross |
| House | Johnson | Kennedy | Kenney |
| Kinder | Klarich | Klindt | Loudon |
| Russell | Schneider | Sims | Steelman |
| Westfall | Wiggins | Yeckel—27 | |

NAYS—Senator Rohrbach—1

Absent—Senators

Jacob Mathewson Quick Singleton
Staples Stoll—6

Absent with leave—Senators—None

The President declared the bill passed.

Senator Klarich assumed the Chair.

The emergency clause was adopted by the following vote:

YEAS—Senators

| | | | |
|-----------|---------|-----------|-----------|
| Bentley | Bland | Caskey | Cauthorn |
| Childers | Coleman | DePasco | Dougherty |
| Foster | Gibbons | Goode | Gross |
| House | Johnson | Kennedy | Kenney |
| Kinder | Klarich | Klindt | Loudon |
| Mathewson | Russell | Schneider | Sims |
| Steelman | Stoll | Westfall | Wiggins |
| Yeckel—29 | | | |

NAYS—Senator Rohrbach—1

Absent—Senators

Jacob Quick Singleton Staples—4

Absent with leave—Senators—None

On motion of Senator Westfall, title to the bill was agreed to.

Senator Westfall moved that the vote by which the bill passed be reconsidered.

Senator Kenney moved that motion lay on the table, which motion prevailed.

SENATE BILLS FOR PERFECTION

Senator Westfall moved that **SB 662** and **SB 704**, with **SCS** and **SA 4** (pending), be called from the Informal Calendar and again taken up for perfection, which motion prevailed.

SA 4 was again taken up.

At the request of Senator Westfall, the above amendment was withdrawn.

Senator Westfall offered **SA 5**:

SENATE AMENDMENT NO. 5

Amend Senate Committee Substitute for Senate Bills Nos. 662 and 704, Page 6, Section 367.044, Line 8, by inserting after all of said line the following:

“(3) **“Designee”, any person or entity designated by a claimant to present proof of ownership to a pawnbroker and to demand return of misappropriated property from a pawnbroker, including, but not limited to, law enforcement officers;**”; and further amend said line 24, by inserting after all of said line the following:

“(7) **“Proof of ownership”, a bill of sale or other proper evidence of ownership;**”; and further amend said section by renumbering the subdivisions accordingly; and further amend lines 27 to 37, by striking said lines; and

Further amend said bill and section, Page 7, Lines 38 to 72, by striking said lines; and

Further amend said bill and section, Page 8, Lines 73 to 91, by striking said lines and inserting in lieu thereof the following:

“2. A pawnbroker shall have no recourse against the pledgor for payment on a pawn transaction except the pledged goods themselves, unless the goods are found to have been misappropriated.

3. [To obtain possession of tangible personal property held by a pawnbroker which a claimant claims to be misappropriated, the claimant may file a petition in a court of competent jurisdiction in the county where the theft occurred or where the pawnbroker's pawnshop is located, requesting the return of the property, naming the pawnbroker as a defendant and serving the pawnbroker with the petition. The provisions of section 482.305, RSMo, to the contrary notwithstanding, a court of competent jurisdiction shall include a small claims court, even if the value of the property named in the petition is greater than three thousand dollars. Upon receiving notice that a petition has been filed by a claimant for the return of property in the pawnbroker's possession, the pawnbroker shall hold the property identified in the claimant's petition until the right to possession is resolved by the parties or by a court of competent jurisdiction.

4. Upon being served notice that a petition has been filed pursuant to this section, the pawnbroker may, after determining the validity of the claimant's claim, return the property to the claimant prior to a decision being rendered on the claimant's petition by the court. The pawnbroker shall return the property to the claimant free of any principal, interest and service charges, conditioned only upon the claimant withdrawing the petition filed with a court of competent jurisdiction seeking the disposition of said property. Property voluntarily returned by a pawnbroker to a claimant subject to this subsection shall be returned:

(1) Immediately when the property is not subject to a pawn transaction contract; and

(2) When the property is subject to a pawn transaction contract, the pawnbroker shall deliver the property to the claimant immediately upon the termination of the pawn transaction contract, except that if the pledgor of the property subject to a claimant's claim attempts to redeem the property as provided for by the pawn transaction contract, the pawnbroker may collect any principal, interest or service charges due and shall hold the property until the right to possession is resolved by the parties or by a court of competent jurisdiction.

The provisions of this section to the contrary notwithstanding, the pawnbroker shall not be required to pay any costs incurred by the claimant and the claimant shall not be required to pay any costs incurred by the pawnbroker when the property subject to the claimant's petition is returned to the claimant pursuant to this subsection.

5. When a claimant files a petition pursuant to this section, the pawnbroker may bring the conveying customer of the alleged misappropriated property into that action as a third-party defendant. When a claimant files a petition pursuant to this section, the pawnbroker shall bring the conveying customer of the alleged misappropriated property into that action as a third-party defendant if the pawnbroker has collected any principal, interest or service charges pursuant to subdivision (2) of

subsection 4 of this section. If after notice to the pawnbroker and an opportunity to add the conveying customer as a defendant, the property in the possession of the pawnbroker is found by a court of competent jurisdiction to be the claimant's property and the property is awarded to the claimant by the court, then:

(1) The prevailing claimant may recover from the pawnbroker the cost of the action, including attorney's fees;

(2) The conveying customer shall be liable to repay the pawnbroker the full amount received from the pawnbroker from the pawn or sales transaction, including all applicable fees and interest charged and the costs incurred by the pawnbroker in pursuing the procedure described in this section, including attorney's fees. **If any seller or pledgor fails to provide a pawnbroker with proof of ownership of the property sold or pledged to the pawnbroker, the pawnbroker shall hold such property for a period of six months prior to selling or otherwise transferring such property, provided, a pledgor may redeem the pledged property at any time upon performance of the contract with the pawnbroker.**

4. Any claimant whose property was misappropriated and subsequently pledged or sold to a pawnbroker may, personally or by designee, demand return of the misappropriated property upon proof of ownership.

