

# Journal of the Senate

SECOND REGULAR SESSION

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**THIRTY-FOURTH DAY—MONDAY, MARCH 10, 2008**

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The Senate met pursuant to adjournment.

Senator Nodler in the Chair.

Reverend Carl Gauck offered the following prayer:

“All eyes are opened, or opening, to the rights of man.” (Thomas Jefferson, June 24, 1826)

Gracious God, we recognize our responsibilities before You and ask for Your guidance in making us more faithful in following Your will for us. Be with us this week as we discern the needs of those around us and respond to those needs with wisdom and compassion, diligence and concern. 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 6, 2008 was read and approved.

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

Present—Senators

Barnitz	Bartle	Bray	Callahan	Champion	Clemens	Coleman	Days
Dempsey	Engler	Goodman	Graham	Green	Griesheimer	Justus	Koster
Lager	Loudon	Mayer	McKenna	Nodler	Purgason	Ridgeway	Rupp
Scott	Shields	Shoemyer	Smith	Stouffer	Vogel	Wilson—31	

Absent—Senators—None

Absent with leave—Senators

Crowell                  Gibbons                  Kennedy—3

Vacancies—None

**RESOLUTIONS**

On behalf of Senator Crowell, Senator Shields offered Senate Resolution No. 2054, regarding Glenn Reeves, Cape Girardeau, which was adopted.

Senator Purgason offered Senate Resolution No. 2055, regarding Roger Moore, Laclede County, which was adopted.

Senator Wilson offered Senate Resolution No. 2056, regarding Robert Wheeler, Kansas City, which was adopted.

On behalf of Senator Kennedy, Senator Coleman offered Senate Resolution No. 2057, regarding Daniel Rayhawk, Saint Louis, which was adopted.

On behalf of Senator Kennedy, Senator Coleman offered Senate Resolution No. 2058, regarding Beverly Giamanco, St. Louis, which was adopted.

On behalf of Senator Kennedy, Senator Coleman offered Senate Resolution No. 2059, regarding Cheryl Calcaterra, Fenton, which was adopted.

On behalf of Senator Kennedy, Senator Coleman offered Senate Resolution No. 2060, regarding Curt Moore, St. Louis, which was adopted.

On behalf of Senator Kennedy, Senator Coleman offered Senate Resolution No. 2061, regarding Ken Horvath, Imperial, which was adopted.

Senator Champion offered Senate Resolution No. 2062, regarding Broadway Baptist Church, Springfield, which was adopted.

Senator Loudon offered Senate Resolution No. 2063, regarding Carol Boriss, Chesterfield, which was adopted.

Senator Lager offered Senate Resolution No. 2064, regarding Klayton Book, Oregon, which was adopted.

Senator Lager offered Senate Resolution No. 2065, regarding the Eightieth Birthday of Eulala Schwebach, Stanberry, which was adopted.

On behalf of Senator Kennedy, Senator Coleman offered Senate Resolution No. 2066, regarding Mickey Christ, Saint Louis, which was adopted.

Senator Stouffer offered Senate Resolution No. 2067, regarding the death of Derl Bernard, Sweet Springs, which was adopted.

Senator Stouffer offered Senate Resolution No. 2068, regarding the death of Dr. Thomas Cook, Richmond, which was adopted.

Senator Vogel offered Senate Resolution No. 2069, regarding Richard Roy Pemberton, Henley, which was adopted.

Senator Mayer offered Senate Resolution No. 2070, regarding the Eightieth Birthday of Edgar Leon Brown, Bernie, which was adopted.

**REPORTS OF STANDING COMMITTEES**

Senator Shields, 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 **SS #2** for **SCS** for **SBs 747** and **736**, 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 Goodman, Chairman of the Committee on Governmental Accountability and Fiscal Oversight, submitted the following report:

Mr. President: Your Committee on Governmental Accountability and Fiscal Oversight, to which was referred **SCS** for **SB 732**, begs leave to report that it has considered the same and recommends that the bill do pass.

### **SENATE BILLS FOR PERFECTION**

Senator Engler moved that **SB 944**, with **SCS**, be taken up for perfection, which motion prevailed.

**SCS** for **SB 944**, entitled:

#### **SENATE COMMITTEE SUBSTITUTE FOR SENATE BILL NO. 944**

An Act to repeal section 108.250, RSMo, and to enact in lieu thereof one new section relating to state auditor compensation for bond registration, with an emergency clause.

Was taken up.

Senator Engler moved that **SCS** for **SB 944** be adopted.

