

Journal of the Senate

SECOND REGULAR SESSION

THIRTY-NINTH DAY—TUESDAY, MARCH 25, 2008

The Senate met pursuant to adjournment.

Senator Griesheimer in the Chair.

Reverend Carl Gauck offered the following prayer:

“Let everything that breathes praise the Lord!” (Psalm 150:6)

Creator God, we return after a time to rest and being re-created and therefore ready to work and do what is required of us in the weeks that remain for which we give You thanks and praise. We know that there are many things we haven’t even begun to do and other bills that we have barely talked about so our work load increases but we are ready. We pray continue to guide our hearts and minds along the path You desire for us, to be mindful of Your teachings of what is truly important. 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 Journals for Thursday, March 13, 2008 and Thursday, March 20, 2008 were read and approved.

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

Present—Senators

Barnitz	Bartle	Bray	Callahan	Champion	Clemens	Coleman	Crowell
Days	Dempsey	Engler	Gibbons	Goodman	Graham	Green	Griesheimer
Justus	Kennedy	Koster	Lager	Loudon	Mayer	McKenna	Nodler
Purgason	Ridgeway	Rupp	Scott	Shields	Shoemyer	Smith	Stouffer
Vogel	Wilson—34						

Absent—Senators—None

Absent with leave—Senators—None

Vacancies—None

RESOLUTIONS

Senator Ridgeway offered Senate Resolution No. 2107, regarding Jason Michael Baur, Liberty, which

was adopted.

Senator Ridgeway offered Senate Resolution No. 2108, regarding Thomas Edward Price, Kearney, which was adopted.

Senator Ridgeway offered Senate Resolution No. 2109, regarding Taylor Hall, Gladstone, which was adopted.

Senator Ridgeway offered Senate Resolution No. 2110, regarding William Crooks, Gladstone, which was adopted.

Senator Ridgeway offered Senate Resolution No. 2111, regarding Zachary James Buckner, Kansas City, which was adopted.

Senator Ridgeway offered Senate Resolution No. 2112, regarding Joshua Tyler Boydston, Smithville, which was adopted.

Senator Griesheimer offered Senate Resolution No. 2113, regarding Eric Park, which was adopted.

Senator Griesheimer offered Senate Resolution No. 2114, regarding Ryan Randall Bueckendorf, Wildwood, which was adopted.

Senator Mayer offered Senate Resolution No. 2115, regarding Freida Hahn, Poplar Bluff, which was adopted.

Senator Shoemyer offered Senate Resolution No. 2116, regarding Julie Stephens, Louisiana, which was adopted.

Senator Kennedy offered Senate Resolution No. 2117, regarding Paul and Marilyn Dudenhoeffer, Saint Louis, which was adopted.

Senator Kennedy offered Senate Resolution No. 2118, regarding Ramiro Martinez, Saint Louis, which was adopted.

CONCURRENT RESOLUTIONS

Senator Gibbons offered the following concurrent resolution:

SENATE CONCURRENT RESOLUTION NO. 37

WHEREAS, the United States Fish and Wildlife Service has mandated a man-made “spring rise” for the Missouri River that is purportedly necessary for the survival of the pallid sturgeon, an endangered species; and

WHEREAS, many residents of Missouri recently suffered devastating losses of life and damage to property caused by flash flooding and swelled rivers to the extent that President Bush declared seventy Missouri counties as federal disaster areas, five deaths have been attributed to the flooding, and thousands were forced to evacuate their homes and businesses; and

WHEREAS, accurately controlling upstream discharges for the “spring rise” is extremely difficult because Missouri weather and flooding are unpredictable, as evidenced by the recent widespread flooding that has occurred in the state; and

WHEREAS, once water is released for the “spring rise” there are no intervening dams or locks to halt the rise during the ten-day travel time from Gavins Point Dam in South Dakota to St. Louis, Missouri, thereby increasing the risk that such a rise would compound flooding problems resulting from another major rain event; and

WHEREAS, on April 11, 2005, the Judge of the 8th Circuit Court of Appeals recognized that a man-made “spring rise” was the intentional flooding of downstream stakeholders; and

WHEREAS, federal agencies should not be implementing plans that are known to harm Missouri's farmers solely for the purposes of an experiment to determine whether the “spring rise” will trigger spawning of the pallid sturgeon; and