(1) If the property demanded by a claimant or claimant's designee was sold or pledged to a pawnbroker by a conveying customer without proof of ownership, and the demand by claimant or claimant's designee occurs within six months of the sale or pledge, the pawnbroker shall return the property to claimant or claimant's designee.

(2) If the property demanded by a claimant or claimant's designee was sold or pledged to a pawnbroker by a conveying customer with

proof of ownership, or by a conveying customer without proof of ownership and the demand by claimant or claimant's designee occurs six months or more after the sale or pledge, the pawnbroker may return the property to claimant or claimant's designee.

5. If a pawnbroker refuses to deliver property to a claimant or designee upon proof of ownership, or if a pawnbroker relinquishes possession but still claims an ownership interest in the property, either the claimant or the pawnbroker may file a petition in a court of competent jurisdiction requesting return of the property, provided, the non-prevailing party shall be responsible for costs of the action and the reasonable attorney's fees of the prevailing party.

6. The filing of a petition pursuant to the provisions of this section shall be in the county where the theft occurred or where the pawnbroker's pawnshop is located. The provisions of section 482.305, RSMo, to the contrary notwithstanding, a court of competent jurisdiction shall include a small claims court, even if the value of the property named in the petition is greater than three thousand dollars. Upon receiving notice that a petition has been filed, the party with possession of the property shall hold the property identified in the petition until the right to possession is resolved by the parties or the court.

7. Nothing contained in this section shall limit a pawnbroker from bringing the conveying customer into a suit as a third-party, nor limit a pawnbroker from recovering from a conveying customer repayment of the full amount received from the pawnbroker from the pawn or sales transaction, including all applicable fees and interest charged, attorney's fees and the cost of the action."

Senator Westfall moved that the above amendment be adopted.

Senator Westfall offered **SSA 1** for **SA 5**:

**SENATE SUBSTITUTE AMENDMENT NO. 1
FOR SENATE AMENDMENT NO. 5**

Amend Senate Committee Substitute for Senate Bills Nos. 662 and 704, Page 6, Section 367.044, Line 8, by inserting after all of said line the following:

“(3) ‘‘Designee’’, any person or entity designated by a claimant to present proof of ownership to a pawnbroker and to demand return of misappropriated property from a pawnbroker, including, but not limited to, law enforcement officers;’’; and further amend said line 24, by inserting after all of said line the following:

“(7) ‘‘Proof of ownership’’, a bill of sale or other proper evidence of ownership;’’; and further amend said section by renumbering the subdivisions accordingly; and further amend lines 27 to 37, by striking said lines; and

Further amend said bill and section, Page 7, Lines 38 to 72, by striking said lines; and

Further amend said bill and section, Page 8, Lines 73 to 91, by striking said lines and inserting in lieu thereof the following:

“2. A pawnbroker shall have no recourse against the pledgor for payment on a pawn transaction except the pledged goods themselves, unless the goods are found to have been misappropriated.

3. [To obtain possession of tangible personal property held by a pawnbroker which a claimant claims to be misappropriated, the claimant may file a petition in a court of competent jurisdiction in the county where the theft occurred or where the pawnbroker's pawnshop is located, requesting the return of the property, naming the pawnbroker as a defendant and serving the pawnbroker with the petition. The provisions of section 482.305, RSMo, to the contrary notwithstanding, a court of competent jurisdiction shall include a small claims

court, even if the value of the property named in the petition is greater than three thousand dollars. Upon receiving notice that a petition has been filed by a claimant for the return of property in the pawnbroker's possession, the pawnbroker shall hold the property identified in the claimant's petition until the right to possession is resolved by the parties or by a court of competent jurisdiction.

4. Upon being served notice that a petition has been filed pursuant to this section, the pawnbroker may, after determining the validity of the claimant's claim, return the property to the claimant prior to a decision being rendered on the claimant's petition by the court. The pawnbroker shall return the property to the claimant free of any principal, interest and service charges, conditioned only upon the claimant withdrawing the petition filed with a court of competent jurisdiction seeking the disposition of said property. Property voluntarily returned by a pawnbroker to a claimant subject to this subsection shall be returned:

(1) Immediately when the property is not subject to a pawn transaction contract; and

(2) When the property is subject to a pawn transaction contract, the pawnbroker shall deliver the property to the claimant immediately upon the termination of the pawn transaction contract, except that if the pledgor of the property subject to a claimant's claim attempts to redeem the property as provided for by the pawn transaction contract, the pawnbroker may collect any principal, interest or service charges due and shall hold the property until the right to possession is resolved by the parties or by a court of competent jurisdiction.

The provisions of this section to the contrary notwithstanding, the pawnbroker shall not be required to pay any costs incurred by the claimant and the claimant shall not be required to pay any costs incurred by the pawnbroker when the property subject to the claimant's petition is returned to the claimant pursuant to this subsection.