Senator Engler offered **SS** for **SCS** for **SB 944**, entitled:

#### **SENATE SUBSTITUTE FOR SENATE COMMITTEE SUBSTITUTE FOR SENATE BILL NO. 944**

An Act to repeal section 108.250, RSMo, and to enact in lieu thereof one new section relating to state auditor compensation for bond registration, with an emergency clause.

Senator Engler moved that **SS** for **SCS** for **SB 944** be adopted.

Senator Griesheimer assumed the Chair.

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

#### **SENATE AMENDMENT NO. 1**

Amend Senate Substitute for Senate Committee Substitute for Senate Bill No. 944, Page 1, Section 108.250, Line 9, by striking the words "five hundred".

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

Senator Engler moved that **SS** for **SCS** for **SB 944**, as amended, be adopted, which motion prevailed.

On motion of Senator Engler, **SS** for **SCS** for **SB 944**, as amended, was declared perfected and ordered printed.

Senator Stouffer moved that **SB 759**, with **SCS** and **SA 1** (pending), be called from the Informal

Calendar and again taken up for perfection, which motion prevailed.

**SA 1** was again taken up.

Senator Scott assumed the Chair.

Senator Bartle moved that **SA 1** be adopted and requested a roll call vote be taken. He was joined in his request by Senators Callahan, Coleman, Green and Purgason.

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

YEAS—Senators

Bartle	Bray	Callahan	Coleman	Days	Green	Justus	McKenna
Purgason	Ridgeway	Scott	Smith	Wilson—13			

NAYS—Senators

Barnitz	Champion	Clemens	Dempsey	Engler	Goodman	Graham	Griesheimer
Koster	Lager	Loudon	Mayer	Nodler	Rupp	Shields	Shoemyer
Stouffer	Vogel—18						

Absent—Senators—None

Absent with leave—Senators

Crowell	Gibbons	Kennedy—3
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Vacancies—None

Senator Shields offered **SA 2**:

SENATE AMENDMENT NO. 2

Amend Senate Committee Substitute for Senate Bill No. 759, Page 3, Section 414.255, Line 74, by striking the following: “on and after” and inserting in lieu thereof the following: “**within one hundred twenty days of the date of the determination issuance under subsection 16 of this section, but in no case earlier than**”; and

Further amend said bill and section, Page 5, Line 147, by striking the following: “On and after” and inserting in lieu thereof the following: “**Within ninety days of the date of the determination issuance under subsection 16 of this section, but in no case earlier than**”; and

Further amend said bill and section, Page 6, Line 196, by inserting after all of said line the following:

**“16. The department of agriculture shall issue a determination upon the finding that the price of biodiesel or biodiesel-blended fuel is, on average, less than or equal to the price of conventional diesel fuel for a period of one year. On the same day of the issuance of the determination, the department shall notify the revisor of statutes and shall post notification of the issuance on the department's publicly accessible website. The department may contract with the Food and Agricultural Policy Research Institute at the University of Missouri to provide assistance to the department in meeting the requirements of this subsection.”.**

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

Senator Days offered **SA 3**:

SENATE AMENDMENT NO. 3

Amend Senate Committee Substitute for Senate Bill No. 759, Page 6, Section 414.255, Line 196, by inserting immediately after said line the following:

**“414.265. The director of the department of agriculture may annually contract with the food and agricultural policy research institute associated with the University of Missouri to study the effect of biodiesel and fuel ethanol production on the prices of fuel and food, which shall include but not be limited to beef, milk, and corn. Each year by January fifteenth, the results and findings of such study shall be provided in a report submitted to the general assembly by the director of the department of agriculture.”; and**

Further amend the title and enacting clause accordingly.

Senator Days moved that the above amendment be adopted.

Senator Dempsey offered **SA 1 to SA 3**, which was read:

SENATE AMENDMENT NO. 1 TO  
SENATE AMENDMENT NO. 3

Amend Senate Amendment No. 3 to Senate Committee Substitute for Senate Bill No. 759, Page 1, Section 414.265, Line 8, by inserting immediately after the word “milk,” the following: **“wheat,”**.