WHEREAS, a “spring rise” will exacerbate drainage problems on agricultural land which will delay crop planting, destroy crops, and require additional pumping at additional costs for Missouri farmers; and

WHEREAS, by using water in the spring that is needed to support navigation and other uses in the summer, a “spring rise” will shorten the navigation season during times of water shortages causing additional financial burdens on shippers, commercial carriers, and producers; and

WHEREAS, Missouri infrastructure, communities, businesses, farmers, ranchers, and the economy all will be put at an increased risk of flooding in the event of a “spring rise”; and

WHEREAS, it is unjust for Missouri consumers, communities, businesses, commercial carriers, farmers and ranchers to bear any additional direct or indirect costs for an unproven experimental plan; and

WHEREAS, many businesses and residential communities along the Missouri River suffered great devastation after the flood of 1993 and many businesses and residential communities in the state have suffered flooding problems again this spring; the intentional flooding of the river through a “spring rise” enhances the risk that such destruction will once again visit Missouri communities, making it harder and ultimately less attractive to rebuild; and

WHEREAS, the economic responsibilities that individual families and businesses have to bear in the face of a devastating flood are enormous; to compound and confuse that responsibility with the uncertainties that accompany a “spring rise” places a heavier burden on the backs of those families and businesses:

NOW THEREFORE BE IT RESOLVED that the members of the Missouri Senate, Ninety-Fourth General Assembly, Second Regular Session, the House of Representatives concurring therein, hereby concur with the Governor of the State of Missouri that all reasonable and necessary action should be taken to prevent the planned man-made “spring rise”; and

BE IT FURTHER RESOLVED that the members of the Missouri Senate, Ninety-Fourth General Assembly, Second Regular Session, the House of Representatives concurring therein, respectfully encourage the United States Army Corps of Engineers not to implement an artificial “spring rise,” which would increase the risk of flooding for Missourians, thereby being in violation of the 8th U.S. Circuit Court of Appeals' ruling, which held that flood control and navigation are the dominant uses of the Missouri River; and

BE IT FURTHER RESOLVED that the Secretary of the Missouri Senate be instructed to prepare properly inscribed copies of this resolution for the Governor of Missouri and the members of the Missouri Congressional delegation.

Senator Smith offered the following concurrent resolution:

SENATE CONCURRENT RESOLUTION NO. 38

WHEREAS, the Fourth Amendment of the United States Constitution protects Americans against unreasonable searches and seizures; and

WHEREAS, the Foreign Intelligence Surveillance Act of 1978 requires that an order be obtained from the United States Foreign Intelligence Court to engage in surveillance of communications between individuals located in the United States and individuals located abroad; and

WHEREAS, the Bush Administration ordered surveillance of certain individuals located in the United States without an order obtained from the U.S. Foreign Intelligence Court; and

WHEREAS, it appears that some telecommunications companies may have participated in such unlawful government-sanctioned spying by voluntarily providing information about their customers' telecommunications activities to the federal government without their customers' consent or in the absence of a lawful court order; and

WHEREAS, the Bush Administration has proposed retroactive immunity for such telecommunications companies:

NOW THEREFORE BE IT RESOLVED that the members of the Missouri Senate, Ninety-Fourth General Assembly, Second Regular Session, the House of Representatives concurring therein, hereby urge the United States Congress not to grant retroactive immunity to telecommunications companies who have participated in the unlawful surveillance of their customers and the sharing of such information with the federal government; and

BE IT FURTHER RESOLVED that the Secretary of the Missouri Senate be instructed to prepare properly inscribed copies of this resolution to each member of the Missouri congressional delegation.

MESSAGES FROM THE GOVERNOR

The following message was received from the Governor:

OFFICE OF THE GOVERNOR

State of Missouri

Jefferson City

65101

March 21, 2008

To the Senate of the 94th General Assembly of the State of Missouri:

I hereby withdraw from your consideration the following appointment to office submitted to you on March 3, 2008, for your advice and consent:

Robert E. McAuliffe, 4731 Koglin Court, Saint Louis, Saint Louis County, Missouri 63123, as a member of the Missouri State Council on the Arts, for a term ending October 13, 2011, and until his successor is duly appointed and qualified; vice, Marilyn Tatlow, resigned.

Respectfully submitted,

MATT BLUNT

On motion of Senator Gibbons, the above appointment was returned to the Governor per his request.