5. When a claimant files a petition pursuant to

this section, the pawnbroker may bring the conveying customer of the alleged misappropriated property into that action as a third-party defendant. When a claimant files a petition pursuant to this section, the pawnbroker shall bring the conveying customer of the alleged misappropriated property into that action as a third-party defendant if the pawnbroker has collected any principal, interest or service charges pursuant to subdivision (2) of subsection 4 of this section. If after notice to the pawnbroker and an opportunity to add the conveying customer as a defendant, the property in the possession of the pawnbroker is found by a court of competent jurisdiction to be the claimant's property and the property is awarded to the claimant by the court, then:

(1) The prevailing claimant may recover from the pawnbroker the cost of the action, including attorney's fees;

(2) The conveying customer shall be liable to repay the pawnbroker the full amount received from the pawnbroker from the pawn or sales transaction, including all applicable fees and interest charged and the costs incurred by the pawnbroker in pursuing the procedure described in this section, including attorney's fees.] **A pawnbroker shall require of every person from whom the pawnbroker receives sold or pledged property the following:**

(1) Proof of identification; and

(2) A signed statement that the seller or pledgor is the legal owner of the property and stating when, where, and in what manner such property was acquired by the seller or pledgor.

4. If any seller or pledgor fails to provide a pawnbroker with proof of ownership of the property sold or pledged to the pawnbroker, the pawnbroker shall hold such property for a period of ninety days prior to selling or otherwise transferring such property, provided, a pledgor may redeem the pledged property at any time upon performance of the contract with

the pawnbroker.

5. Any claimant whose property was misappropriated and subsequently pledged or sold to a pawnbroker may, personally or by designee, demand return of the misappropriated property upon proof of ownership.

6. If a pawnbroker refuses to deliver property to a claimant or designee upon proof of ownership, or if a pawnbroker relinquishes possession but still claims an ownership interest in the property, either the claimant or the pawnbroker may file a petition in a court of competent jurisdiction requesting return of the property, provided, the non-prevailing party shall be responsible for costs of the action and the reasonable attorney's fees of the prevailing party.

7. The filing of a petition pursuant to the provisions of this section shall be in the county where the theft occurred or where the pawnbroker's pawnshop is located. The provisions of section 482.305, RSMo, to the contrary notwithstanding, a court of competent jurisdiction shall include a small claims court, even if the value of the property named in the petition is greater than three thousand dollars. Upon receiving notice that a petition has been filed, the party with possession of the property shall hold the property identified in the petition until the right to possession is resolved by the parties or the court.

8. Nothing contained in this section shall limit a pawnbroker from bringing the conveying customer into a suit as a third-party, nor limit a pawnbroker from recovering from a conveying customer repayment of the full amount received from the pawnbroker from the pawn or sales transaction, including all applicable fees and interest charged, attorney's fees and the cost of the action."

Senator Westfall moved that the above substitute amendment be adopted.

Senator Kenney offered **SA 1** to **SSA 1** for **SA 5**:

SENATE AMENDMENT NO. 1 TO
SENATE SUBSTITUTE AMENDMENT NO. 1
FOR SENATE AMENDMENT NO. 5

Amend Senate Substitute Amendment No. 1 for Senate Amendment No. 5 to Senate Committee Substitute for Senate Bills Nos. 662 and 704, Page 4, Section 367.044, Line 23 of said page, by inserting immediately after the word “ownership” the following: “, and the production of a police or sheriff report indicating said property was stolen”; and further amend line 25 of said page, by inserting immediately after the word “ownership” the following: “, and the production of a police or sheriff report indicating said property was stolen”.

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

SSA 1 for **SA 5**, as amended, was again taken up.

Senator Westfall moved that the above substitute amendment, as amended, be adopted, which motion prevailed.

Senator Caskey offered **SA 6**:

SENATE AMENDMENT NO. 6

Amend Senate Committee Substitute for Senate Bills Nos. 662 and 704, Page 10, Section 570.020, Line 22, by inserting after all of said line the following:

“570.030. 1. A person commits the crime of stealing if he or she appropriates property or services of another with the purpose to deprive him or her thereof, either without his or her consent or by means of deceit or coercion.

2. Evidence of the following is admissible in any criminal prosecution under this section on the issue of the requisite knowledge or belief of the alleged stealer:

(1) That he or she failed or refused to pay for property or services of a hotel, restaurant, inn or

boardinghouse;

(2) That he or she gave in payment for property or services of a hotel, restaurant, inn or boardinghouse a check or negotiable paper on which payment was refused;

(3) That he or she left the hotel, restaurant, inn or boardinghouse with the intent to not pay for property or services;

(4) That he or she surreptitiously removed or attempted to remove his or her baggage from a hotel, inn or boardinghouse.

3. Stealing is a class C felony if:

(1) The value of the property or services appropriated is [seven hundred fifty] **five hundred** dollars or more; or

(2) The actor physically takes the property appropriated from the person of the victim; or

(3) The property appropriated consists of:

(a) Any motor vehicle, watercraft or aircraft; or

(b) Any will or unrecorded deed affecting real property; or

(c) Any credit card or letter of credit; or

(d) Any firearms; or

(e) A United States national flag designed, intended and used for display on buildings or stationary flagstaffs in the open; or

(f) Any original copy of an act, bill or resolution, introduced or acted upon by the legislature of the state of Missouri; or

(g) Any pleading, notice, judgment or any other record or entry of any court of this state, any other state or of the United States; or

(h) Any book of registration or list of voters required by chapter 115, RSMo; or

(i) Any animal of the species of horse, mule, ass, cattle, swine, sheep, or goat; or

(j) Live fish raised for commercial sale with a value of seventy-five dollars; or

(k) Any controlled substance as defined by section 195.010, RSMo.

