

Journal of the Senate

SECOND REGULAR SESSION

THIRTY-FIFTH DAY—TUESDAY, MARCH 11, 2008

The Senate met pursuant to adjournment.

Senator Rupp in the Chair.

Reverend Carl Gauck offered the following prayer:

“Perform an unpleasant task daily just to keep in moral trim.” (Psychologist William James)

Lord God, You know it is easier for us to do that which is comfortable and pleasing to ourselves and often very uncomfortable to do that which we know will not be pleasant. But help us to strengthen our moral muscles by exercising them daily doing what is right and resisting life’s constant small temptations. For it is Your call for us to serve and walk Your righteous path. 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

Barnitz	Bartle	Bray	Callahan	Champion	Clemens	Coleman	Days
Dempsey	Engler	Goodman	Graham	Green	Griesheimer	Justus	Koster
Lager	Loudon	Mayer	McKenna	Nodler	Purgason	Rupp	Scott
Shields	Shoemyer	Smith	Stouffer	Vogel	Wilson—30		

Absent—Senators—None

Absent with leave—Senators

Crowell	Gibbons	Kennedy	Ridgeway—4
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Vacancies—None

The Lieutenant Governor was present.

RESOLUTIONS

Senator Days offered Senate Resolution No. 2071, regarding Jeanette Days Pulliam, Normandy, which was adopted.

Senator Bartle offered Senate Resolution No. 2072, regarding the Fiftieth Wedding Anniversary of Gary and Donna Arbuckle, Lee's Summit, which was adopted.

REFERRALS

In the absence of President Pro Tem Gibbons and without objection, Senator Shields referred **SS** for **SCS** for **SB 944** to the Committee on Governmental Accountability and Fiscal Oversight.

SENATE BILLS FOR PERFECTION

Senator Shields moved that **SB 726**, with **SCS**, be called from the Informal Calendar and taken up for perfection, which motion prevailed.

SCS for **SB 726**, entitled:

SENATE COMMITTEE SUBSTITUTE FOR
SENATE BILL NO. 726

An Act to amend chapters 208 and 210, RSMo, by adding thereto three new sections relating to child care facilities.

Was taken up.

Senator Shields moved that **SCS** for **SB 726** be adopted.

Senator Shields offered **SS** for **SCS** for **SB 726**, entitled:

SENATE SUBSTITUTE FOR
SENATE COMMITTEE SUBSTITUTE FOR
SENATE BILL NO. 726

An Act to amend chapter 210, RSMo, by adding thereto two new sections relating to child care facilities.

Senator Shields moved that **SS** for **SCS** for **SB 726** be adopted.

Senator Goodman assumed the Chair.

Senator Shoemyer offered **SA 1**:

SENATE AMENDMENT NO. 1

Amend Senate Substitute for Senate Committee Substitute for Senate Bill No. 726, Page 3, Section 210.205, Line 12, by inserting immediately after the word "improvements." the following:

"The grants shall be awarded in such a manner to ensure geographic diversity among the grantees."

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

President Kinder assumed the Chair.

Senator Rupp offered SA 2:

SENATE AMENDMENT NO. 2

Amend Senate Substitute for Senate Committee Substitute for Senate Bill No. 726, Page 1, Section 210.205, Line 14, by inserting immediately after the word "agency." the following:

"All early childhood programs licensed by the department and accredited by the National Association for the Education of Young Children shall receive the highest level of the rating system."

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

Senator Griesheimer assumed the Chair.

Senator Justus offered SA 3:

SENATE AMENDMENT NO. 3

Amend Senate Substitute for Senate Committee Substitute for Senate Bill No. 726, Page 1, Section A, Line 3 of said page, by inserting immediately after said line the following:

"208.026. By July 1, 2009, all licensed child care providers serving families receiving state-funded child care assistance shall be reimbursed at the current market rate for child care as established by the biennial state market rate survey conducted by the department of social services pursuant to 42 U.S.C. section 601 et. seq. and 45 CFR 98.43(b)(2).

208.046. 1. The children's division shall promulgate rules to become effective no later than July 1, 2009, to modify the income eligibility criteria for any person receiving state-funded child care assistance under this chapter, either through vouchers or direct reimbursement to child care providers, as follows:

(1) For incomes of less than one hundred forty percent of the federal poverty level for the applicable family size, such persons receiving state-funded child care assistance under this chapter shall be eligible, subject to appropriations, to receive child care subsidy benefits, less a sliding fee established by the children's division based on family size and income;

(2) A person receiving state-funded child care assistance under this chapter and whose income surpasses one hundred forty percent of the federal poverty level for the applicable family size may continue to receive reduced subsidy benefits on a scale established by the children's division until such person's income reaches one hundred eighty-five percent of the federal poverty level for the applicable family size, at which time such person will have assumed the full cost of the maximum base child care subsidy rate established by the children's division and shall be no longer eligible for child care subsidy benefits;

(3) If appropriations in a given fiscal year are insufficient to provide the subsidy established under this chapter for all eligible recipients, the children's division shall establish a waiting list and promulgate rules for the prioritization of eligible recipients on the waiting list.

2. The sliding scale fee established in this section for child care subsidy recipients may be waived for children with special needs as established by the children's division.

3. Any rule or portion of a rule, as that term is defined in section 536.010, RSMo, that is created under the authority delegated in this section shall become effective only if it complies with and is

subject to all of the provisions of chapter 536, RSMo, and, if applicable, section 536.028, RSMo. This section and chapter 536, RSMo, are nonseverable and if any of the powers vested with the general assembly pursuant to chapter 536, RSMo, to review, to delay the effective date, or to disapprove and annul a rule are subsequently held unconstitutional, then the grant of rulemaking authority and any rule proposed or adopted after August 28, 2008, shall be invalid and void.”; and

Further amend the title and enacting clause accordingly.

