

Journal of the Senate

FIRST REGULAR SESSION

FORTY-SIXTH DAY—MONDAY, APRIL 4, 2005

The Senate met pursuant to adjournment.

Senator Koster in the Chair.

Reverend Carl Gauck offered the following

prayer:

“My help comes from the Lord, who made heaven and earth.”
(Psalm 121:2)

Heavenly Father, You are an ever-present help, full of grace and love for Your children. We pray that You will be especially close to our Roman Catholic brothers and sisters who mourn the death of the Pope, and sustain them as they remember and seek a new spiritual leader to guide them through some difficult times ahead. And be with us as we may face some difficult days ahead as we discern the budget needs of this state and the programs that assist Your people to do the work with and for those You call to our attention. Provide us with wisdom and comfort. 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 for Thursday, March 31, 2005 was read and approved.

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

Present—Senators

Bartle	Bray	Callahan	Cauthorn
Champion	Clemens	Coleman	Crowell
Days	Dolan	Dougherty	Engler
Gibbons	Graham	Green	Griesheimer

Gross	Kennedy	Klindt	Koster
Loudon	Mayer	Nodler	Purgason
Ridgeway	Scott	Shields	Stouffer
Taylor	Vogel	Wheeler	Wilson—32

Absent with leave—Senators—None

Vacancies—2

RESOLUTIONS

Senator Bray offered Senate Resolution No. 873, regarding MHXX: Celebrating 20 Years of Maryland Heights, which was adopted.

Senator Stouffer offered Senate Resolution No. 874, regarding the Fiftieth Wedding Anniversary of Mr. and Mrs. Harvey Sassmann, Alma, which was adopted.

Senator Stouffer offered Senate Resolution No. 875, regarding the Marshall Public Library, which was adopted.

Senator Stouffer offered Senate Resolution No. 876, regarding the Twenty-fifth Wedding Anniversary of Mr. and Mrs. Darold Erdman, Alma, which was adopted.

Senator Stouffer offered Senate Resolution No. 877, regarding the birth of Jaykub Roberts, Malta Bend, which was adopted.

Senator Stouffer offered Senate Resolution No. 878, regarding the birth of Tucker David Lee Gerling, Blackwater, which was adopted.

Senator Stouffer offered Senate Resolution No. 879, regarding Mr. and Mrs. Juan Larrea, which was adopted.

Senator Crowell offered Senate Resolution No. 880, regarding the birth of William Wallis Sides, Jefferson City, which was adopted.

Senator Crowell offered Senate Resolution No. 881, regarding Anita Meinz, which was adopted.

Senator Crowell offered Senate Resolution No. 882, regarding Grace V. Hoover, which was adopted.

Senator Crowell offered Senate Resolution No. 883, regarding Dr. Linda Godwin, which was adopted.

Senator Crowell offered Senate Resolution No. 884, regarding Ilena Aslin, which was adopted.

Senator Crowell offered Senate Resolution No. 885, regarding Rachel Lowes, Jackson, which was adopted.

Senator Crowell offered Senate Resolution No. 886, regarding Katie Grieshop, Jackson, which was adopted.

Senator Nodler offered Senate Resolution No. 887, regarding the Fiftieth Wedding Anniversary of Mr. and Mrs. Thurman Hilton, Granby, which was adopted.

Senator Coleman offered Senate Resolution No. 888, regarding Anna Werner, St. Louis, which was adopted.

Senator Coleman offered Senate Resolution No. 889, regarding Angela Krausz, House Springs, which was adopted.

Senator Coleman offered Senate Resolution No. 890, regarding Ashley Renee Cook-McGarrahan, Fenton, which was adopted.

Senator Coleman offered Senate Resolution No. 891, regarding Kendra Marie Shinn, Eureka, which was adopted.

Senator Coleman offered Senate Resolution

No. 892, regarding Kelsey Consiglio, St. Louis, which was adopted.

Senator Coleman offered Senate Resolution No. 893, regarding Ashley Danielle Davis, St. Peters, which was adopted.

Senator Coleman offered Senate Resolution No. 894, regarding Colleen Lefholz, St. Charles, which was adopted.

Senator Coleman offered Senate Resolution No. 895, regarding Michelle Ogden, Ste. Genevieve, which was adopted.