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

**SA 3**, as amended, was again taken up.

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

Senator Mayer offered **SA 4**:

SENATE AMENDMENT NO. 4

Amend Senate Committee Substitute for Senate Bill No. 759, Page 6, Section 414.255, Line 196, by inserting after all of said line the following:

**“16. Nothing in this section shall be construed to restrict the use of animal fats in any biodiesel-blended fuel for the purposes of compliance with this section.”.**

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

Senator Bray offered **SA 5**:

SENATE AMENDMENT NO. 5

Amend Senate Committee Substitute for Senate Bill No. 759, Page 6, Section 414.255, Line 196, by inserting after all of said line the following:

**“16. The provisions of subsections 4 and 11 of this section shall not become effective until such time as the department of agriculture determines that the amount of energy input into the production of the biodiesel or biodiesel-blended fuel required by these subsections does not exceed the energy output of such fuel. Energy inputs may include, but not be limited to, fertilizers, pesticides, and fuels used in the operation of machinery to cultivate, produce, and deliver such fuel. The department may**

**contract with the Food and Agricultural Policy Research Institute at the University of Missouri to assist in making this determination. On the same day of the issuance of the determination, the department shall notify the revisor of statutes and shall post notification of issuance on the department's publicly accessible website.”.**

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

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

SENATE AMENDMENT NO. 6

Amend Senate Committee Substitute for Senate Bill No. 759, Page 6, Section 414.255, Line 196, by inserting after all of said line the following:

**“16. The provisions of this section shall sunset on December 31, 2013.”.**

Senator Callahan moved that the above amendment be adopted.

Senator Bray offered **SA 1** to **SA 6**, which was read:

SENATE AMENDMENT NO. 1 TO  
SENATE AMENDMENT NO. 6

Amend Senate Amendment No. 6 to Senate Committee Substitute for Senate Bill No. 759, Page 1, Section 414.255, Line 4, by striking the words “December 31, 2013” and inserting in lieu thereof the following: **“December 31, 2011”.**

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

**SA 6**, as amended, was again taken up.

Senator Callahan moved that the above amendment be adopted and requested a roll call vote be taken. He was joined in his request by Senators Bartle, Bray, Days and Purgason.

**SA 6**, as amended, failed of adoption by the following vote:

YEAS—Senators

Bartle	Bray	Callahan	Coleman	Days	Justus	Lager	McKenna
Purgason	Ridgeway	Rupp	Smith	Wilson—13			

NAYS—Senators

Barnitz	Champion	Clemens	Dempsey	Engler	Goodman	Graham	Griesheimer
Loudon	Mayer	Nodler	Scott	Shields	Shoemyer	Stouffer	Vogel—16

Absent—Senators

Green	Koster—2
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Absent with leave—Senators

Crowell	Gibbons	Kennedy—3
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Vacancies—None

Senator Callahan offered **SA 7**:

SENATE AMENDMENT NO. 7

Amend Senate Committee Substitute for Senate Bill No. 759, Page 3, Section 414.255, Line 74, by striking the word “April” and inserting in lieu thereof the following: “**June**”; and

Further amend said bill and section, page 5, line 147, by striking the word “January” and inserting in lieu thereof the following: “**May**”; and

Further amend said bill and section, page 6, line 171, by striking the word “January” and inserting in lieu thereof the following: “**May**”.

Senator Callahan moved that the above amendment be adopted.

Senator Stouffer offered **SA 1** to **SA 7**, which was read:

SENATE AMENDMENT NO. 1 TO  
SENATE AMENDMENT NO. 7

Amend Senate Amendment No. 7 to Senate Committee Substitute for Senate Bill No. 759, Page 1, Section 414.255, Lines 6-9, by striking all of said lines and inserting in lieu thereof the following: “following: ‘**May**’”.

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

**SA 7**, as amended, was again taken up.

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

Senator Callahan offered **SA 8**:

SENATE AMENDMENT NO. 8

Amend Senate Committee Substitute for Senate Bill No. 759, Page 5, Section 414.255, Line 153, by inserting at the end of said line the following: “**Any seller of biodiesel-blended fuel, when such fuel was not obtained in its blended form through a qualified terminal, shall notify any purchaser of such fuel that the fuel may contain an actual content of biodiesel greater or less than the stated percentage of biodiesel.**”.

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

Senator Ridgeway offered **SA 9**:

SENATE AMENDMENT NO. 9

Amend Senate Committee Substitute for Senate Bill No. 759, Page 1, Section A, Line 2, by inserting after all of said line the following:

“144.030. 1. There is hereby specifically exempted from the provisions of sections 144.010 to 144.525 and from the computation of the tax levied, assessed or payable pursuant to sections 144.010 to 144.525 such retail sales as may be made in commerce between this state and any other state of the United States, or between this state and any foreign country, and any retail sale which the state of Missouri is prohibited from taxing pursuant to the Constitution or laws of the United States of America, and such retail sales of tangible personal property which the general assembly of the state of Missouri is prohibited from taxing or further taxing by the constitution of this state.