4. If an actor appropriates any material with a value less than one hundred fifty dollars in violation of this section with the intent to use such material to manufacture, compound, produce, prepare, test or analyze amphetamine or methamphetamine or any of their analogues, then such violation is a class D felony. The theft of any amount of anhydrous ammonia or liquid nitrogen, or any attempt to steal any amount of anhydrous ammonia or liquid nitrogen, is a class C felony. The theft of any amount of anhydrous ammonia by appropriation of a tank truck, tank trailer, rail tank car, bulk storage tank, field (nurse) tank or field applicator is a class A felony.

5. The theft of any item of property or services under subsection 3 of this section which exceeds [seven hundred fifty] **five hundred** dollars may be considered a separate felony and may be charged in separate counts.

6. Any person with a prior conviction of paragraph (i) of subdivision (3) of subsection 3 of this section and who violates the provisions of paragraph (i) of subdivision (3) of subsection 3 of this section when the value of the animal or animals stolen exceeds three thousand dollars is guilty of a class B felony.

7. Any violation of this section for which no other penalty is specified in this section is a class A misdemeanor.”; and

Further amend the title and enacting clause accordingly.

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

Senator Westfall moved that **SCS** for **SBs 662** and **704**, as amended, be adopted, which motion prevailed.

On motion of Senator Westfall, **SCS** for **SBs 662** and **704**, as amended, was declared perfected and ordered printed.

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

REPORTS OF STANDING COMMITTEES

Senator Kenney, 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 884** and **SS** for **SCS** for **SB 1059**, 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.

SENATE BILLS FOR PERFECTION

Senator Westfall moved that **SB 1103** be taken up for perfection, which motion prevailed.

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

SENATE AMENDMENT NO. 1

Amend Senate Bill No. 1103, Page 1, Section 10.140, Line 1, by deleting “**Missouri Fox Trotting Horse**” and inserting “**Arabian**”.

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

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

SENATE AMENDMENT NO. 2

Amend Senate Bill No. 1103, Page 1, Section 10.140, Line 1, by adding after the word “The”, “**Arabian and**” and by adding an “s” to “**horse**” on the same line.

Senator Singleton moved that the above amendment be adopted.

At the request of Senator Westfall, **SB 1103**, with **SA 2** (pending), was placed on the Informal Calendar.

Senator Loudon moved that **SB 1005** be called

from the Informal Calendar and taken up for perfection, which motion prevailed.

On motion of Senator Loudon, **SB 1005** was declared perfected and ordered printed.

MESSAGES FROM THE GOVERNOR

The following messages were received from the Governor, reading of which was waived:

OFFICE OF THE GOVERNOR
State of Missouri
Jefferson City, Missouri
April 9, 2002

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

I have the honor to transmit to you herewith for your advice and consent the following appointment to office:

John T. Adams, 1818 Hickory Street, St. Louis City, Missouri 63104, as a member of the Missouri State Committee of Interpreters, for a term ending October 9, 2003, and until his successor is duly appointed and qualified; vice, William Ross, resigned.

Respectfully submitted,
BOB HOLDEN
Governor

Also,

OFFICE OF THE GOVERNOR
State of Missouri
Jefferson City, Missouri
April 9, 2002

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

I have the honor to transmit to you herewith for your advice and consent the following appointment to office:

John Scott George, 2605 Kayla Lane, Mount Vernon, Lawrence County, Missouri 65712, as a member of the Missouri Board of Examiners for Hearing Instrument Specialists, for a term ending January 11, 2006, and until his successor is duly appointed and qualified; vice, Nancy Frasier, term expired.

Respectfully submitted,
BOB HOLDEN
Governor

Also,

OFFICE OF THE GOVERNOR
State of Missouri
Jefferson City, Missouri
April 9, 2002

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

I have the honor to transmit to you herewith for your advice and consent the following appointment to office:

Carol A. Moya, Democrat, 89 Stonecrest, St. Joseph, Buchanan County, Missouri 64506, as a member of the Board of Regents for Missouri Western State College, for a term ending October 28, 2007, and until her successor is duly appointed and qualified; vice, Karen Baker, term expired.

Respectfully submitted,
BOB HOLDEN
Governor

Also,

OFFICE OF THE GOVERNOR
State of Missouri
Jefferson City, Missouri
April 9, 2002

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

I have the honor to transmit to you herewith for your advice and consent the following appointment to office:

Joyce E. Murphy, 1150 Choctaw Ridge, Holts Summit, Callaway County, Missouri 65043, as a member of the Missouri State Public Employees Deferred Compensation Commission, for a term ending November 20, 2003, and until her successor is duly appointed and qualified; vice, Sheila Greenbaum, term expired.

Respectfully submitted,
BOB HOLDEN
Governor

Also,

OFFICE OF THE GOVERNOR
State of Missouri
Jefferson City, Missouri
April 9, 2002

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

I have the honor to transmit to you herewith for your advice and consent the following appointment to office:

John J. Puetz, M.D., 16265 Quail Valley Drive, Wildwood, St. Louis County, Missouri 63005, as a member of the Missouri

Genetic Advisory Committee, for a term ending April 9, 2004, and until his successor is duly appointed and qualified; vice, RSMo. 191.305.