Senator Coleman offered Senate Resolution No. 896, regarding Rachel Breland, St. Louis, which was adopted.

Senator Coleman offered Senate Resolution No. 897, regarding Katherine M. Mannen, Chesterfield, which was adopted.

Senator Stouffer offered Senate Resolution No. 898, regarding the birth of Jessie Kay Hartline, Marshall, which was adopted.

Senator Stouffer offered Senate Resolution No. 899, regarding the birth of Matthew Joseph Bell-Ross, Hardin, which was adopted.

Senator Stouffer offered Senate Resolution No. 900, regarding the birth of Brooklyn Grace Gooding, Macon, which was adopted.

Senators Mayer, Dolan, Griesheimer, Scott, Clemens, Taylor, Gross, Cauthorn, Loudon, Purgason, Engler, Stouffer, Vogel and Ridgeway offered the following resolution:

SENATE RESOLUTION NO. 901

WHEREAS, Amendment I of the United States Constitution, which provides in part that "Congress shall make no law respecting an establishment of religion..." is a specific and unequivocal instruction to only the United States Congress; and

WHEREAS, the United States Constitution makes no restriction on the ability of states to acknowledge God, the Supreme Ruler of the Universe; and

WHEREAS, Amendment X of the United States Constitution, which provides that "The powers not delegated to the United States by the Constitution, nor prohibited by it to the States, are reserved to the States respectively, or to the people", reserved the right of the

acknowledgment of God to the states and the people; and

WHEREAS, the Preamble to the Missouri Constitution, which provides that “We the people of Missouri, with profound reverence for the Supreme Ruler of the Universe, and grateful for His goodness, do establish this constitution for the better government of the state”, is within the boundaries of rights reserved to the states by the United States Constitution; and

WHEREAS, the Federal Judiciary has overstepped its constitutional boundaries and ruled against the acknowledgment of God as the sovereign source of law, liberty, and government by local and state officers and other state institutions, including state schools; and

WHEREAS, the Federal Judiciary has created confusion between Amendment I and Amendment X of the United States Constitution, and has consistently misapplied Amendment 14, usurping the rights of the states and the people; and

WHEREAS, Article VI of the United States Constitution requires that each member of the United States Congress and each member of the several state legislatures be bound by oath or affirmation to “support this constitution”; and

WHEREAS, among the seminal principles of our constitutional republic is the premise that each branch of government will be a “check” upon the others; and

WHEREAS, the United States Congress is charged with the solemn responsibility to cause the Federal Judiciary to refrain from interfering with the acknowledgment of God by any local, state, or Federal official by any constitutional means at its' disposal, including limiting the jurisdiction of the Federal courts in such matters; and

WHEREAS, Article III, Section 2 of the United States Constitution, provides in part that “the.... court shall have appellate jurisdiction, both as to law and fact, with such exceptions, and under such regulations as the Congress shall make”; and

WHEREAS, there is pending before the 1st Session of the 109th Congress the Constitution Restoration Act of 2005, which will limit the jurisdiction of the Federal courts and preserve the right to acknowledge God, exercised by the state of Missouri in its Preamble to the Missouri Constitution, to the states and to the people and resolve the issue of improper judicial intervention in matters relating to the acknowledgment of God:

NOW THEREFORE BE IT RESOLVED that the members of the Missouri Senate, Ninety-Third General Assembly, First Regular Session, hereby urge the United States Congress to adopt forthwith HR1070 and S520, the Constitution Restoration Act of 2005; and

BE IT FURTHER RESOLVED that the Secretary of the Missouri Senate be instructed to prepare properly inscribed copies of this resolution for the Speaker of the United States House of

Representatives, the President of the United States Senate, the Chair of the United States Senate Judiciary Committee, the Chair of the United States House of Representatives Judiciary Committee, and each member of the Missouri Congressional delegation.

SECOND READING OF HOUSE BILLS

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

HCS#2 for HBs 94 and 185—Pensions, Veterans’ Affairs and General Laws.

HB 100—Judiciary and Civil and Criminal Jurisprudence.

HCS for HB 186—Ways and Means.

HB 48—Economic Development, Tourism and Local Government.

HB 114—Economic Development, Tourism and Local Government.