2. There are also specifically exempted from the provisions of the local sales tax law as defined in

section 32.085, RSMo, section 238.235, RSMo, and sections 144.010 to 144.525 and 144.600 to 144.761 and from the computation of the tax levied, assessed or payable pursuant to the local sales tax law as defined in section 32.085, RSMo, section 238.235, RSMo, and sections 144.010 to 144.525 and 144.600 to 144.745:

(1) Motor fuel or special fuel subject to an excise tax of this state, unless all or part of such excise tax is refunded pursuant to section 142.824, RSMo; or upon the sale at retail of fuel to be consumed in manufacturing or creating gas, power, steam, electrical current or in furnishing water to be sold ultimately at retail; or feed for livestock or poultry; or grain to be converted into foodstuffs which are to be sold ultimately in processed form at retail; or seed, limestone or fertilizer which is to be used for seeding, liming or fertilizing crops which when harvested will be sold at retail or will be fed to livestock or poultry to be sold ultimately in processed form at retail; economic poisons registered pursuant to the provisions of the Missouri pesticide registration law (sections 281.220 to 281.310, RSMo) which are to be used in connection with the growth or production of crops, fruit trees or orchards applied before, during, or after planting, the crop of which when harvested will be sold at retail or will be converted into foodstuffs which are to be sold ultimately in processed form at retail;

(2) Materials, manufactured goods, machinery and parts which when used in manufacturing, processing, compounding, mining, producing or fabricating become a component part or ingredient of the new personal property resulting from such manufacturing, processing, compounding, mining, producing or fabricating and which new personal property is intended to be sold ultimately for final use or consumption; and materials, including without limitation, gases and manufactured goods, including without limitation, slagging materials and firebrick, which are ultimately consumed in the manufacturing process by blending, reacting or interacting with or by becoming, in whole or in part, component parts or ingredients of steel products intended to be sold ultimately for final use or consumption;

(3) Materials, replacement parts and equipment purchased for use directly upon, and for the repair and maintenance or manufacture of, motor vehicles, watercraft, railroad rolling stock or aircraft engaged as common carriers of persons or property;

(4) Replacement machinery, equipment, and parts and the materials and supplies solely required for the installation or construction of such replacement machinery, equipment, and parts, used directly in manufacturing, mining, fabricating or producing a product which is intended to be sold ultimately for final use or consumption; and machinery and equipment, and the materials and supplies required solely for the operation, installation or construction of such machinery and equipment, purchased and used to establish new, or to replace or expand existing, material recovery processing plants in this state. For the purposes of this subdivision, a “material recovery processing plant” means a facility that has as its primary purpose the recovery of materials into a useable product or a different form which is used in producing a new product and shall include a facility or equipment which are used exclusively for the collection of recovered materials for delivery to a material recovery processing plant but shall not include motor vehicles used on highways. For purposes of this section, the terms motor vehicle and highway shall have the same meaning pursuant to section 301.010, RSMo. Material recovery is not the reuse of materials within a manufacturing process or the use of a product previously recovered. The material recovery processing plant shall qualify under the provisions of this section regardless of ownership of the material being recovered;

(5) Machinery and equipment, and parts and the materials and supplies solely required for the installation or construction of such machinery and equipment, purchased and used to establish new or to expand existing manufacturing, mining or fabricating plants in the state if such machinery and equipment



is used directly in manufacturing, mining or fabricating a product which is intended to be sold ultimately for final use or consumption;

(6) Tangible personal property which is used exclusively in the manufacturing, processing, modification or assembling of products sold to the United States government or to any agency of the United States government;

(7) Animals or poultry used for breeding or feeding purposes;

(8) Newsprint, ink, computers, photosensitive paper and film, toner, printing plates and other machinery, equipment, replacement parts and supplies used in producing newspapers published for dissemination of news to the general public;

(9) The rentals of films, records or any type of sound or picture transcriptions for public commercial display;

(10) Pumping machinery and equipment used to propel products delivered by pipelines engaged as common carriers;

(11) Railroad rolling stock for use in transporting persons or property in interstate commerce and motor vehicles licensed for a gross weight of twenty-four thousand pounds or more or trailers used by common carriers, as defined in section 390.020, RSMo, in the transportation of persons or property;

