

# Journal of the Senate

SECOND REGULAR SESSION

**ELEVENTH DAY—TUESDAY, JANUARY 27, 2004**

The Senate met pursuant to adjournment.

Senator Shields in the Chair.

Reverend Carl Gauck offered the following prayer:

“We know that all things work together for good to them that love God.” (Romans 8:28)

Almighty God, we know that You are our source of knowledge and courage and during difficult times You still work with us towards the end You desire we accomplish. So help us be mindful that in the most heated discussions and confusing of times You are in it all pointing to where You wish Your good to happen. 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 the Associated Press were given permission to take pictures in the Senate Chamber today.

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

Present—Senators  
Bartle            Bland            Bray            Callahan

|             |           |          |           |
|-------------|-----------|----------|-----------|
| Caskey      | Cauthorn  | Champion | Childers  |
| Clemens     | Coleman   | Days     | Dolan     |
| Dougherty   | Foster    | Gibbons  | Goode     |
| Griesheimer | Gross     | Jacob    | Kennedy   |
| Kinder      | Klindt    | Loudon   | Mathewson |
| Nodler      | Quick     | Russell  | Scott     |
| Shields     | Steelman  | Stoll    | Vogel     |
| Wheeler     | Yeckel—34 |          |           |

Absent with leave—Senators—None

## RESOLUTIONS

Senator Nodler offered Senate Resolution No. 1194, regarding Joseph Newman, Joplin, which was adopted.

## INTRODUCTION OF BILLS

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

**SB 1165**—By Russell.

An Act to repeal section 67.2015, RSMo, relating to taxation in any county of the third classification without a township form of government and with more than eight thousand three hundred but less than eight thousand four hundred inhabitants, with an effective date.

**SB 1166**—By Caskey.

An Act to repeal section 49.272, RSMo, and

to enact in lieu thereof one new section relating to civil fines for certain misdemeanors, with penalty provisions.

**SB 1167**—By Caskey.

An Act to repeal section 557.036, RSMo, and to enact in lieu thereof one new section relating to the role of court and jury in sentencing.

**SB 1168**—By Jacob.

An Act to repeal sections 402.199, 402.200, 402.205, 402.215, and 402.217, RSMo, and to enact in lieu thereof five new sections relating to the Missouri family trust.

**SB 1169**—By Jacob.

An Act to amend chapter 213, RSMo, by adding thereto one new section relating to age discrimination.

**SB 1170**—By Shields.

An Act to amend chapter 217, RSMo, by adding thereto one new section relating to the rehabilitation of certain offenders.

**SJR 45**—By Bartle and Gross.

Joint Resolution submitting to the qualified voters of Missouri, an amendment repealing sections 14, 15, 16, 17, 19, 20, 21, 25(a), 25(b), 25(c) (2), and 25 (d) of article V of the Constitution of Missouri, and adopting nine new sections in lieu thereof relating to the judiciary.

## MESSAGES FROM THE GOVERNOR

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

OFFICE OF THE GOVERNOR  
State of Missouri  
Jefferson City, Missouri  
January 26, 2004

TO THE SENATE OF THE 92nd 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:

Quentin C. Wilson, 765 Gabriel Court, Kirkwood, St. Louis County, Missouri 63122, as a member of the Midwestern Higher

Education Commission, for a term ending December 29, 2007, and until his successor is duly appointed and qualified; vice, Dr. Kala Stroup, resigned.

Respectfully submitted,  
BOB HOLDEN  
Governor

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

## SECOND READING OF CONCURRENT RESOLUTIONS

The following Concurrent Resolution was read the 2nd time and referred to the Committee indicated:

**SCR 31**—Rules, Joint Rules, Resolutions and Ethics.

## REFERRALS

President Pro Tem Kinder referred **SCR 32** to the Committee on Rules, Joint Rules, Resolutions and Ethics.

## SENATE BILLS FOR PERFECTION

Senator Klindt moved that **SB 739** be taken up for perfection, which motion prevailed.

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

### SENATE AMENDMENT NO. 1

Amend Senate Bill No. 739, Page 1, Section 640.015, Line 2, by adding “of all Departments and Agencies” after “Rules”.

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

At the request of Senator Klindt, **SB 739** was placed on the Informal Calendar.