HCS for HB 174—Financial and Governmental Organizations and Elections.

HCS for HB 348—Pensions, Veterans’ Affairs and General Laws.

HCS for HB 437—Pensions, Veterans’ Affairs and General Laws.

HCS for HB 58—Economic Development, Tourism and Local Government.

HCS for HB 515—Economic Development, Tourism and Local Government.

HCS for HB 215—Economic Development, Tourism and Local Government.

HB 596—Aging, Families, Mental and Public Health.

HB 638—Economic Development, Tourism and Local Government.

HB 678—Financial and Governmental Organizations and Elections.

HB 43—Transportation.

HB 684—Judiciary and Civil and Criminal Jurisprudence.

HB 53—Transportation.

HCS for HB 108—Small Business, Insurance and Industrial Relations.

HB 155—Transportation.

HB 236—Pensions, Veterans' Affairs and General Laws.

HB 280—Financial and Governmental Organizations and Elections.

HB 342—Financial and Governmental Organizations and Elections.

HCS for HB 362—Judiciary and Civil and Criminal Jurisprudence.

HCS for HB 422—Economic Development, Tourism and Local Government.

HCS for HB 448—Economic Development, Tourism and Local Government.

HB 453—Economic Development, Tourism and Local Government.

HCS for HBs 462 and 463—Aging, Families, Mental and Public Health.

HCS for HB 531—Economic Development, Tourism and Local Government.

HB 618—Transportation.

HB 487—Transportation.

HCS for HB 513—Transportation.

HCS for HB 631—Economic Development, Tourism and Local Government.

HB 33—Agriculture, Conservation, Parks and Natural Resources.

HB 180—Pensions, Veterans' Affairs and General Laws.

HB 219—Pensions, Veterans' Affairs and General Laws.

HB 258—Education.

HB 260—Economic Development, Tourism and Local Government.

HB 397—Transportation.

HB 261—Pensions, Veterans' Affairs and

General Laws.

HB 321—Ways and Means.

HB 323—Pensions, Veterans' Affairs and General Laws.

HCS for HB 334—Pensions, Veterans' Affairs and General Laws.

HB 395—Economic Development, Tourism and Local Government.

HCS for HB 443—Education.

HB 455—Agriculture, Conservation, Parks and Natural Resources.

HB 473—Education.

HB 528—Transportation.

HCS for HB 563—Agriculture, Conservation, Parks and Natural Resources.

HCS for HB 577—Economic Development, Tourism and Local Government.

HCS for HB 606—Pensions, Veterans' Affairs and General Laws.

HCS for HB 630—Judiciary and Civil and Criminal Jurisprudence.

HB 681—Aging, Families, Mental and Public Health.

HB 688—Judiciary and Civil and Criminal Jurisprudence.

HCS for HB 208—Judiciary and Civil and Criminal Jurisprudence.

HCS for HB 365—Pensions, Veterans' Affairs and General Laws.

Senator Bartle assumed the Chair.

RE-REFERRALS

President Pro Tem Gibbons re-referred **HB 69** to the Committee on Small Business, Insurance and Industrial Relations.

President Pro Tem Gibbons re-referred **HB 431** to the Committee on Economic Development, Tourism and Local Government.

The Senate observed a moment of prayer in memory of Pope John Paul II.

SENATE BILLS FOR PERFECTION

Senator Koster moved that **SB 319**, with **SCS** (pending), be called from the Informal Calendar and again taken up for perfection, which motion prevailed.

SCS for **SB 319** was again taken up.

Senator Koster moved that **SCS** for **SB 319** be adopted, which motion prevailed.

On motion of Senator Koster, **SCS** for **SB 319** was declared perfected and ordered printed.

Senator Griesheimer moved that **SB 23** and **SB 51**, with **SCS**, be called from the Informal Calendar and taken up for perfection, which motion prevailed.

SCS for **SBs 23** and **51**, entitled:

SENATE COMMITTEE SUBSTITUTE FOR SENATE BILLS NOS. 23 and 51

An Act to repeal sections 570.255 and 570.300, RSMo, and to enact in lieu thereof three new sections relating to criminal offenses concerning entertainment, with penalty provisions.

Was taken up.

Senator Griesheimer moved that **SCS** for **SBs 23** and **51** be adopted, which motion prevailed.