Senator Justus moved that the above amendment be adopted.

Senator Justus offered SSA 1 for SA 3:

SENATE SUBSTITUTE AMENDMENT NO. 1 FOR
SENATE AMENDMENT NO. 3

Amend Senate Substitute for Senate Committee Substitute for Senate Bill No. 726, Page 1, Section A, Line 3 of said page, by inserting immediately after said line the following:

“208.046. 1. The children's division shall promulgate rules to become effective no later than July 1, 2009, to modify the income eligibility criteria for any person receiving state-funded child care assistance under this chapter, either through vouchers or direct reimbursement to child care providers, as follows:

(1) For incomes of less than one hundred forty percent of the federal poverty level for the applicable family size, such persons receiving state-funded child care assistance under this chapter shall be eligible, subject to appropriations, to receive child care subsidy benefits, less a sliding fee established by the children's division based on family size and income;

(2) A person receiving state-funded child care assistance under this chapter and whose income surpasses one hundred forty percent of the federal poverty level for the applicable family size may continue to receive reduced subsidy benefits on a scale established by the children's division until such person's income reaches one hundred eighty-five percent of the federal poverty level for the applicable family size, at which time such person will have assumed the full cost of the maximum base child care subsidy rate established by the children's division and shall be no longer eligible for child care subsidy benefits;

(3) If appropriations in a given fiscal year are insufficient to provide the subsidy established under this chapter for all eligible recipients, the children's division shall establish a waiting list and promulgate rules for the prioritization of eligible recipients on the waiting list.

2. The sliding scale fee established in this section for child care subsidy recipients may be waived for children with special needs as established by the children's division.

3. Any rule or portion of a rule, as that term is defined in section 536.010, RSMo, that is created under the authority delegated in this section shall become effective only if it complies with and is subject to all of the provisions of chapter 536, RSMo, and, if applicable, section 536.028, RSMo. This section and chapter 536, RSMo, are nonseverable and if any of the powers vested with the general assembly pursuant to chapter 536, RSMo, to review, to delay the effective date, or to disapprove and annul a rule are subsequently held unconstitutional, then the grant of rulemaking authority and any rule proposed or adopted after August 28, 2008, shall be invalid and void.”; and

Further amend the title and enacting clause accordingly.

Senator Justus moved that the above substitute amendment be adopted and requested a roll call vote be taken. She was joined in her request by Senators Bray, Callahan, Koster and Purgason.

Senator Purgason offered **SA 1** to **SSA 1** for **SA 3**, which was read:

SENATE AMENDMENT NO. 1 TO
SENATE SUBSTITUTE AMENDMENT NO. 1 FOR
SENATE AMENDMENT NO. 3

Amend Senate Substitute Amendment No. 1 for Senate Amendment No. 3 to Senate Substitute for Senate Committee Substitute for Senate Bill No. 726, Page 1, Section 208.046, Line 10, by striking the words “one hundred forty” and inserting in lieu thereof the following: “**three hundred**”; and further amend line 17 by striking the words “one hundred forty” and inserting in lieu thereof the following: “**three hundred**”; and further amend line 21 by striking the words “one hundred eighty-five” and insert in lieu thereof the following: “**three hundred fifty**”.

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

SSA 1 for **SA 3** was again taken up.

SSA 1 for **SA 3** failed of adoption by the following vote:

YEAS—Senators

Barnitz	Bray	Callahan	Coleman	Days	Engler	Graham	Green
Justus	Koster	McKenna	Rupp	Shoemyer	Smith	Wilson—15	

NAYS—Senators

Bartle	Champion	Clemens	Dempsey	Goodman	Griesheimer	Lager	Loudon
Mayer	Nodler	Purgason	Scott	Shields	Stouffer	Vogel—15	

Absent—Senators—None

Absent with leave—Senators

Crowell	Gibbons	Kennedy	Ridgeway—4
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Vacancies—None

SA 3 was again taken up.

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

Senator Rupp offered **SA 4**:

SENATE AMENDMENT NO. 4

Amend Senate Substitute for Senate Committee Substitute for Senate Bill No. 726, Page 5, Section 210.205, Line 3, by inserting after all of said line the following:

“9. The provisions of this section shall only become effective upon notice to the revisor of statutes by the department of social services that the state of Missouri ranks in the top twenty-five percent among the states in providing state-funded child care assistance under chapter 208, RSMo.”.

Senator Rupp moved that the above amendment be adopted.

Senator Shields requested a roll call vote be taken on the adoption of **SA 4** and was joined in his request by Senators Callahan, Champion, Coleman and Nodler.

SA 4 failed of adoption by the following vote:

YEAS—Senators

Barnitz	Bartle	Callahan	Days	Dempsey	Graham	Justus	Koster
Loudon	McKenna	Purgason	Rupp	Scott	Shoemyer—14		

NAYS—Senators

Bray	Champion	Clemens	Coleman	Engler	Goodman	Green	Griesheimer
Lager	Mayer	Nodler	Shields	Smith	Stouffer	Vogel	Wilson—16

Absent—Senators—None

Absent with leave—Senators

Crowell	Gibbons	Kennedy	Ridgeway—4
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Vacancies—None

Senator Smith offered **SA 5**:

SENATE AMENDMENT NO. 5

Amend Senate Substitute for Senate Committee Substitute for Senate Bill No. 726, Page 1, In the Title, Line 3, by striking the word “facilities”; and

Further amend said bill and page, section A, line 3, by inserting immediately after said line the following:

“162.1168. 1. There is hereby established a pilot program within the Missouri preschool project to be known as the “Missouri Preschool Plus Grant Program”, which shall serve up to one thousand two hundred fifty students with high quality early childhood educational services in order to improve school readiness outcomes. The program shall be administered by the department of elementary and secondary education in collaboration with the coordinating board for early childhood. Grants shall be awarded in this section for three years and shall be renewable. The program shall be funded through appropriations to the Missouri preschool plus grant program fund. Funds from the gaming commission fund shall not be used to fund the program.