## INTRODUCTION OF GUESTS

Senator Jacob introduced to the Senate, coaches and players of the University of Missouri Football Team; Coach Gary Pinkel, Athletic Director Mike Alden, Mark Alnutt, Coach Brian

Jones, Coach David Youst, Barry Odom, Alex Grinch, Terrance Curry, Ryan Edwards, Clint Matthews, Russ Bell, Diedric Harrington, Steve Sanchez, Sean Coffey, Cliff Young, Aattiah Ellison, Darius Outlaw, Jason Gannon and Bo Vemen.

Coach Gary Pinkel assumed the dias and addressed the members of the Senate.

Senator Shields assumed the Chair.

### SENATE BILLS FOR PERFECTION

Senator Klindt moved that **SB 739** be called from the Informal Calendar and again taken up for perfection, which motion prevailed.

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

#### SENATE AMENDMENT NO. 2

Amend Senate Bill No. 739, Page 2, Section 640.015.2, Lines 21, 24, 27, and 28, by deleting the words “**probable**” from line 21 of page 2 and inserting the word “**anticipated**” in lieu thereof; and

Further amending by deleting the words “**probable**” from line 24 of page 2 and inserting the word “**anticipated**” in lieu thereof; and

Further amending by deleting the words “**probable**” from line 27 of page 2 and inserting the word “**anticipated**” in lieu thereof; and

Further amending by deleting the words “**probable**” from line 28 of page 2 and inserting the word “**anticipated**” in lieu thereof.

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

Senator Caskey offered **SA 3**:

#### SENATE AMENDMENT NO. 3

Amend Senate Bill No. 739, Page 5, Section 640.018, Line 33, by inserting after said line:

**“Section 1. 1. If a refund mandated under article X, section 18, of the Missouri**

### Constitution from the following funds:

(1) The water and wastewater loan fund established pursuant to section 644.122, RSMo;

(2) The water pollution permit fee subaccount of the natural resources protection fund established in section 640.220;

(3) The water and wastewater loan revolving funds; or

(4) Any fund established by the office of administration for the sole purpose of receiving and distributing state match bond proceeds for the department of natural resources’ state revolving fund programs established pursuant to the federal Clean Water Act, the federal Safe Drinking Water Act, or any federal regulation authorized under either federal act; would violate the federal Clean Water Act, the federal Safe Drinking Water Act, or any federal regulation authorized under either federal act, the department of natural resources shall identify an equal amount from other funds appropriated to the department.

2. The commissioner of administration shall transfer the funds identified by the department, that would otherwise be transferred from the funds identified in subsection 1 of this section, to the state general revenue fund for any refund that occurs after August 28, 2003.”; and

Further amend the title and enacting clause accordingly.

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

Senator Klindt offered **SA 4**, which was read:

#### SENATE AMENDMENT NO. 4

Amend Senate Bill No. 739, Page 3, Section 640.015, Line 54, by inserting immediately after the word “data” the following: “**or when the peer-reviewed data is not reasonably available, a written explanation shall be filed at the time of the rule promulgation notice explaining why the**

**peer-reviewed data was not available to support the regulation. If the peer-reviewed data is not available, the department must provide all scientific references and the types, amount, and sources of scientific information that was used to develop the rule at the time of the rule promulgation notice”.**

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

Senator Days offered **SA 5**, which was read:

**SENATE AMENDMENT NO. 5**

Amend Senate Bill No. 739, Page 1, Section 640.015, Line 18, by striking all of said line; and

Further amend said bill and section, page 2, lines 19-20, by striking all of said lines; and further amend said section by renumbering the remaining subdivisions accordingly.

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

Senator Coleman offered **SA 6**, which was read:

**SENATE AMENDMENT NO. 6**

Amend Senate Bill No. 739, Page 2, Section 640.015, Lines 36-37, by striking all of said lines; and further amend said section by renumbering the remaining subdivisions accordingly.

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

Senator Klindt moved that **SB 739**, as amended, be perfected.

Senator Bray requested a roll call vote be taken on the perfection of **SB 739**, as amended, and was joined in her request by Senators Coleman, Bland, Days and Jacob.