On motion of Senator Griesheimer, **SCS** for **SBs 23** and **51** was declared perfected and ordered printed.

Senator Taylor moved that **SB 274** be called from the Informal Calendar and taken up for perfection, which motion prevailed.

On motion of Senator Taylor, **SB 274** was declared perfected and ordered printed.

THIRD READING OF SENATE BILLS

SS for **SCS** for **SB 269**, introduced by Senator

Shields, entitled:

SENATE SUBSTITUTE FOR SENATE COMMITTEE SUBSTITUTE FOR SENATE BILL NO. 269

An Act to repeal section 143.183, RSMo, and to enact in lieu thereof one new section relating to athletes and entertainer tax.

Was taken up.

Senator Gross assumed the Chair.

Senator Clemens assumed the Chair.

Senator Shields moved that **SS** for **SCS** for **SB 269** be read the 3rd time and passed.

At the request of Senator Shields, **SS** for **SCS** for **SB 269** was placed on the Informal Calendar.

REPORTS OF STANDING COMMITTEES

Senator Shields, 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 **SB 343**; and **SCS** for **SB 319**, 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.

MESSAGES FROM THE HOUSE

The following messages were received from the House of Representatives through its Chief Clerk:

Mr. President: I am instructed by the House of Representatives to inform the Senate that the House has taken up and passed **HCS No. 2** for **HB 232**, entitled:

An Act to repeal section 191.227, RSMo, and to enact in lieu thereof one new section relating to patient health care records.

In which the concurrence of the Senate is

respectfully requested.

Read 1st time.

Also,

Mr. President: I am instructed by the House of Representatives to inform the Senate that the House has taken up and passed **HB 600**, entitled:

An Act to repeal section 337.510, RSMo, and to enact in lieu thereof one new section relating to licensing requirements for professional counselors.

In which the concurrence of the Senate is respectfully requested.

Read 1st time.

Also,

Mr. President: I am instructed by the House of Representatives to inform the Senate that the House has taken up and passed **HB 450**, entitled:

An Act to amend chapter 311, RSMo, by adding thereto one new section relating to wine.

In which the concurrence of the Senate is respectfully requested.

Read 1st time.

Also,

Mr. President: I am instructed by the House of Representatives to inform the Senate that the House has taken up and passed **HB 685**, entitled:

An Act to authorize the board of governors of Southwest Missouri State University to convey property in Howell County, with an emergency clause.

Emergency clause adopted.

In which the concurrence of the Senate is respectfully requested.

Read 1st time.

Also,

Mr. President: I am instructed by the House of Representatives to inform the Senate that the House has taken up and passed **HB 743**, entitled:

An Act to authorize the conveyance of property owned by the state in Madison County to the United States for national forest purposes.

In which the concurrence of the Senate is respectfully requested.

Read 1st time.

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

65101

April 1, 2005

TO THE SENATE OF THE 93rd GENERAL ASSEMBLY OF THE STATE OF MISSOURI:

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

Sandra K. Branson, 2509 Jennifer Drive, Jefferson City, Cole County, Missouri 65101, as Director of the Division of Credit Unions, for a term ending at the pleasure of the Governor, and until her successor is duly appointed and qualified; vice, John P. Smith, withdrawn.

Respectfully submitted,

MATT BLUNT

Governor

Also,

OFFICE OF THE GOVERNOR

State of Missouri

Jefferson City

65101

April 4, 2005

TO THE SENATE OF THE 93rd GENERAL ASSEMBLY OF THE STATE OF MISSOURI:

The following addendum should be made to the appointment of Toni R. Smith to the State Board of Registration for the Health Arts, submitted on March 24, 2005. Line 4 should be amended as follows:

“successor is duly appointed and qualified; vice, Doug J. Fitzwater, withdrawn.”

Respectfully submitted,

MATT BLUNT

Governor

Also,

OFFICE OF THE GOVERNOR
State of Missouri
Jefferson City
65101
April 4, 2005

TO THE SENATE OF THE 93rd GENERAL ASSEMBLY OF THE STATE OF MISSOURI:

The following addendum should be made to the appointment of Daniel Scodary, M.D. to the State Board of Registration for the Healing Arts, submitted on March 30, 2005. Line 4 and 5 should be amended as follows:

“and until his successor is duly appointed and qualified; vice, Jacquelyn Garrett, term expired”

Respectfully submitted,
MATT BLUNT
Governor

President Pro Tem Gibbons referred the above appointment and addendums to the Committee on Gubernatorial Appointments.