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

OFFICE OF THE GOVERNOR

State of Missouri

Jefferson City

65101

March 7, 2008

To the Senate of the 94th General Assembly of the State of Missouri:

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

Arthur D. Bond, III, 22 Dromara Road, Saint Louis, Saint Louis County, Missouri 63124, as a member of the Seismic Safety Commission, for a term ending July 1, 2010, and until his successor is duly appointed and qualified; vice, Steven Hermann, withdrawn.

Respectfully submitted,

MATT BLUNT

Also,

OFFICE OF THE GOVERNOR

State of Missouri

Jefferson City

65101

March 7, 2008

To the Senate of the 94th General Assembly of the State of Missouri:

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

Adam R. Shariff, Republican, 1423 Pepperdine Court, Ballwin, Saint Louis County, Missouri 63021, as a member of the Missouri Minority Business Advocacy Commission, for a term ending September 2, 2009, and until his successor is duly appointed and qualified; vice, Jean-Paul Chaurand, resigned.

Respectfully submitted,

MATT BLUNT

Also,

OFFICE OF THE GOVERNOR

State of Missouri

Jefferson City

65101

March 13, 2008

To the Senate of the 94th General Assembly of the State of Missouri:

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

Kevin D. Gunn, Democrat, 488 South Park Avenue, Webster Groves, Saint Louis County, Missouri 63119, as a member of the Public Service Commission, for a term ending March 13, 2014, and until his successor is duly appointed and qualified; vice, Linward Appling, term

expired.

Respectfully submitted,
MATT BLUNT

Also,

OFFICE OF THE GOVERNOR
State of Missouri
Jefferson City
65101
March 14, 2008

To the Senate of the 94th General Assembly of the State of Missouri:

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

Neal E. Boyd, 246 Seawind Drive, Apartment C, Ballwin, Saint Louis County, Missouri 63021, as a member of the Missouri Workforce Investment Board, for a term ending March 3, 2011, and until his successor is duly appointed and qualified; vice, RSMo 620.511.

Respectfully submitted,
MATT BLUNT

Also,

OFFICE OF THE GOVERNOR
State of Missouri
Jefferson City
65101
March 14, 2008

To the Senate of the 94th General Assembly of the State of Missouri:

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

Dennis L. Carroll, 18409 Arrowhead Lane, Independence, Jackson County, Missouri 64056, as a member of the Missouri Propane Gas Commission, for a term ending June 30, 2011, and until his successor is duly appointed and qualified; vice, RSMo 323.025.

Respectfully submitted,
MATT BLUNT

Also,

OFFICE OF THE GOVERNOR
State of Missouri
Jefferson City
65101
March 14, 2008

To the Senate of the 94th General Assembly of the State of Missouri:

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

John D. Comerford, 7447 York Drive, Clayton, Saint Louis County, Missouri 63105, as a member of the Missouri Veterans' Commission, for a term ending November 2, 2011, and until his successor is duly appointed and qualified; vice, Arvid West, term expired.

Respectfully submitted,
MATT BLUNT

Also,

OFFICE OF THE GOVERNOR
State of Missouri
Jefferson City
65101
March 14, 2008

To the Senate of the 94th General Assembly of the State of Missouri:

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

Robert W. Dodson, 1131 Oakmont, Joplin, Newton County, Missouri 64804, as a member of the State Advisory Council on Emergency

Medical Services, for a term ending January 5, 2009, and until his successor is duly appointed and qualified; vice, Renee Routledge-Kinne, resigned.

Respectfully submitted,
MATT BLUNT

Also,

OFFICE OF THE GOVERNOR
State of Missouri
Jefferson City
65101
March 14, 2008

To the Senate of the 94th General Assembly of the State of Missouri:

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

David H. Duncan, 1605 Sunset, Mound City, Holt County, Missouri 64470, as a member of the Missouri Workforce Investment Board, for a term ending March 3, 2010, and until his successor is duly appointed and qualified; vice, RSMo 620.511.

Respectfully submitted,
MATT BLUNT

Also,

OFFICE OF THE GOVERNOR
State of Missouri
Jefferson City
65101
March 14, 2008

To the Senate of the 94th General Assembly of the State of Missouri:

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

Louis B. Eckelkamp, Jr., Republican, 1400 Dogwood Terrace, Washington, Franklin County, Missouri 63090, as a member of the Missouri Development Finance Board, for a term ending September 14, 2011, and until his successor is duly appointed and qualified; vice, reappointed to a full term.