(12) Electrical energy used in the actual primary manufacture, processing, compounding, mining or producing of a product, or electrical energy used in the actual secondary processing or fabricating of the product, or a material recovery processing plant as defined in subdivision (4) of this subsection, in facilities owned or leased by the taxpayer, if the total cost of electrical energy so used exceeds ten percent of the total cost of production, either primary or secondary, exclusive of the cost of electrical energy so used or if the raw materials used in such processing contain at least twenty-five percent recovered materials as defined in section 260.200, RSMo. There shall be a rebuttable presumption that the raw materials used in the primary manufacture of automobiles contain at least twenty-five percent recovered materials. For purposes of this subdivision, "processing" means any mode of treatment, act or series of acts performed upon materials to transform and reduce them to a different state or thing, including treatment necessary to maintain or preserve such processing by the producer at the production facility;

(13) Anodes which are used or consumed in manufacturing, processing, compounding, mining, producing or fabricating and which have a useful life of less than one year;

(14) Machinery, equipment, appliances and devices purchased or leased and used solely for the purpose of preventing, abating or monitoring air pollution, and materials and supplies solely required for the installation, construction or reconstruction of such machinery, equipment, appliances and devices, and so certified as such by the director of the department of natural resources, except that any action by the director pursuant to this subdivision may be appealed to the air conservation commission which may uphold or reverse such action;

(15) Machinery, equipment, appliances and devices purchased or leased and used solely for the purpose of preventing, abating or monitoring water pollution, and materials and supplies solely required for the installation, construction or reconstruction of such machinery, equipment, appliances and devices, and so certified as such by the director of the department of natural resources, except that any action by the director pursuant to this subdivision may be appealed to the Missouri clean water commission which may uphold

or reverse such action;

(16) Tangible personal property purchased by a rural water district;

(17) All amounts paid or charged for admission or participation or other fees paid by or other charges to individuals in or for any place of amusement, entertainment or recreation, games or athletic events, including museums, fairs, zoos and planetariums, owned or operated by a municipality or other political subdivision where all the proceeds derived therefrom benefit the municipality or other political subdivision and do not inure to any private person, firm, or corporation;

(18) All sales of insulin and prosthetic or orthopedic devices as defined on January 1, 1980, by the federal Medicare program pursuant to Title XVIII of the Social Security Act of 1965, including the items specified in Section 1862(a)(12) of that act, and also specifically including hearing aids and hearing aid supplies and all sales of drugs which may be legally dispensed by a licensed pharmacist only upon a lawful prescription of a practitioner licensed to administer those items, including samples and materials used to manufacture samples which may be dispensed by a practitioner authorized to dispense such samples and all sales of medical oxygen, home respiratory equipment and accessories, hospital beds and accessories and ambulatory aids, all sales of manual and powered wheelchairs, stairway lifts, Braille writers, electronic Braille equipment and, if purchased by or on behalf of a person with one or more physical or mental disabilities to enable them to function more independently, all sales of scooters, reading machines, electronic print enlargers and magnifiers, electronic alternative and augmentative communication devices, and items used solely to modify motor vehicles to permit the use of such motor vehicles by individuals with disabilities or sales of over-the-counter or nonprescription drugs to individuals with disabilities;

(19) All sales made by or to religious and charitable organizations and institutions in their religious, charitable or educational functions and activities and all sales made by or to all elementary and secondary schools operated at public expense in their educational functions and activities;

(20) All sales of aircraft to common carriers for storage or for use in interstate commerce and all sales made by or to not-for-profit civic, social, service or fraternal organizations, including fraternal organizations which have been declared tax-exempt organizations pursuant to Section 501(c)(8) or (10) of the 1986 Internal Revenue Code, as amended, in their civic or charitable functions and activities and all sales made to eleemosynary and penal institutions and industries of the state, and all sales made to any private not-for-profit institution of higher education not otherwise excluded pursuant to subdivision (19) of this subsection or any institution of higher education supported by public funds, and all sales made to a state relief agency in the exercise of relief functions and activities;

(21) All ticket sales made by benevolent, scientific and educational associations which are formed to foster, encourage, and promote progress and improvement in the science of agriculture and in the raising and breeding of animals, and by nonprofit summer theater organizations if such organizations are exempt from federal tax pursuant to the provisions of the Internal Revenue Code and all admission charges and entry fees to the Missouri state fair or any fair conducted by a county agricultural and mechanical society organized and operated pursuant to sections 262.290 to 262.530, RSMo;