Respectfully submitted,
BOB HOLDEN
Governor

Also,

OFFICE OF THE GOVERNOR
State of Missouri
Jefferson City, Missouri
April 9, 2002

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

I have the honor to transmit to you herewith for your advice and consent the following appointment to office:

Anne G. Rottmann, 1409 Greenberry Road, Jefferson City, Cole County, Missouri 65101, as a member of the State Historical Records Advisory Board, for a term ending November 1, 2004, and until her successor is duly appointed and qualified; vice, reappointed to a full term.

Respectfully submitted,
BOB HOLDEN
Governor

Also,

OFFICE OF THE GOVERNOR
State of Missouri
Jefferson City, Missouri
April 9, 2002

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

I have the honor to transmit to you herewith for your advice and consent the following appointment to office:

Katherine A. Tyler, Democrat, 2110 South Owings Street, Oak Grove, Jackson County, Missouri 64075, as a member of the Missouri Board for Respiratory Care, for a term ending April 3, 2005, and until her successor is duly appointed and qualified; vice, reappointed to a full term.

Respectfully submitted,
BOB HOLDEN
Governor

President Pro Tem Kinder referred the above appointments to the Committee on Gubernatorial Appointments.

On motion of Senator Kenney, the Senate recessed until 2:00 p.m.

RECESS

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

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

Senator Sims requested unanimous consent of the Senate for the Committee on Aging, Families and Mental Health to meet while the Senate is in session, which request was granted.

RESOLUTIONS

Senator Klindt offered Senate Resolution No. 1464, regarding Wilma Jean Wilson, Blythedale, which was adopted.

Senator Schneider offered Senate Resolution No. 1465, regarding Jonathan Paul Hedge, Granite City, Illinois, which was adopted.

Senator Rohrbach offered Senate Resolution No. 1466, regarding Viola Brauner, Eugene, which was adopted.

Senator Bland offered Senate Resolution No. 1467, regarding the National Education Association Black Caucus, which was adopted.

SENATE BILLS FOR PERFECTION

Senator Westfall moved that **SB 915**, **SB 710** and **SB 907**, with **SCS**, be taken up for perfection, which motion prevailed.

SCS for **SBs 915**, **710** and **907**, entitled:

SENATE COMMITTEE SUBSTITUTE FOR
SENATE BILLS NOS. 915, 710 and 907

An Act to repeal sections 142.803, 144.020, 144.440, 144.700 and 226.200, RSMo, relating to measures to increase funding for transportation, and to enact in lieu thereof six new sections relating to the same subject, with a referendum clause, effective date and a contingent termination

date for certain sections.

Was taken up.

Senator Westfall moved that **SCS** for **SBs 915, 710** and **907** be adopted.

Senator Rohrbach assumed the Chair.

Senator Gross assumed the Chair.

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

SENATE AMENDMENT NO. 1

Amend Senate Committee Substitute for Senate Bills Nos. 915, 710 and 907, Page 1, Section 142.803, Line 5, by deleting the words “twenty-three” and inserting in lieu thereof “nineteen”.

Senator Klindt moved that the above amendment be adopted.

Senator Staples requested a roll call vote be taken on the adoption of **SA 1** and was joined in his request by Senators House, Jacob, Kennedy and Westfall.

SA 1 failed of adoption by the following vote:

YEAS—Senators

| | | | |
|------------|--------|--------|--------|
| Cauthorn | Foster | Kinder | Klindt |
| Steelman—5 | | | |

NAYS—Senators

| | | | |
|-----------|-----------|-----------|-----------|
| Bentley | Bland | Caskey | Childers |
| Coleman | Dougherty | Gibbons | Goode |
| Gross | House | Jacob | Johnson |
| Kennedy | Kenney | Klarich | Loudon |
| Mathewson | Quick | Rohrbach | Russell |
| Schneider | Sims | Singleton | Staples |
| Stoll | Westfall | Wiggins | Yeckel—28 |

Absent—Senator DePasco—1

Absent with leave—Senators—None

Senator Klindt offered **SA 2**:

SENATE AMENDMENT NO. 2

Amend Senate Committee Substitute for Senate Bills Nos. 915, 710 and 907, Page 5,

Section 144.700, Line 12, by striking the word “and” as it appears at the end of said line; and further amend line 16, by inserting after “RSMo” the following: “; and

(4) Effective July 1, 2005, fifteen percent of the revenue derived from the rate of three-eighths cents on the dollar of the tax imposed by this act shall be deposited to the state road fund as established in section 226.220, RSMo. For the following fiscal year thirty percent of said revenue shall be deposited to the state road fund as established in section 226.220, RSMo. On the following fiscal year forty-five percent of said revenue shall be deposited to the state road fund as established in section 226.220, RSMo. On the following fiscal year sixty percent of said revenue shall be deposited to the state road fund as established in section 226.220, RSMo. On the following fiscal year eighty percent of the revenue derived from the rate of three-eighths cents on the dollar of the tax imposed by this act shall be deposited to the state road fund. For every subsequent fiscal year, the state road fund shall receive eighty percent of the revenue derived from the rate of three-eighths cents on the dollar of the tax imposed by this act;”.