2. For purposes of this section, the following terms shall mean:

- (1) “Department”, the department of elementary and secondary education;**
- (2) “Program”, the Missouri preschool plus grant program.**

3. Grantees shall include the following:

- (1) School districts classified as unaccredited by the state board of education; or**
- (2) Non-sectarian community-based organizations located within a school district classified as unaccredited by the state board of education.**

4. If a school district becomes classified as provisionally accredited or accredited by the state board of education, the school district may complete the length of an existing grant and shall be

eligible for one additional renewal for three years.

5. To receive a preschool placement under this section, a child shall be one or two years away from kindergarten entry.

6. The Missouri preschool plus grant program shall comply with the standards developed under section 161.213, RSMo. Public school grantees shall employ teachers with a bachelor's degree. Non-sectarian community-based organizations may employ teachers with at least an associate's degree provided such teachers demonstrate they are on the path to obtaining a bachelor's degree within five years.

7. Families with incomes less than one hundred thirty percent of the federal poverty guidelines shall receive free services through eligible grantees. Families with incomes at or above one hundred thirty percent of the federal poverty guidelines may be charged a co-pay on a sliding scale, as established by the department.

8. At least fifty percent of the preschool placements funded by the program shall be offered through non-sectarian community-based organizations.

9. The department shall develop standards for teacher-pupil ratios, classroom size, teacher training and educational attainment, and curriculum.

10. Grantees participating in the program shall give admission preference to dependents of active duty military personnel.

11. School districts in which such pilot programs exist shall collect data about short-term and long-term student performance so that the program may be evaluated on quantitative measurements developed by the department. For purposes of this subsection, "long-term" shall mean from point of entry to graduation from high school.

12. Grantees shall coordinate preschool programs with the nearest parents as teachers site to ensure a continuum of care.

13. The department shall accept applications in a competitive bid process to begin implementation of the program for the 2009-2010 school year.

14. The department shall promulgate rules and regulations necessary to implement this section by January 1, 2009. Any rule or portion of a rule, as that term is defined in section 536.010, RSMo, that is created under the authority delegated in this section shall become effective only if it complies with and is subject to all of the provisions of chapter 536, RSMo, and, if applicable, section 536.028, RSMo. This section and chapter 536, RSMo, are nonseverable and if any of the powers vested with the general assembly pursuant to chapter 536, RSMo, to review, to delay the effective date, or to disapprove and annul a rule are subsequently held unconstitutional, then the grant of rulemaking authority and any rule proposed or adopted after August 28, 2008, shall be invalid and void.

15. The general assembly shall appropriate an amount sufficient to adequately fund the provisions of this section, which shall be a minimum of five million dollars in any fiscal year.

16. There is hereby created in the state treasury the "Missouri Preschool Plus Grant Program Fund" which shall consist of general revenue appropriated to the program, funds received from the federal government, and voluntary contributions to support or match program activities. The state treasurer shall be custodian of the fund and may approve disbursements from the fund in accordance

with sections 30.170 and 30.180, RSMo. Upon appropriation, money in the fund shall be used solely for the administration of this section. Any moneys remaining in the fund at the end of the biennium shall revert to the credit of the general revenue fund. The state treasurer shall invest moneys in the fund in the same manner as other funds are invested. Any interest and moneys earned on such investments shall be credited to the fund.

17. Pursuant to section 23.253, RSMo, of the Missouri sunset act:

(1) The provisions of the new program authorized under this section shall automatically sunset six years after the effective date of this section unless reauthorized by an act of the general assembly; and

(2) If such program is reauthorized, the program authorized under this section shall automatically sunset twelve years after the effective date of the reauthorization of this section; and

(3) This section shall terminate on September first of the calendar year immediately following the calendar year in which the program authorized under this section is sunset.”; and

Further amend the title and enacting clause accordingly.

Senator Smith moved that the above amendment be adopted.

Senator Callahan offered **SA 1 to SA 5**, which was read:

SENATE AMENDMENT NO. 1 TO
SENATE AMENDMENT NO. 5

Amend Senate Amendment No. 5 to Senate Substitute for Senate Committee Substitute for Senate Bill No. 726, Page 2, Section 162.1168, Line 6, by inserting after all of said line the following:

“(3) Any school district that, as a result of a boundary change election as provided in 162.431, receives pupils from a provisionally accredited or unaccredited school district.”.

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

Senator Bray offered **SA 2 to SA 5**, which was read:

SENATE AMENDMENT NO. 2 TO
SENATE AMENDMENT NO. 5

Amend Senate Amendment No. 5 to Senate Substitute for Senate Committee Substitute for Senate Bill No. 726, Page 3, Section 162.1168, Line 6, by inserting immediately after the word “districts” the following: **“and non-sectarian community-based organizations”**; and further amend line 8, by inserting immediately after the word “performance” the following: **“, where feasible,”**; and further amend line 9 by inserting immediately after the word “department.” the following: **“The department shall make a good faith effort to collect long-term student performance data required under this subsection for students who attend non-public schools.”.**

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

Senator Mayer assumed the Chair.