(22) All sales made to any private not-for-profit elementary or secondary school, all sales of feed additives, medications or vaccines administered to livestock or poultry in the production of food or fiber, all sales of pesticides used in the production of crops, livestock or poultry for food or fiber, all sales of bedding used in the production of livestock or poultry for food or fiber, all sales of propane or natural gas, electricity or diesel fuel used exclusively for drying agricultural crops, natural gas used in the primary

manufacture or processing of fuel ethanol as defined in section 142.028, RSMo, natural gas, propane, and electricity used by an eligible new generation cooperative or an eligible new generation processing entity as defined in section 348.432, RSMo, and all sales of farm machinery and equipment, other than airplanes, motor vehicles and trailers. As used in this subdivision, the term “feed additives” means tangible personal property which, when mixed with feed for livestock or poultry, is to be used in the feeding of livestock or poultry. As used in this subdivision, the term “pesticides” includes adjuvants such as crop oils, surfactants, wetting agents and other assorted pesticide carriers used to improve or enhance the effect of a pesticide and the foam used to mark the application of pesticides and herbicides for the production of crops, livestock or poultry. As used in this subdivision, the term “farm machinery and equipment” means new or used farm tractors and such other new or used farm machinery and equipment and repair or replacement parts thereon, and supplies and lubricants used exclusively, solely, and directly for producing crops, raising and feeding livestock, fish, poultry, pheasants, chukar, quail, or for producing milk for ultimate sale at retail, including field drain tile, and one-half of each purchaser's purchase of diesel fuel therefor which is:

(a) Used exclusively for agricultural purposes;

(b) Used on land owned or leased for the purpose of producing farm products; and

(c) Used directly in producing farm products to be sold ultimately in processed form or otherwise at retail or in producing farm products to be fed to livestock or poultry to be sold ultimately in processed form at retail;

(23) Except as otherwise provided in section 144.032, all sales of metered water service, electricity, electrical current, natural, artificial or propane gas, wood, coal or home heating oil for domestic use and in any city not within a county, all sales of metered or unmetered water service for domestic use:

(a) “Domestic use” means that portion of metered water service, electricity, electrical current, natural, artificial or propane gas, wood, coal or home heating oil, and in any city not within a county, metered or unmetered water service, which an individual occupant of a residential premises uses for nonbusiness, noncommercial or nonindustrial purposes. Utility service through a single or master meter for residential apartments or condominiums, including service for common areas and facilities and vacant units, shall be deemed to be for domestic use. Each seller shall establish and maintain a system whereby individual purchases are determined as exempt or nonexempt;

(b) Regulated utility sellers shall determine whether individual purchases are exempt or nonexempt based upon the seller's utility service rate classifications as contained in tariffs on file with and approved by the Missouri public service commission. Sales and purchases made pursuant to the rate classification “residential” and sales to and purchases made by or on behalf of the occupants of residential apartments or condominiums through a single or master meter, including service for common areas and facilities and vacant units, shall be considered as sales made for domestic use and such sales shall be exempt from sales tax. Sellers shall charge sales tax upon the entire amount of purchases classified as nondomestic use. The seller's utility service rate classification and the provision of service thereunder shall be conclusive as to whether or not the utility must charge sales tax;

(c) Each person making domestic use purchases of services or property and who uses any portion of the services or property so purchased for a nondomestic use shall, by the fifteenth day of the fourth month following the year of purchase, and without assessment, notice or demand, file a return and pay sales tax on that portion of nondomestic purchases. Each person making nondomestic purchases of services or property and who uses any portion of the services or property so purchased for domestic use, and each

person making domestic purchases on behalf of occupants of residential apartments or condominiums through a single or master meter, including service for common areas and facilities and vacant units, under a nonresidential utility service rate classification may, between the first day of the first month and the fifteenth day of the fourth month following the year of purchase, apply for credit or refund to the director of revenue and the director shall give credit or make refund for taxes paid on the domestic use portion of the purchase. The person making such purchases on behalf of occupants of residential apartments or condominiums shall have standing to apply to the director of revenue for such credit or refund;

(24) All sales of handicraft items made by the seller or the seller's spouse if the seller or the seller's spouse is at least sixty-five years of age, and if the total gross proceeds from such sales do not constitute a majority of the annual gross income of the seller;

(25) Excise taxes, collected on sales at retail, imposed by Sections 4041, 4061, 4071, 4081, 4091, 4161, 4181, 4251, 4261 and 4271 of Title 26, United States Code. The director of revenue shall promulgate rules pursuant to chapter 536, RSMo, to eliminate all state and local sales taxes on such excise taxes;

(26) Sales of fuel consumed or used in the operation of ships, barges, or waterborne vessels which are used primarily in or for the transportation of property or cargo, or the conveyance of persons for hire, on navigable rivers bordering on or located in part in this state, if such fuel is delivered by the seller to the purchaser's barge, ship, or waterborne vessel while it is afloat upon such river;