Senator Klindt moved that the above amendment be adopted.

Senator Rohrbach offered **SA 1** to **SA 2**, which was read:

SENATE AMENDMENT NO. 1 TO
SENATE AMENDMENT NO. 2

Amend Senate Amendment No. 2 to Senate Committee Substitute for Senate Bills Nos. 915, 710 and 907, Page 1, Section 144.700, Line 6, by deleting all of said line and inserting in lieu thereof the following: “**the increased sales tax imposed by this act**”; and further amend lines 19-20, by deleting “three-eighths cents on the dollar of the” and insert in lieu thereof the following: “**the increased sales**”; and further amend page 2, section 144.700, line 1, by deleting all of said line

and inserting in lieu thereof the following: **“the increased sales”**.

Senator Rohrbach moved that the above amendment be adopted.

At the request of Senator Rohrbach, **SA 1** to **SA 2** was withdrawn.

Senator Rohrbach offered **SA 2** to **SA 2**, which was read:

SENATE AMENDMENT NO. 2 TO
SENATE AMENDMENT NO. 2

Amend Senate Amendment No. 2 to Senate Committee Substitute for Senate Bills Nos. 915, 710 and 907, Page 1, Section 144.700, Line 6, by deleting “three-eighths cents on the dollar of the” and inserting in lieu thereof the following: **“the increased sales”**; and further amend said page and section, line 17, by deleting all of said line and inserting in lieu thereof the following: **“the increased sales tax imposed by this act”**; and further amend lines 20-21, by deleting “three-eighths cents on the dollar of the” and inserting in lieu thereof **“the increased sales”**.

Senator Rohrbach moved that the above amendment be adopted and requested a roll call vote be taken. He was joined in his request by Senators Cauthorn, Childers, Stoll and Westfall.

SA 2 to **SA 2** failed of adoption by the following vote:

| | | | |
|---------------|----------|-----------|-----------|
| YEAS—Senators | | | |
| Foster | Gross | Klindt | Rohrbach |
| Steelman—5 | | | |
| NAYS—Senators | | | |
| Caskey | Cauthorn | Childers | Coleman |
| Dougherty | Gibbons | Goode | House |
| Jacob | Johnson | Kennedy | Kenney |
| Kinder | Klarich | Loudon | Mathewson |
| Quick | Russell | Schneider | Sims |
| Singleton | Stoll | Westfall | Wiggins |
| Yeckel—25 | | | |

| | | | |
|-----------------|-------|---------|-----------|
| Absent—Senators | | | |
| Bentley | Bland | DePasco | Staples—4 |

Absent with leave—Senators—None

Senator Rohrbach offered **SSA 1** for **SA 2**, which was read:

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

Amend Senate Committee Substitute for Senate Bills Nos. 915, 710 and 907, Page 5, Section 144.700, Lines 9-12, by striking all of said lines and inserting in lieu thereof the following:

“(2) All of the revenue derived from the increased sales tax imposed by this act shall be deposited to the state road fund as established in section 226.220, RSMo.; and”.

Senator Rohrbach moved that the above substitute amendment be adopted.

Senator Childers assumed the Chair.

Senator Staples requested a roll call vote be taken on the adoption of **SSA 1** for **SA 2** and was joined in his request by Senators Bentley, Cauthorn, Johnson and Rohrbach.

SSA 1 for **SA 2** failed of adoption by the following vote:

| | | | |
|---------------|-----------|----------|---------|
| YEAS—Senators | | | |
| Foster | Gross | Kinder | Klarich |
| Rohrbach | Singleton | Yeckel—7 | |

| | | | |
|---------------|---------|-----------|-----------|
| NAYS—Senators | | | |
| Bentley | Bland | Caskey | Cauthorn |
| Childers | Coleman | Dougherty | Gibbons |
| Goode | House | Jacob | Johnson |
| Kennedy | Kenney | Klindt | Loudon |
| Mathewson | Quick | Russell | Schneider |
| Sims | Staples | Steelman | Westfall |
| Wiggins—25 | | | |

| | |
|-----------------|---------|
| Absent—Senators | |
| DePasco | Stoll—2 |

Absent with leave—Senators—None

At the request of Senator Westfall, **SB 915**, **SB 710** and **SB 907**, with **SCS** and **SA 2** (pending), were placed on the Informal Calendar.

INTRODUCTIONS OF GUESTS

Senator Klarich introduced to the Senate, Dennis Corrigan and his daughter, Grace, Wildwood; and Grace was made an honorary page.

Senator Singleton introduced to the Senate, Peggy and Larry Neff, Neosho; and Linda and Doug Brooks, Joplin.

Senator Staples introduced to the Senate, John Scott, St. Louis; and Jack Pierce, Jefferson City.

Senator Westfall introduced to the Senate, Mark Marler, Gina Rudder, Bill Kirby, Boone Middleton, Bus Drivers Kathy and Marlene, and 50 eighth grade students from Marionville High School, Marionville.

Senator Gross introduced to the Senate, Brenda D. Newberry, St. Peters; and Jill Schroeder, St. Louis County.

Senator Bentley introduced to the Senate, Mike Faust, Washington, D.C.; and Dr. John Hume, Springfield.

Senator Staples introduced to the Senate, Debbie Lee, Angela Campbell, Zach Coleman, Stacey Ellis, Kenny Farkas, Kyle Gilliam, Clarissa Hafley, Amber Janis, Brian Kelley, Shannon Lee, Kayce Porterfield, Sarah Poston, Allen Robbins, Melisa Steinmetz and students from Mineral Area College, Park Hills.