Respectfully submitted,
MATT BLUNT

Also,

OFFICE OF THE GOVERNOR
State of Missouri
Jefferson City
65101
March 14, 2008

To the Senate of the 94th General Assembly of the State of Missouri:

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

Patrick H. Kellett, 18 Autumn Wood Court, Saint Charles, Saint Charles County, Missouri 63303, as a member of the Missouri Workforce Investment Board, for a term ending March 3, 2010, and until his successor is duly appointed and qualified; vice, RSMo 620.511.

Respectfully submitted,
MATT BLUNT

Also,

OFFICE OF THE GOVERNOR
State of Missouri
Jefferson City
65101
March 14, 2008

To the Senate of the 94th General Assembly of the State of Missouri:

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

Charles G. Misko, 58 Muirfield Court, Saint Louis, Saint Louis County, Missouri 63141, as a member of the Missouri Real Estate Commission, for a term ending October 16, 2012, and until his successor is duly appointed and qualified; vice, reappointed to a full term.

Respectfully submitted,
MATT BLUNT

Also,

OFFICE OF THE GOVERNOR
State of Missouri
Jefferson City
65101
March 14, 2008

To the Senate of the 94th General Assembly of the State of Missouri:

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

Douglas E. Mitchell, 500 NW 301, Warrensburg, Johnson County, Missouri 64093, as a member of the Board of Private Investigator Examiners, for a term ending March 4, 2011, and until his successor is duly appointed and qualified; vice, RSMo 324.1102.

Respectfully submitted,
MATT BLUNT

Also,

OFFICE OF THE GOVERNOR
State of Missouri
Jefferson City
65101
March 14, 2008

To the Senate of the 94th General Assembly of the State of Missouri:

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

Terry L. Ramsey, Rural Route 6 Box 28, Nevada, Vernon County, Missouri 64772, as a member of the State Historical Records Advisory Board, for a term ending November 1, 2010, and until her successor is duly appointed and qualified; vice, reappointed to a full term.

Respectfully submitted,
MATT BLUNT

Also,

OFFICE OF THE GOVERNOR
State of Missouri
Jefferson City
65101
March 14, 2008

To the Senate of the 94th General Assembly of the State of Missouri:

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

Paul C. Vescovo, III, #4 Carver Place, Smithville, Clay County, Missouri 64089, as a member of the Peace Officer Standards and Training Commission, for a term ending October 3, 2010, and until his successor is duly appointed and qualified; vice, reappointed to a full term.

Respectfully submitted,
MATT BLUNT

Also,

OFFICE OF THE GOVERNOR
State of Missouri
Jefferson City
65101
March 14, 2008

To the Senate of the 94th General Assembly of the State of Missouri:

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

Stanley D. Whitehurst, 173 Hill Haven Road, Marshfield, Webster County, Missouri 65706, as a member of the Missouri Community

Service Commission, for a term ending December 15, 2010, and until his successor is duly appointed and qualified; vice, reappointed to a full term.

Respectfully submitted,
MATT BLUNT

Also,

OFFICE OF THE GOVERNOR
State of Missouri
Jefferson City
65101
March 15, 2008

To the Senate of the 94th General Assembly of the State of Missouri:

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

Jeffrey B. Davison, Republican, 509 West Highway 71, Savannah, Andrew County, Missouri 64485, as a member of the Missouri Ethics Commission, for a term ending March 15, 2012, and until his successor is duly appointed and qualified; vice, Robert Simpson, term expired.

Respectfully submitted,
MATT BLUNT

Also,

OFFICE OF THE GOVERNOR
State of Missouri
Jefferson City
65101
March 15, 2008

To the Senate of the 94th General Assembly of the State of Missouri:

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

James R. Wright, Republican, 807 Kentridge Court, Ballwin, Saint Louis County, Missouri 63021, as a member of the Missouri Ethics Commission, for a term ending March 15, 2012, and until his successor is duly appointed and qualified; vice, Warren Nieburg, term expired.