Senator Smith offered **SA 3 to SA 5**, which was read:

SENATE AMENDMENT NO. 3 TO
SENATE AMENDMENT NO. 5

Amend Senate Amendment No. 5 to Senate Substitute for Senate Committee Substitute for Senate Bill No. 726, Page 4, Section 162.1168, Line 3, by striking the words “a minimum of”.

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

SA 5, as amended, was again taken up.

Senator Smith moved that the above amendment be adopted and requested a roll call vote be taken. He was joined in his request by Senators Bray, Green, Justus and Koster.

SA 5, as amended, was adopted by the following vote:

YEAS—Senators

Barnitz	Bray	Callahan	Clemens	Coleman	Days	Dempsey	Engler
Goodman	Graham	Green	Justus	Koster	McKenna	Rupp	Shields
Shoemyer	Smith	Stouffer	Vogel	Wilson—21			

NAYS—Senators

Bartle	Griesheimer	Lager	Loudon	Mayer	Nodler	Purgason—7
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Absent—Senators

Champion	Scott—2
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Absent with leave—Senators

Crowell	Gibbons	Kennedy	Ridgeway—4
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Vacancies—None

Senator Shields moved that **SS** for **SCS** for **SB 726**, as amended, be adopted, which motion prevailed.

On motion of Senator Shields, **SS** for **SCS** for **SB 726**, as amended, was declared perfected and ordered printed.

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

RECESS

The time of recess having expired, the Senate was called to order by Senator Bartle.

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 1711**, entitled:

An Act to repeal section 190.335, RSMo, and to enact in lieu thereof one new section relating to emergency service boards.

In which the concurrence of the Senate is respectfully requested.

Read 1st time.

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 **SCS** for **SB 759**, 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.

SENATE BILLS FOR PERFECTION

Senator Clemens moved that **SB 898**, with **SCS**, be called from the Informal Calendar and taken up for perfection, which motion prevailed.

SCS for **SB 898**, entitled:

SENATE COMMITTEE SUBSTITUTE FOR SENATE BILL NO. 898

An Act to repeal sections 135.800, 135.805, 142.028, 260.546, 261.035, 261.230, 261.235, 261.239, 263.232, 265.200, 348.430, 348.432, and 348.505, RSMo, and to enact in lieu thereof nineteen new sections relating to the administration of agriculture incentives and programs.

Was taken up.

Senator Clemens moved that **SCS** for **SB 898** be adopted.

Senator Clemens offered **SS** for **SCS** for **SB 898**, entitled:

SENATE SUBSTITUTE FOR SENATE COMMITTEE SUBSTITUTE FOR SENATE BILL NO. 898

An Act to repeal sections 135.800, 135.805, 142.028, 260.546, 261.035, 261.230, 261.235, 261.239, 263.232, 265.200, 348.430, 348.432, and 348.505, RSMo, and to enact in lieu thereof twenty-three new sections relating to the administration of agriculture incentives and programs.

Senator Clemens moved that **SS** for **SCS** for **SB 898** be adopted.

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

SENATE AMENDMENT NO. 1

Amend Senate Substitute for Senate Committee Substitute for Senate Bill No. 898, Page 2, Section 135.633, Line 9, by inserting immediately after the word “partnership,” the following: “**cooperative**,”.

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

Senator Shoemyer offered **SA 2**:

SENATE AMENDMENT NO. 2

Amend Senate Substitute for Senate Committee Substitute for Senate Bill No. 898, Page 4, Section 135.633, Line 12, by inserting after all of said line the following:

“8. No producer or co-op shall be eligible for the tax credit under this section if such producer employs a lobbyist, as defined in section 105.470, RSMo, or is represented by a lobbyist, when the work of such lobbyist is on behalf of the producer's agricultural operations.”; and further amend said section by renumbering the remaining subsections accordingly.

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

Senator Purgason offered SA 3:

SENATE AMENDMENT NO. 3

Amend Senate Substitute for Senate Committee Substitute for Senate Bill No. 898, Page 39, Section 265.200, Line 4, by inserting after all of said line the following:

“267.168. 1. The state of Missouri may support a voluntary animal identification program. The department of agriculture shall not mandate or otherwise force national animal identification system (NAIS) premises registration without specific statutory authorization from the Missouri general assembly.

2. Any person who participates in the national animal identification system may withdraw from the system at any time. All personal information relating to a participant shall be deleted from the system when the participant withdraws, unless the participant is part of an ongoing disease investigation.”; and

Further amend the title and enacting clause accordingly.

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

Senator Scott assumed the Chair.

Senator Nodler offered SA 4:

SENATE AMENDMENT NO. 4

Amend Senate Substitute for Senate Committee Substitute for Senate Bill No. 898, Page 51, Section 348.505, Line 8, by inserting after all of said line the following:

“640.710. 1. The department shall promulgate rules regulating the establishment, permitting, design, construction, operation and management of class I facilities. The department shall have the authority and jurisdiction to regulate the establishment, permitting, design, construction, operation and management of any class I facility. Such rules may require monitoring wells on a site-specific basis when, in the determination of the division of geology and land survey, class IA concentrated animal feeding operation lagoons are located in hydrologically sensitive areas where the quality of groundwater may be compromised. Such rules and regulations shall be designed to afford a prudent degree of environmental protection while accommodating modern agricultural practices.

2. If a decision on any application concerning a concentrated animal feeding operation cannot be rendered by the department within ninety days of the receipt of the completed application, the director shall establish, publish, and post on the department website a time line under which such application shall be considered and decided. Immediately following establishment of the time line, the director shall arrange for its publication for a period of ten days in the newspaper of each county or incorporated city, town, or village to be affected by the permit application. The time line shall be posted on the department's website for the duration of time the application is open for consideration.