Senator Steelman introduced to the Senate, Paul Stratman, and his son, Paul, Osage County; and Paul was made an honorary page.

Senator Rohrbach introduced to the Senate, Angela Sampson, McGirk.

On behalf of Senators Steelman, Klarich and himself, Senator Kenney introduced to the Senate, Mary Hall, and her children, Kimberly, Justic, Chava and Ellie, Salem; and Kimberly, Justic, Chava and Ellie were made honorary pages.

Senator Schneider introduced to the Senate, students from Walker Elementary School, North County St. Louis; and Alex Reynolds, Michael Bierce and Bradley Jacobson were made honorary pages.

Senator Klindt introduced to the Senate, members of Trenton Chamber of Commerce.

Senator Westfall introduced to the Senate, the Sho-Me Challenge Class, Nevada.

Senator Gross introduced to the Senate, Sami Huesemann and 75 fifth grade students, parents and teachers from Central Elementary School, St. Charles.

Senator Kenney introduced to the Senate, R.E., Laurel, Andrew, Ryan and Bret Morton, Kristina Haines and Doug, Myrna, Kristin and Alyssa Vaughan, Home Schoolers from Lee's Summit; and Alice Ruggles, Ozark; and Andrew, Kristin and Alyssa were made honorary pages.

On behalf of Senator Kinder and himself, Senator Kennedy introduced to the Senate, Libby Bullard, Beth Essner and E.J. Browne, Cape Girardeau.

Senator Yeckel introduced to the Senate, Nancy Werkmeister and students from St. Catherine Laboure School, St. Louis; and Courtney Brennan, Kyle Dachroeden, Alison Launhardt and Joe Macejak were made honorary pages.

Senator Singleton introduced to the Senate, Dr. Charles McGinty, D.D.S. and Dr. Ed McAllister, D.D.S., Joplin.

Senator Stoll introduced to the Senate, JoAnne Stone, Brian McClain, Elizabeth McClain, Dr. E. Herman, Dan and Diane Rowland, Sandy Weber, Mr. and Mrs. Jim Vinyard, Amy Miller, Josh Boedeker and 14 fourth grade students and adults from Sacred Heart School, Festus.

Senator Yeckel introduced to the Senate, former State Senator Irene Treppler, Wanda Winter, Lill Mueller, Terry Rupp and Ruth Alfeld, St. Louis County.

Senator Kinder introduced to the Senate, Dr. Jay Sheets, Dr. Susan Sheets, Dr. and Mrs. Shanon Kirchoff and Dr. David Johnson, Cape Girardeau; Dr. and Mrs. Stan Williams, Jackson; and Dr. Guy Deaton, Kansas City.

Senator Kennedy introduced to the Senate, Keaton Hanson, Ronda Bradley, Paula Peters, Doug Lang, Curtis Hartin, Don Lafata and Tom Hunt, St. Louis; and Keaton was made an honorary page.

Senator Foster introduced to the Senate, Libby Dust, Poplar Bluff; Kirk Yount, Cape Girardeau; and Garth Reynolds, Kim Byrd and Patty Yang, Illinois.

Senator Westfall introduced to the Senate, David McCann, Mt. Vernon.

Senator Westfall introduced to the Senate, Christy Burtman, Jeanne Johns, Susan Rapp, James Garton, Jennifer French, Jennie Roland and Alan Roland, Greene County.

Senator Singleton introduced to the Senate, Dr. Dan Haney, D.D.S., Joplin.

Senator Bland introduced to the Senate, Eric Neal, Nevada; and Christopher Clay Freeman and Rachinda Kay Anfinson, Kansas City.

Senator Russell introduced to the Senate, Dr. Dan Brady, Lebanon.

Senator Sims introduced to the Senate, 4 students from the College School of Webster Groves, St. Louis; and Jeffrey Z. Kwiatek, Alexandra C. Reed, Caleb S. Liberman and Rebecca L. Bayham were made honorary pages.

Senator Loudon introduced to the Senate, students from Bellerive Elementary School, Creve Coeur.

Senator Rohrbach introduced to the Senate, Tom Kolb, Mike Kehoe and Boy Scouts from St. Joseph's School, Jefferson City.

Senator Gibbons introduced to the Senate, Patty and Rebekah Mallett, St. Louis.

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

Journal

SENATE CALENDAR

FIFTY-SECOND DAY—THURSDAY, APRIL 11, 2002

FORMAL CALENDAR

HOUSE BILLS ON SECOND READING

HB 1338-Relford, et al

HCS for HB 1154

HB 1192-Harding and Boucher

HCS for HBs 1134, 1100 & 1559

HCS for HB 1451

HCS for HB 1425

HB 1634-Hoppe

HCS for HBs 1150, 1237 & 1327

HCS for HB 1711

HCS for HB 1398

HS for HB 1498-Johnson (90)

HB 1432-Foley

HB 1581-Clayton

HB 1418-Relford, et al

HCS for HB 1765
HS for HCS for HB 1906-Green (73)
HCS for HB 1817
HS for HCS for HB 1877-Foley
HB 1592-Hickey, et al
HCS for HB 1898
HCS for HB 1403
HCS for HB 1202
HCS for HBs 1344 & 1944
HS for HB 1994-Hosmer
HS for HCS for HB 1440-
Riback Wilson