Also,

OFFICE OF THE GOVERNOR
State of Missouri
Jefferson City
65101
March 31, 2005

TO THE SENATE OF THE 93rd GENERAL ASSEMBLY OF THE STATE OF MISSOURI:

I hereby withdraw from your consideration the following appointments to office submitted to you on March 30, 2005 for your advice and consent:

Matthew A. Hughes, 30 Park Street, Farmington, Saint Francois County, Missouri 63640, as a member of the Governor’s Council on Disability, for a term ending October 1, 2008, and until his successor is duly appointed and qualified; vice, David Terrell, term expired.

Respectfully submitted,
MATT BLUNT
Governor

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

REFERRALS

President Pro Tem Gibbons referred **SS** for **SB 343** to the Committee on Governmental Accountability and Fiscal Oversight.

RESOLUTIONS

Senator Purgason offered Senate Resolution No. 902, regarding the Fiftieth Wedding Anniversary of Mr. and Mrs. Phillip Sinclair, which was adopted.

Senator Crowell offered Senate Resolution No. 903, regarding Dr. Betty Chong, which was adopted.

Senator Crowell offered Senate Resolution No. 904, regarding the Notre Dame Boys Basketball Team, which was adopted.

Senator Ridgeway offered Senate Resolution No. 905, regarding Trey Newberry, Gallatin, which was adopted.

Senator Ridgeway offered Senate Resolution No. 906, regarding Daniel Albert “Danny” Shanaberger, Kansas City, which was adopted.

Senator Ridgeway offered Senate Resolution No. 907, regarding Andrew D. Longres, Liberty, which was adopted.

Senator Ridgeway offered Senate Resolution No. 908, regarding Michael Keith Logan, Liberty, which was adopted.

Senator Loudon offered Senate Resolution No. 909, regarding Matthew Inkman, Ballwin, which was adopted.

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

SENATE CALENDAR

FORTY-SEVENTH DAY—TUESDAY, APRIL 5, 2005

FORMAL CALENDAR

HOUSE BILLS ON SECOND READING

HCS#2 for HB 232

HB 600-Cooper (155), et al

HB 450-Meiners

HB 685-Franz

HB 743-Kingery, et al

Unofficial
THIRD READING OF SENATE BILLS

SS for SCS for SB 462-Klindt

SS for SCS for SB 168-Dolan

SS for SB 343-Bartle (In Fiscal Oversight)

SCS for SB 319-Koster

SENATE BILLS FOR PERFECTION

SB 468-Griesheimer, with SCS

SB 316-Dolan, with SCS

SBs 75 & 353-Champion and Wheeler,
with SCS

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SB 346-Clemens, with SCS
SB 284-Cauthorn and Clemens,
with SCS

SB 272-Gross, with SCS

INFORMAL CALENDAR

Copy
THIRD READING OF SENATE BILLS

SS for SCS for SB 269-Shields

SENATE BILLS FOR PERFECTION

SB 2-Loudon and Gross, with SCS

SB 5-Klindt, with SCS

SB 12-Cauthorn and Klindt

SB 29-Dolan, with SCS & SA 1 (pending)

SB 50-Taylor and Nodler, with SCS

SBs 74 & 49-Champion, with SCS

SB 95-Coleman

SB 152-Wilson, with SCS

SB 160-Bartle, et al

SB 185-Loudon, et al, with SA 1 (pending)

SB 225-Cauthorn, with SCS & SS#2 for SCS
(pending)

SB 232-Loudon, et al

SB 291-Mayer, et al, with SCS

SB 324-Scott, with SCS

SB 348-Clemens

SB 362-Stouffer

SB 476-Scott

BILLS IN CONFERENCE AND BILLS
CARRYING REQUEST MESSAGES

In Conference

HCS for HB 14, with SCS, as amended

(Gross)

Unofficial
RESOLUTIONS

To be Referred

SR 901-Mayer, et al

Journal

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