The director may only amend the time line once. In the event that such an amendment is made, the director shall publish the new time line immediately after that decision has been made, in the same manner as described above.

3. Except as provided in subsections 3 and 4 of this section, the department shall require at least but not more than the following buffer distances between the nearest confinement building or lagoon and any public building or occupied residence, except a residence which is owned by the concentrated animal feeding operation or a residence from which a written agreement for operation is obtained:

(1) For concentrated animal feeding operations with at least one thousand animal units, one thousand feet;

(2) For concentrated animal feeding operations with between three thousand and six thousand nine hundred ninety-nine animal units inclusive, two thousand feet; and

(3) For concentrated animal feeding operations of seven thousand or more animal units, three thousand feet.

[3.] 4. All concentrated animal feeding operations in existence as of June 25, 1996, shall be exempt from the buffer distances prescribed in subsection 2 of this section. Such distances shall not apply to concentrated animal feeding operations which have received a written agreement which has been signed by all affected property owners within the buffer distance.

[4.] 5. The department may, upon review of the information contained in the site plan including, but not limited to, the prevailing winds, topography and other local environmental factors, authorize a distance which is less than the distance prescribed in subsection 2 of this section. The department's recommendation shall be sent to the governing body of the county in which such site is proposed. The department's authorized buffer distance shall become effective unless the county governing body rejects the department's recommendation by a majority vote at the next meeting of the governing body after the recommendation is received.

[5.] 6. Nothing in this section shall be construed as restricting local controls.

643.151. 1. It is unlawful for any person to cause or permit any air pollution by emission of any air contaminant from any air contaminant source located in Missouri, in violation of sections 643.010 to 643.190, or any rule promulgated by the commission.

2. No person who knows or should know of the existence of such rules may cause or permit any air pollution by emission of any air contaminant source located outside Missouri, and which emissions enter Missouri in excess of the emission control regulations applicable to the portion of Missouri where the air contaminant enters the state.

3. In the event the commission determines that any provision of sections 643.010 to 643.190, or the rules promulgated hereunder, permits issued, or any final order or determination made by the commission or the director is being violated, the commission may cause to have instituted a civil action in any court of competent jurisdiction for injunctive relief to prevent any further violation or for the assessment of a penalty not to exceed ten thousand dollars for each violation per day for each day, or part thereof, the violation continues to occur, or both, as the court may deem proper. A civil monetary penalty under this section shall not be assessed for a violation where an administrative penalty was assessed under section 643.085. The commission may request the attorney general or other counsel to bring such action in the name of the people

of the state of Missouri. Process may be served in any manner provided by chapter 506, RSMo, including but not limited to sections 506.510 and 506.520, RSMo. Suit may be brought in any county where the defendant's principal place of business is located or where the air contaminant source is located or where the air contaminants enter the state of Missouri. Any offer of settlement to resolve a civil penalty under this section shall be in writing, shall state that an action for imposition of a civil penalty may be initiated by the attorney general or a prosecuting attorney representing the department under authority of this section, and shall identify any dollar amount as an offer of settlement which shall be negotiated in good faith through conference, conciliation and persuasion.

4. Any concentrated animal feeding operation or recycling company that converts animal parts into petroleum that the commission or the director determines to be in persistent violation of the provisions of this section or any odor rule promulgated by the department shall forfeit any permits issued by the department under sections 640.700 to 640.755, RSMo, this chapter, or chapter 644, RSMo, until such time that the concentrated animal feeding operation or recycling company that converts animal parts into petroleum successfully reapplies for a new permit. Except as provided otherwise in subsection 10 of this section, for the purposes of this subsection, the term “persistent violation” shall mean any concentrated animal feeding operation or recycling company that converts animal parts into petroleum that has been found by the commission or the director to have violated the provisions of this section at least six times during any twelve-month period or at least twelve times during any thirty-six month period.

5. During any thirty-six month period, any concentrated animal feeding operation or recycling company that converts animal parts into petroleum that the commission or director has found to have violated the provisions of this section on more than one occasion shall be subject to a surcharge in addition to the civil penalties assessed under subsection 3 of this section. The surcharge shall be an amount equal to the sum of the penalty assessed under subsection 3 of this section for the current citation plus all the fines assessed against the violator during the thirty-six month period prior to the date the citation was issued.

6. The proceeds of any surcharge assessed under subsection 5 of this section shall be deposited into the “Air Pollution Enforcement Fund”, which is hereby established and shall be administered by the department. One half of all moneys in the fund shall be utilized exclusively to enforce the provisions of this section and one half of all moneys in the fund shall be transferred at least annually to the state school moneys fund as established in section 166.051, RSMo, and distributed to the public schools of this state in the manner provided in section 163.031, RSMo.

7. Notwithstanding the provisions of section 33.080, RSMo, moneys in the air pollution enforcement fund shall not revert to general revenue. The state treasurer shall invest the moneys from the fund in the same manner as other state funds are invested. Interest accruing to the fund shall be deposited in the fund and shall not be transferred to general revenue.

8. Any member of the commission or employee thereof who is convicted of willful disclosure or conspiracy to disclose confidential information to any person other than one entitled to the information under sections 643.010 to 643.190 is guilty of a class A misdemeanor and upon conviction thereof shall be punished by a fine of not more than one thousand dollars.

[5.] **9. No liability shall be imposed upon persons violating the provisions of sections 643.010 to 643.190 or any rule hereunder due to any violation caused by an act of God, war, strike, riot or other**

catastrophe.