**SB 739**, as amended, was declared perfected and ordered printed, by the following vote:

**YEAS—Senators**

|          |          |        |          |
|----------|----------|--------|----------|
| Bartle   | Callahan | Caskey | Cauthorn |
| Childers | Clemens  | Foster | Gibbons  |

|             |           |           |          |
|-------------|-----------|-----------|----------|
| Griesheimer | Gross     | Kennedy   | Kinder   |
| Klindt      | Loudon    | Mathewson | Nodler   |
| Russell     | Scott     | Shields   | Steelman |
| Vogel       | Yeckel—22 |           |          |

**NAYS—Senators**

|           |            |         |       |
|-----------|------------|---------|-------|
| Bland     | Bray       | Coleman | Days  |
| Dougherty | Goode      | Jacob   | Quick |
| Stoll     | Wheeler—10 |         |       |

**Absent—Senators**

|          |         |
|----------|---------|
| Champion | Dolan—2 |
|----------|---------|

**Absent with leave—Senators—None**

**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  
January 15, 2004

**TO THE SENATE OF THE 92nd 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:

Mariann Burnett Atwell, 1006 El Dorado Drive, Jefferson City, Cole County, Missouri 65101, as a member of the Missouri Head Injury Advisory Council, for a term ending May 12, 2006, and until her successor is duly appointed and qualified; vice, Stephen Barr, resigned.

Respectfully submitted,  
**BOB HOLDEN**  
Governor

Also,

**OFFICE OF THE GOVERNOR**

State of Missouri  
Jefferson City, Missouri  
January 15, 2004

**TO THE SENATE OF THE 92nd 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:

Gail McCann Beatty, Democrat, 6012 Woodland, Kansas City, Jackson County, Missouri 64110, as a member of the Missouri Real Estate Appraisers Commission, for a term ending September 12, 2006, and until her successor is duly appointed and qualified;

vice, David Millin, term expired.

Respectfully submitted,  
BOB HOLDEN  
Governor

Also,

OFFICE OF THE GOVERNOR  
State of Missouri  
Jefferson City, Missouri  
January 15, 2004

TO THE SENATE OF THE 92nd 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:

Christi Anne Checkett, Republican, 1625 Morgan Drive,  
Imperial, Jefferson County, Missouri 63052, as a member of the  
Missouri Commission on Human Rights, for a term ending April 1,  
2009, and until her successor is duly appointed and qualified; vice,  
Marion G. Cairns, resigned.

Respectfully submitted,  
BOB HOLDEN  
Governor

Also,

OFFICE OF THE GOVERNOR  
State of Missouri  
Jefferson City, Missouri  
January 15, 2004

TO THE SENATE OF THE 92nd 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:

Lorna R. Cockrum, Democrat, 335 Redwood Drive, New  
Bloomfield, Callaway County, Missouri 65063, as a member of the  
Missouri Community Service Commission, for a term ending  
December 16, 2006, and until her successor is duly appointed and  
qualified; vice, Paula Lynette Stringer, term expired.

Respectfully submitted,  
BOB HOLDEN  
Governor

Also,

OFFICE OF THE GOVERNOR  
State of Missouri  
Jefferson City, Missouri  
January 15, 2004

TO THE SENATE OF THE 92nd 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:

Andrew E. Gray, Jr., 701 Poplar #3, Lamar, Barton County,  
Missouri 64759, as a member of the Unmarked Human Burial  
Consultation Committee, for a term ending June 3, 2006, and until  
his successor is duly appointed and qualified; vice, Eddie Brown,  
resigned.

Respectfully submitted,  
BOB HOLDEN  
Governor

Also,

OFFICE OF THE GOVERNOR  
State of Missouri  
Jefferson City, Missouri  
January 15, 2004

TO THE SENATE OF THE 92nd 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:

Vicki L. Groce, 106 W. Market, Savannah, Andrew County,  
Missouri 64485, as a member of the State Advisory Council on  
Emergency Medical Services, for a term ending January 5, 2008,  
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  
January 15, 2004

TO THE SENATE OF THE 92nd 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:

Wallace N. Patrick, 3701 Wheatridge Drive, St. Joseph,  
Buchanan County, Missouri 64506, as a member of the State  
Advisory Council on Emergency Medical Services, for a term  
ending January 5, 2008, and until his successor is duly appointed  
and qualified; vice, Randall Davis, term expired.