(27) All sales made to an interstate compact agency created pursuant to sections 70.370 to 70.441, RSMo, or sections 238.010 to 238.100, RSMo, in the exercise of the functions and activities of such agency as provided pursuant to the compact;

(28) Computers, computer software and computer security systems purchased for use by architectural or engineering firms headquartered in this state. For the purposes of this subdivision, "headquartered in this state" means the office for the administrative management of at least four integrated facilities operated by the taxpayer is located in the state of Missouri;

(29) All livestock sales when either the seller is engaged in the growing, producing or feeding of such livestock, or the seller is engaged in the business of buying and selling, bartering or leasing of such livestock;

(30) All sales of barges which are to be used primarily in the transportation of property or cargo on interstate waterways;

(31) Electrical energy or gas, whether natural, artificial or propane, water, or other utilities which are ultimately consumed in connection with the manufacturing of cellular glass products or in any material recovery processing plant as defined in subdivision (4) of this subsection;

(32) Notwithstanding other provisions of law to the contrary, all sales of pesticides or herbicides used in the production of crops, aquaculture, livestock or poultry;

(33) Tangible personal property and utilities purchased for use or consumption directly or exclusively in the research and development of agricultural/biotechnology and plant genomics products and prescription pharmaceuticals consumed by humans or animals;

(34) All sales of grain bins for storage of grain for resale;

(35) All sales of feed which are developed for and used in the feeding of pets owned by a commercial breeder when such sales are made to a commercial breeder, as defined in section 273.325, RSMo, and

licensed pursuant to sections 273.325 to 273.357, RSMo;

(36) All purchases by a contractor on behalf of an entity located in another state, provided that the entity is authorized to issue a certificate of exemption for purchases to a contractor under the provisions of that state's laws. For purposes of this subdivision, the term "certificate of exemption" shall mean any document evidencing that the entity is exempt from sales and use taxes on purchases pursuant to the laws of the state in which the entity is located. Any contractor making purchases on behalf of such entity shall maintain a copy of the entity's exemption certificate as evidence of the exemption. If the exemption certificate issued by the exempt entity to the contractor is later determined by the director of revenue to be invalid for any reason and the contractor has accepted the certificate in good faith, neither the contractor or the exempt entity shall be liable for the payment of any taxes, interest and penalty due as the result of use of the invalid exemption certificate. Materials shall be exempt from all state and local sales and use taxes when purchased by a contractor for the purpose of fabricating tangible personal property which is used in fulfilling a contract for the purpose of constructing, repairing or remodeling facilities for the following:

(a) An exempt entity located in this state, if the entity is one of those entities able to issue project exemption certificates in accordance with the provisions of section 144.062; or

(b) An exempt entity located outside the state if the exempt entity is authorized to issue an exemption certificate to contractors in accordance with the provisions of that state's law and the applicable provisions of this section;

(37) All sales or other transfers of tangible personal property to a lessor who leases the property under a lease of one year or longer executed or in effect at the time of the sale or other transfer to an interstate compact agency created pursuant to sections 70.370 to 70.441, RSMo, or sections 238.010 to 238.100, RSMo;

(38) Sales of tickets to any collegiate athletic championship event that is held in a facility owned or operated by a governmental authority or commission, a quasi-governmental agency, a state university or college or by the state or any political subdivision thereof, including a municipality, and that is played on a neutral site and may reasonably be played at a site located outside the state of Missouri. For purposes of this subdivision, "neutral site" means any site that is not located on the campus of a conference member institution participating in the event;

(39) All purchases by a sports complex authority created under section 64.920, RSMo;

**(40) All purchases of equipment by a terminal or supplier necessary to comply with the requirements of subsection 11 of section 414.255, RSMo."**; and

Further amend the title and enacting clause accordingly.

Senator Ridgeway moved that the above amendment be adopted.

Senator Stouffer raised the point of order that **SA 9** is out of order as the amendment goes beyond the scope of the bill.

The point of order was referred to Senator Bartle, Chairman of the Committee on the Judiciary and Civil and Criminal Jurisprudence, who ruled it well taken.

Senator Clemens offered **SA 10**, which was read:

## SENATE AMENDMENT NO. 10

Amend Senate Committee Substitute for Senate Bill No. 759, Page 6, Section 414.255, Line 196, by inserting after all of said line the following:

**“Section 1. All retail fuel pumps dispensing any amount of petroleum shall contain a country of origin label indicating from which country the majority of the petroleum dispensed from the pump was derived.”; and**

Further amend the title and enacting clause accordingly.