10. Upon any change in sections 643.010 to 643.190 or in the commission's regulations promulgated thereunder, the director may correspondingly adjust, by rule, the number of violations in any twelve or thirty-six month period that shall be considered a persistent violation under subsection 4 of this section, provided that any such adjustment shall keep the ratio of violations to time period reasonably consistent with the intent of the ratio in subsection 4 of this section.

644.076. 1. It is unlawful for any person to cause or permit any discharge of water contaminants from any water contaminant or point source located in Missouri in violation of sections 644.006 to 644.141, or any standard, rule or regulation promulgated by the commission. In the event the commission or the director determines that any provision of sections 644.006 to 644.141 or standard, rules, limitations or regulations promulgated pursuant thereto, or permits issued by, or any final abatement order, other order, or determination made by the commission or the director, or any filing requirement pursuant to sections 644.006 to 644.141 or any other provision which this state is required to enforce pursuant to any federal water pollution control act, is being, was, or is in imminent danger of being violated, the commission or director may cause to have instituted a civil action in any court of competent jurisdiction for the injunctive relief to prevent any such violation or further violation or for the assessment of a penalty not to exceed ten thousand dollars per day for each day, or part thereof, the violation occurred and continues to occur, or both, as the court deems proper. A civil monetary penalty pursuant to this section shall not be assessed for a violation where an administrative penalty was assessed pursuant to section 644.079. The commission, the chair of a watershed district's board of trustees created under section 249.1150, RSMo, or the director may request either the attorney general or a prosecuting attorney to bring any action authorized in this section in the name of the people of the state of Missouri. Suit may be brought in any county where the defendant's principal place of business is located or where the water contaminant or point source is located or was located at the time the violation occurred. Any offer of settlement to resolve a civil penalty pursuant to this section shall be in writing, shall state that an action for imposition of a civil penalty may be initiated by the attorney general or a prosecuting attorney representing the department pursuant to this section, and shall identify any dollar amount as an offer of settlement which shall be negotiated in good faith through conference, conciliation and persuasion.

2. Any concentrated animal feeding operation or recycling company that converts animal parts into petroleum that the commission or the director determines to be in persistent violation of the provisions of this section shall forfeit any permits issued by the department under sections 640.700 to 640.755, RSMo, chapter 643, RSMo, or chapter 644, until such time the concentrated animal feeding operation or recycling company that converts animal parts into petroleum successfully reapplies for a new permit. Except as provided otherwise in subsection 9 of this section, for the purposes of this subsection, the term "persistent violation" shall mean any concentrated animal feeding operation or recycling company that converts animal parts into petroleum that the commission or the director has found to have violated the provisions of this section at least six times during any twelve-month period or at least twelve times during any thirty-six month period.

3. During any thirty-six month period, any concentrated animal feeding operation or recycling company that converts animal parts into petroleum that the commission or director has found to have violated the provisions of this section on more than one occasion shall be subject to a surcharge in addition to the civil penalties assessed under subsection 1 of this section. The surcharge shall be an amount equal to the sum of the penalty assessed under subsection 1 of this section for the current

citation plus all the fines assessed against the violator during the thirty-six month period prior to the date the citation was issued.

4. The proceeds of any surcharge assessed under subsection 3 of this section shall be deposited into the “Water Pollution Enforcement Fund”, which is hereby established and shall be administered by the department. One half of all moneys in the fund shall be utilized exclusively to enforce the provisions of this section, and one half of all the moneys in the fund shall be transferred at least annually to the state school moneys fund as established in section 166.051, RSMo, and distributed to the public schools of this state in the manner provided in section 163.031, RSMo.

5. Notwithstanding the provisions of section 33.080, RSMo, moneys in the water pollution enforcement fund shall not revert to general revenue. The state treasurer shall invest the moneys from the fund in the same manner as other state funds are invested. Interest accruing to the fund shall be deposited in the fund and shall not be transferred to general revenue.

6. Any person who knowingly makes any false statement, representation or certification in any application, record, report, plan, or other document filed or required to be maintained pursuant to sections 644.006 to 644.141 or who falsifies, tampers with, or knowingly renders inaccurate any monitoring device or method required to be maintained pursuant to sections 644.006 to 644.141 shall, upon conviction, be punished by a fine of not more than ten thousand dollars, or by imprisonment for not more than six months, or by both.

[3.] 7. Any person who willfully or negligently commits any violation set forth pursuant to subsection 1 of this section shall, upon conviction, be punished by a fine of not less than two thousand five hundred dollars nor more than twenty-five thousand dollars per day of violation, or by imprisonment for not more than one year, or both. Second and successive convictions for violation of the same provision of this section by any person shall be punished by a fine of not more than fifty thousand dollars per day of violation, or by imprisonment for not more than two years, or both.

[4.] 8. The liabilities which shall be imposed pursuant to any provision of sections 644.006 to 644.141 upon persons violating the provisions of sections 644.006 to 644.141 or any standard, rule, limitation, or regulation adopted pursuant thereto shall not be imposed due to any violation caused by an act of God, war, strike, riot, or other catastrophe.

9. Upon any change in sections 644.006 to 644.141 or in the commission's regulations promulgated thereunder, the director may correspondingly adjust, by rule, the number of violations in any twelve or thirty-six month period that shall be considered a persistent violation under subsection 2 of this section, provided that any such adjustment shall keep the ratio of violations to time period reasonably consistent with the intent of the ratio in subsection 2 of this section.”; and

Further amend the title and enacting clause accordingly.