Respectfully submitted,  
BOB HOLDEN  
Governor

**INTRODUCTION OF BILLS**

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

**SB 1171**—By Griesheimer, Caskey, Gross, Steelman and Wheeler.

An Act to repeal section 21.800, RSMo, and to enact in lieu thereof twelve new sections relating to homeland security, with an emergency clause.

**SB 1172**—By Gibbons, Kennedy, Days, Loudon, Goode, Dougherty, Coleman and Yeckel.

An Act to amend chapter 109, RSMo, by adding thereto two new sections relating to the preservation of public records.

### INTRODUCTIONS OF GUESTS

On behalf of Senator Shields, the President

introduced to the Senate, Commander Paul Carrill, Platte City.

Senator Cauthorn introduced to the Senate, Kari Willhite, Jacksonville, Illinois.

Senator Yeckel introduced to the Senate, David Frederick, St. Charles.

Senator Clemens introduced to the Senate, Stan Melton and Cindy McCall, Fremont Hills.

Senator Coleman introduced to the Senate, Kim Rutherford, Brentwood; Brian Kelly, St. Louis; and Kenny Wilson, Festus.

On motion of Senate Gibbons, the Senate adjourned under the rules.

### SENATE CALENDAR

Unofficial

TWELFTH DAY—WEDNESDAY, JANUARY 28, 2004

### FORMAL CALENDAR

### SECOND READING OF SENATE BILLS

SB 716-Childers

SB 787-Childers

SB 844-Yeckel

SB 877-Goode and Days

SB 943-Goode and Gross

SB 1095-Goode, et al

SB 1100-Gibbons and Gross

SB 1101-Steelman, et al

SB 1102-Steelman and Jacob

SB 1103-Steelman

SB 1104-Steelman

SB 1105-Shields

SB 1106-Shields

SB 1107-Shields

SRB 1108-Bartle

SB 1109-Coleman

SB 1110-Coleman

SB 1111-Klindt

SB 1112-Clemens

SB 1113-Loudon

SB 1114-Loudon

SB 1115-Loudon

SB 1116-Stoll

SB 1117-Stoll

SB 1118-Cauthorn

SB 1119-Cauthorn

SB 1120-Cauthorn

SB 1121-Cauthorn

SB 1122-Shields

SB 1123-Gibbons, et al

SB 1124-Goode and Steelman

SB 1125-Goode

|                                   |                              |
|-----------------------------------|------------------------------|
| SB 1126-Russell                   | SB 1150-Goode                |
| SB 1127-Cauthorn                  | SB 1151-Steelman, et al      |
| SB 1128-Cauthorn                  | SB 1152-Steelman             |
| SB 1129-Bray                      | SB 1153-Cauthorn             |
| SB 1130-Scott                     | SB 1154-Cauthorn and Wheeler |
| SB 1131-Steelman                  | SB 1155-Cauthorn             |
| SB 1132-Steelman, et al           | SB 1156-Caskey               |
| SB 1133-Foster, et al             | SB 1157-Scott                |
| SB 1134-Foster, et al             | SB 1158-Bray, et al          |
| SB 1135-Foster, et al             | SB 1159-Foster and Dougherty |
| SB 1136-Vogel                     | SB 1160-Shields, et al       |
| SB 1137-Vogel                     | SB 1161-Jacob                |
| SB 1138-Bartle                    | SB 1162-Jacob                |
| SB 1139-Mathewson                 | SB 1163-Jacob                |
| SB 1140-Mathewson                 | SB 1164-Jacob, et al         |
| SB 1141-Loudon                    | SB 1165-Russell              |
| SB 1142-Dolan                     | SB 1166-Caskey               |
| SB 1143-Dolan                     | SB 1167-Caskey               |
| SB 1145-Kennedy                   | SB 1168-Jacob                |
| SB 1146-Dougherty and Griesheimer | SB 1169-Jacob                |
| SB 1147-Dougherty and Bartle      | SB 1170-Shields              |
| SB 1148-Dougherty, et al          | SB 1171-Griesheimer, et al   |
| SB 1149-Dougherty                 | SB 1172-Gibbons, et al       |
|                                   | SJR 43-Klindt                |
|                                   | SJR 45-Bartle and Gross      |

HOUSE BILLS ON SECOND READING

HB 916-Brown, et al

Copy  
SENATE BILLS FOR PERFECTION

SB 732-Gross  
SBs 714 & 761-Kinder, et al, with SCS

SB 1000-Bartle