HS for HB 1496-Green (73)
HS for HCS for HB 1762-Harding
HCS for HB 1689
HB 1851-Curls
HB 1795-Berkowitz, et al
HB 1837-Berkowitz, et al
HB 2087-Whorton, et al
HS for HCS for HBs 1461 &
1470-Seigfreid
HS for HCS for HB 1392-Davis
HB 1926-Fraser, et al
HB 1679-Crump

Unofficial

THIRD READING OF SENATE BILLS

SS for SCS for SBs 837,
866, 972 & 990-Cauthorn
(In Budget Control)
SCS for SBs 894, 975 & 927-Kinder
(In Budget Control)

SS for SCS for SBs 670 & 684-Sims
(In Budget Control)
SS for SCS for SB 884-DePasco
SS for SCS for SB 1059-Bentley

Journal

SENATE BILLS FOR PERFECTION

1. SBs 923, 828, 876, 694
& 736-Sims, with SCS
2. SB 676-Yeckel, et al, with SCS
3. SB 900-Goode, et al, with SCS
4. SB 1107-Childers, with SCS
5. SB 912-Mathewson, with SCS
6. SB 892-Kenney, with SCS
7. SB 910-Gibbons
8. SB 1104-Mathewson
9. SB 954-Loudon, with SCS
10. SB 1014-Klindt and Kinder
11. SB 1152-Klarich, with SCS
12. SBs 766, 1120 & 1121-
Steelman, with SCS
13. SB 926-Kenney, et al, with SCS
14. SB 1140-Rohrbach
15. SBs 1112 & 854-Caskey
and Russell, with SCS
16. SB 1111-Quick, with SCS
17. SB 689-Gibbons, et al, with SCS
18. SB 938-Cauthorn, et al
19. SB 1087-Gibbons, et al,
with SCS
20. SBs 1279, 1162 & 1164-
Kinder and Wiggins,
with SCS
21. SB 1248-Mathewson and
Kenney, with SCAs 1 & 2

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| <p>22. SB 971-Klindt, et al, with SCS</p> <p>23. SBs 1063 & 827-Rohrbach and Kenney, with SCS</p> <p>24. SB 1010-Sims</p> <p>25. SRB 1236-Rohrbach</p> <p>26. SB 1026-Kenney, et al, with SCS</p> <p>27. SB 1157-Klindt, with SCS</p> <p>28. SBs 1095 & 1195- Cauthorn, with SCS</p> <p>29. SB 1232-Singleton</p> <p>30. SB 1206-Bentley and Stoll</p> | <p>31. SB 878-Sims, with SCS</p> <p>32. SB 1060-Westfall, with SCS</p> <p>33. SB 1205-Yeckel</p> <p>34. SB 1040-Gibbons, et al, with SCS</p> <p>35. SB 1133-Gross, with SCS</p> <p>36. SB 1099-Childers, with SCS</p> <p>37. SB 739-Wiggins, with SCS</p> <p>38. SB 1105-Loudon</p> <p>39. SB 735-Steelman and Kinder, with SCS</p> <p>40. SB 713-Singleton</p> |
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Unofficial

INFORMAL CALENDAR

SENATE BILLS FOR PERFECTION

- | | |
|---|--|
| <p>SBs 641 & 705-Russell, et al, with SCS (pending)</p> <p>SB 647-Goode, with SCS (pending)</p> <p>SB 651-Singleton and Russell, with SCS (pending)</p> <p>SB 659-House and Kenney, with SS#2, SA 3 and SSA 1 for SA 3 (pending)</p> <p>SB 660-Westfall, et al, with SCS (pending)</p> <p>SB 668-Bentley, with SS & SA 1 (pending)</p> <p>SBs 688, 663, 691, 716, 759, 824 & 955-Gibbons, et al, with SCS, SS for SCS & SA 1 (pending)</p> <p>SB 881-Steelman and Yeckel, with SCS & SS for SCS (pending)</p> | <p>SBs 915, 710 & 907- Westfall, et al, with SCS & SA 2 (pending)</p> <p>SBs 958 & 657-Kinder, with SCS</p> <p>SBs 984 & 985-Steelman, with SCS, SS for SCS & SA 1 (pending)</p> <p>SB 1046-Gross and House, with SCS (pending)</p> <p>SB 1052-Sims, with SCS, SS for SCS, SA 1 & SA 1 to SA 1 (pending)</p> <p>SB 1103-Westfall, et al, with SA 2 (pending)</p> <p>SJR 23-Singleton, with SS, SA 1 & SSA 1 for SA 1 (pending)</p> |
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CONSENT CALENDAR

Senate Bills

Reported 2/5

SB 995-Rohrbach

BILLS IN CONFERENCE AND BILLS
CARRYING REQUEST MESSAGES

In Conference

HCS for HB 1115, with SCS
(Russell)

Unofficial

RESOLUTIONS

SR 1026-Jacob, with SA 1
(pending)

Journal
Reported from Committee

SCR 51-Mathewson and
Yeckel, with SCA 1

HCR 5-Reynolds
(Schneider)

HCR 7-Boykins and Barry
(Singleton)

SCR 43-Loudon, with SCS
HCS for HCR 11 (Kinder)

HCR 21-Boucher and
Kreider (Yeckel)

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MISCELLANEOUS

REMONSTRANCE 1-Caskey