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

SA 4 was adopted by the following vote:

YEAS—Senators

Bartle	Bray	Callahan	Champion	Coleman	Days	Dempsey	Engler
Goodman	Graham	Green	Griesheimer	Justus	Lager	Loudon	Mayer
McKenna	Nodler	Purgason	Rupp	Scott	Shields	Shoemyer	Smith

Vogel Wilson—26

NAYS—Senators

Barnitz Clemens Stouffer—3

Absent—Senator Koster—1

Absent with leave—Senators

Crowell Gibbons Kennedy Ridgeway—4

Vacancies—None

Senator Barnitz offered SA 5:

SENATE AMENDMENT NO. 5

Amend Senate Substitute for Senate Committee Substitute for Senate Bill No. 898, Page 51, Section 348.505, Line 8 of said page, by inserting after all of said line the following:

“348.515. In recognition of the role of animal agriculture in the economic well-being of this state and in recognition that opportunities to succeed in agriculture should not be limited by the economic means of persons engaged in agriculture, the general assembly of the state of Missouri declares that state assistance in the guarantee of loans made to enable independent livestock and poultry family farm operations to succeed in the operation will benefit the state of Missouri economically and socially and is a public purpose of great importance.

348.518. 1. In addition to the duties and powers established in sections 348.005 to 348.505, the Missouri agricultural and small business development authority shall develop and implement a livestock feed and crop input loan guarantee program as provided in sections 348.515 to 348.533. The authority may promulgate rules necessary to carry out the purposes of sections 348.515 to 348.533. The rules promulgated under sections 348.515 to 348.533 shall be designed to encourage maximum involvement and participation by lenders and financial institutions in the loan guarantee program. The authority shall be the administrative agency for the implementation of the loan guarantee program, and may employ such persons as necessary, within the limits of appropriations made for that purpose, to administer the loan guarantee program.

2. Any rule or portion of a rule, as that term is defined in section 536.010, RSMo, that is created under the authority delegated in this section shall become effective only if it complies with and is subject to all of the provisions of chapter 536, RSMo, and, if applicable, section 536.028, RSMo. This section and chapter 536, RSMo, are nonseverable and if any of the powers vested with the general assembly pursuant to chapter 536, RSMo, to review, to delay the effective date, or to disapprove and annul a rule are subsequently held unconstitutional, then the grant of rulemaking authority and any rule proposed or adopted after August 28, 2008, shall be invalid and void.

348.521. 1. The authority may issue certificates of guaranty covering a first loss guarantee up to but not more than fifty percent of the loan on a declining principal basis for loans to individuals executing a note or other evidence of a loan made for livestock feed or crop input, but not to exceed the amount of forty thousand dollars for any one individual and to pay from the livestock feed and crop input loan guarantee fund to an eligible lender up to fifty percent of the amount on a declining

principal basis of any loss on any guaranteed loan made under the provisions of sections 348.515 to 348.533, in the event of default on the loan. Upon payment of the loan, the authority shall be subrogated to all the rights of the eligible lender.

2. As used in sections 348.515 to 348.533, the term “eligible lender” means those entities defined as “lenders” under subdivision (8) of section 348.015.

3. The authority shall charge for each guaranteed loan a one-time participation fee of fifty dollars which shall be collected by the lender at the time of closing and paid to the authority. Amounts so collected shall be deposited in the livestock feed and crop input loan program fund and used, upon appropriation, to pay the costs of administering the program.

4. All moneys paid to satisfy a defaulted guaranteed loan shall only be paid out of the livestock feed and crop input loan guarantee fund established by sections 348.515 to 348.533.

5. The total outstanding guaranteed loans shall at no time exceed an amount which, according to sound actuarial judgment, would allow immediate redemption of twenty percent of the outstanding loans guaranteed by the fund at any one time.

348.524. 1. There is hereby established in the state treasury the “Livestock Feed and Crop Input Loan Guarantee Fund”. The fund shall consist of money appropriated to it by the general assembly, charges, gifts, grants and bequests from federal, private or other sources. Notwithstanding the provisions of section 33.080, RSMo, no portion of the fund shall be transferred to the general revenue fund.

2. All moneys received by the authority for payments made on previously defaulted guaranteed loans shall be paid promptly into the state treasury and deposited in the fund.

3. The fund shall be administered by the Missouri agricultural and small business development authority organized under sections 348.005 to 348.180.

4. Beginning with fiscal year 2009, the general assembly may appropriate moneys not to exceed four million dollars for the establishment and initial funding of the livestock feed and crop input loan guarantee fund.

348.527. Moneys in the fund, both unobligated and obligated as a reserve, which in the judgment of the authority are not currently needed for payments of defaults of guaranteed loans, may be invested by the state treasurer, and any income therefrom shall be deposited to the credit of the fund.

348.530. 1. Persons eligible for guarantees for loans under the provisions of sections 348.515 to 348.533 are individuals engaged in farming operations as defined in section 348.015, who intend to use the proceeds from the loan to finance the purchase of livestock feed used to produce livestock or input used to produce crops for the feeding of livestock, and who are seeking a loan or loans to finance not more than ninety percent of the anticipated cost.