Senator Clemens moved that the above amendment be adopted.

At the request of Senator Clemens, **SA 10** was withdrawn.

Senator Stouffer moved that **SCS** for **SB 759**, as amended, be adopted, which motion prevailed.

On motion of Senator Stouffer, **SCS** for **SB 759**, as amended, was declared perfected and ordered printed.

**REPORTS OF STANDING COMMITTEES**

Senator Shields, 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 **SS** for **SCS** for **SB 944**, 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.

**MESSAGES FROM THE HOUSE**

The following message was 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 **HB 1570**, entitled:

An Act to repeal section 488.2300, RSMo, and to enact in lieu thereof one new section relating to allowing the family services and justice fund to be used to fund guardian ad litem and informal adjustment services.

In which the concurrence of the Senate is respectfully requested.

Read 1st time.

**INTRODUCTIONS OF GUESTS**

Senator McKenna introduced to the Senate, Ryan Cooper, Hillsboro.

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

SENATE CALENDAR

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THIRTY-FIFTH DAY—TUESDAY, MARCH 11, 2008

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FORMAL CALENDAR

HOUSE BILLS ON SECOND READING

HCS for HBs 1595 & 1668  
HB 1371-Wilson (119), et al  
HB 1678-Day, et al  
HB 1384-Cox, et al

HCS for HB 1779  
HCS for HB 1619  
HB 1570-Franz

THIRD READING OF SENATE BILLS

SCS for SBs 1034 & 802-Mayer  
SCS for SB 732-Champion, et al

SS#2 for SCS for SBs 747 & 736-Ridgeway  
SS for SCS for SB 944-Engler

SENATE BILLS FOR PERFECTION

1. SB 939-Stouffer, with SCS  
2. SB 1046-Mayer  
3. SB 1116-Days  
4. SB 1035-Scott, with SCS  
5. SB 817-Goodman  
6. SB 874-Graham, with SCS  
7. SB 881-Green  
8. SB 967-Mayer, with SCS  
9. SB 713-Gibbons, with SCS  
10. SB 1093-Loudon, et al

11. SB 811-Stouffer, with SCS  
12. SB 957-Goodman  
13. SB 990-Champion  
14. SB 1103-Gibbons  
15. SB 915-Ridgeway  
16. SBs 982, 834 & 819-Purgason, with SCS  
17. SB 767-Goodman and Gibbons, with SCS  
18. SB 815-Goodman  
19. SB 716-Loudon, et al  
20. SB 1059-Engler, with SCS

INFORMAL CALENDAR

THIRD READING OF SENATE BILLS

SCS for SBs 754 & 794-Mayer and Loudon

## SENATE BILLS FOR PERFECTION

SBs 712 & 882-Gibbons and Rupp, with SCS	SBs 840 & 857-Engler, with SCS
SBs 714, 933, 899 & 758-Loudon and Gibbons, with SCS	SB 846-Rupp, with SCS
SB 717-Kennedy and Shields	SB 865-Rupp and Gibbons, with SCS
SB 726-Shields, with SCS	SB 873-Graham, with SCS
SB 729-Griesheimer, with SCS	SB 898-Clemens, with SCS
SB 749-Ridgeway, with SCS	SB 907-Engler and Gibbons, with SCS
SB 756-Engler and Rupp, with SCS (pending)	SBs 909, 954, 934 & 1003-Engler, with SCS
SBs 761 & 774-Stouffer, with SCS	SB 929-Green and Callahan, with SCS
SB 764-Wilson, et al, with SA 2 (pending)	SBs 930 & 947-Stouffer, with SCS
SB 768-Rupp and Gibbons, with SCS	SBs 993 & 770-Crowell, with SCS
SB 776-Justus and Koster, with SCS	SB 996-Crowell, with SCS
SB 809-Stouffer, with SCS	SB 997-Crowell
SB 821-Shoemyer, with SCS (pending)	SB 1007-Loudon
SB 822-Shoemyer	SB 1058-Mayer
	SJR 34 & 30-Crowell and Coleman, with SCS

## CONSENT CALENDAR

## Senate Bills

## Reported 3/6

SB 790-Champion	SB 1033-Griesheimer, with SCS
SB 1016-Mayer	SB 980-Ridgeway
SB 863-Rupp	SB 1151-Barnitz
SB 1073-Dempsey	SB 956-Kennedy
SB 805-Mayer	SB 1108-Scott
SB 1044-Stouffer, with SCS	SB 797-Bray
SB 1089-Justus, with SCS	

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