2. The authority shall adopt and promulgate rules establishing eligibility under the provisions of sections 348.515 to 348.533, taking into consideration the individual's ability to repay the loan, the general economic conditions of the area in which the individual will be located, the prospect of success of the particular farm operation for which the loan is sought and such other factors as the authority may establish. The eligibility of any person for a loan guarantee under the provisions of sections 348.515 to 348.533 shall not be determined or otherwise affected by any consideration of that person's

race, religion, sex, creed, color, or location of residence. The authority may also provide for:

- (1) The manner and time of repayment of the principal and interest;**
- (2) The right of the borrower to accelerate payments without penalty;**
- (3) The amount of the guaranty charge;**
- (4) The effective period of the guaranty;**
- (5) The percent of the loan, not to exceed fifty percent, covered by the guaranty;**
- (6) The assignability of loans by the lender;**
- (7) Procedures in event of default by the borrower;**
- (8) The due diligence effort on the part of lenders for collection of guaranteed loans;**
- (9) Collection assistance to be provided to lenders; and**
- (10) The extension of the guaranty in consideration of duty in the armed forces, unemployment, natural disasters, or other hardships.”; and**

Further amend the title and enacting clause accordingly.

Senator Barnitz moved that the above amendment be adopted.

At the request of Senator Clemens, **SB 898**, with **SCS, SS** for **SCS** and **SA 5** (pending), 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 report:

Mr. President: Your Committee on Rules, Joint Rules, Resolutions and Ethics, to which was referred **SS** for **SCS** for **SB 726**, 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.

RESOLUTIONS

Senator Rupp offered Senate Resolution No. 2073, regarding the Sixtieth Wedding Anniversary of Mr. and Mrs. Leon Creech, Troy, which was adopted.

Senator Rupp offered Senate Resolution No. 2074, regarding Andrew McCown, Wentzville, which was adopted.

On behalf of Senator Kennedy, Senator Coleman offered Senate Resolution No. 2075, regarding Alphonso Neal, II, Saint Louis, which was adopted.

INTRODUCTIONS OF GUESTS

Senator Justus introduced to the Senate, Alex Hayes, Joseph Knopke, Nikolas Calia, Sean Galey, Michael Hart, Kyle McDonald and Jacob Spence, members of St. Elizabeth’s Webelo Pack 150, Kansas City; and Alex, Joseph, Nikolas, Sean, Michael, Kyle and Jacob were made honorary pages.

Senator Purgason introduced to the Senate, Susan Rodgers and eighth grade students from Junction Hill

School.

Senator Griesheimer introduced to the Senate, Nicole Schroeder, Grover.

Senator Griesheimer introduced to the Senate, Janie and Andrew Arnold, and eighth grade students from Holy Rosary Catholic School, Warrenton.

Senator Griesheimer introduced to the Senate, Don and Sylvia Storie, St. Clair.

Senator Days introduced to the Senate, Dara Antrum, St. Louis.

Senator Scott introduced to the Senate, Roxy Hudson and members of Leadership Bolivar.

Senator Griesheimer introduced to the Senate, his niece, Katie Bolte, Bill Gegg and eleven students from St. Francis Borgia Regional High School, Washington.

Senator Champion introduced to the Senate, students from Parkview High School, Springfield.

Senator Mayer introduced to the Senate, Lisa Burkhalter, Derik Waller, Katelyn Gibson, Becca Hutchison, Albertina Henry and students from Senath-Hornersville School; and Tishana Rushing, Kasey Mara, Irving Casiano and Brittany Riddle were made honorary pages.

Senator Wilson introduced to the Senate, her sister, Vivienne Smith and her niece, Virginia Dee Evans and Raymaelle Davis, Kansas City.

On behalf of Senator Griesheimer, the President introduced to the Senate, Lance Butenhoff, St. Clair; Nellie Abella, Washington; and Cindy Menke, Union.

Senator Coleman introduced to the Senate, members of St. Louis Principals Academy, St. Louis.

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

SENATE CALENDAR

THIRTY-SIXTH DAY—WEDNESDAY, MARCH 12, 2008

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
HB 1711-Weter, et al

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
 (In Fiscal Oversight)

SCS for SB 759-Stouffer
 SS for SCS for SB 726-Shields

SENATE BILLS FOR PERFECTION

- | | |
|------------------------------|---|
| 1. SB 939-Stouffer, with SCS | 11. SB 811-Stouffer, with SCS |
| 2. SB 1046-Mayer | 12. SB 957-Goodman |
| 3. SB 1116-Days | 13. SB 990-Champion |
| 4. SB 1035-Scott, with SCS | 14. SB 1103-Gibbons |
| 5. SB 817-Goodman | 15. SB 915-Ridgeway |
| 6. SB 874-Graham, with SCS | 16. SBs 982, 834 & 819-Purgason, with SCS |
| 7. SB 881-Green | 17. SB 767-Goodman and Gibbons, with SCS |
| 8. SB 967-Mayer, with SCS | 18. SB 815-Goodman |
| 9. SB 713-Gibbons, with SCS | 19. SB 716-Loudon, et al |
| 10. SB 1093-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 | SB 846-Rupp, with SCS |
| SBs 714, 933, 899 & 758-Loudon and
Gibbons, with SCS | SB 865-Rupp and Gibbons, with SCS |
| SB 717-Kennedy and Shields | SB 873-Graham, with SCS |
| SB 729-Griesheimer, with SCS | SB 898-Clemens, with SCS, SS for SCS &
SA 5 (pending) |
| 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 |
| SBs 840 & 857-Engler, with SCS | SJR 34 & 30-Crowell and Coleman, with SCS |

CONSENT CALENDAR

Senate Bills

Reported 3/6

SB 790-Champion

SB 1016-Mayer

SB 863-Rupp

SB 1073-Dempsey

SB 805-Mayer

SB 1044-Stouffer, with SCS

SB 1089-Justus, with SCS

SB 1033-Griesheimer, with SCS

SB 980-Ridgeway

SB 1151-Barnitz

SB 956-Kennedy

SB 1108-Scott

SB 797-Bray

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