Respectfully submitted,
MATT BLUNT

Also,

OFFICE OF THE GOVERNOR
State of Missouri
Jefferson City
65101
March 17, 2008

To the Senate of the 94th General Assembly of the State of Missouri:

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

Grace M. Nichols, Democrat, 124 Briarcliff Drive, Saint Charles, Saint Charles County, Missouri 63301, as a member of the State Highway and Transportation Commission, for a term ending March 1, 2013, and until her successor is duly appointed and qualified; vice, Bill McKenna, term expired.

Respectfully submitted,
MATT BLUNT

Also,

OFFICE OF THE GOVERNOR
State of Missouri
Jefferson City
65101
March 18, 2008

To the Senate of the 94th General Assembly of the State of Missouri:

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

Richard A. Gronniger, 4614 Wilshire Drive South, Saint Joseph, Buchanan County, Missouri 64506, as a member of the Missouri Workforce Investment Board, for a term ending March 3, 2011, and until his successor is duly appointed and qualified; vice, RSMo 620.511.

Respectfully submitted,
MATT BLUNT

Also,

OFFICE OF THE GOVERNOR
State of Missouri
Jefferson City
65101
March 18, 2008

To the Senate of the 94th General Assembly of the State of Missouri:
I have the honor to transmit to you herewith for your advice and consent the following appointment:

Wallace N. Patrick, 3701 Wheatridge Drive, Saint Joseph, Buchanan County, Missouri 64506, as a member of the State Advisory Council on Emergency Medical Services, for a term ending January 5, 2012, and until his successor is duly appointed and qualified; vice, reappointed to a full term.

Respectfully submitted,
MATT BLUNT

Also,

OFFICE OF THE GOVERNOR
State of Missouri
Jefferson City
65101
March 18, 2008

To the Senate of the 94th General Assembly of the State of Missouri:
I have the honor to transmit to you herewith for your advice and consent the following appointment:

Angela N. Stiffler, Republican, 4005 South Woodland Avenue, Independence, Jackson County, Missouri 64052, as a member of the Missouri Community Service Commission, for a term ending December 15, 2010, and until her successor is duly appointed and qualified; vice, reappointed to a full term.

Respectfully submitted,
MATT BLUNT

Also,

OFFICE OF THE GOVERNOR
State of Missouri
Jefferson City
65101
March 18, 2008

To the Senate of the 94th General Assembly of the State of Missouri:
I have the honor to transmit to you herewith for your advice and consent the following appointment:

Cheryl L. Thruston, 215 Dover Street, Jefferson City, Cole County, Missouri 65109, as a member of the Missouri Workforce Investment Board, for a term ending March 3, 2010, and until her successor is duly appointed and qualified; vice, RSMo 620.511.

Respectfully submitted,
MATT BLUNT

Also,

OFFICE OF THE GOVERNOR
State of Missouri
Jefferson City
65101
March 19, 2008

To the Senate of the 94th General Assembly of the State of Missouri:

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

John Douglas Joyce, Independent, 21204 East 35th Terrace Court South, Independence, Jackson County, Missouri 64057, as a member of the Northwest Missouri State University Board of Regents, for a term ending January 1, 2011, and until his successor is duly appointed and qualified; vice, Juan M. Rangel, Jr., resigned.

Respectfully submitted,
MATT BLUNT

Also,

OFFICE OF THE GOVERNOR
State of Missouri
Jefferson City
65101
March 19, 2008

To the Senate of the 94th General Assembly of the State of Missouri:

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

Douglas L. Sutton, Republican, 27574 274th Street, Maryville, Nodaway County, Missouri 64468, as a member of the Northwest Missouri State University Board of Regents, for a term ending January 1, 2013, and until his successor is duly appointed and qualified; vice, reappointed to a full term.

Respectfully submitted,
MATT BLUNT

Also,

OFFICE OF THE GOVERNOR
State of Missouri
Jefferson City
65101
March 19, 2008

To the Senate of the 94th General Assembly of the State of Missouri:

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

Charlie L. Taylor, 3931 Liverpool Drive, Jefferson City, Cole County, Missouri 65109, as a member of the Missouri Planning Council on Developmental Disabilities, for a term ending June 30, 2010, and until his successor is duly appointed and qualified; vice, Karen Allen, term expired.

Respectfully submitted,
MATT BLUNT

President Pro Tem Gibbons referred the above appointments to the Committee on gubernatorial Appointments.

REFERRALS

President Pro Tem Gibbons referred **SCR 36** to the Committee on Rules, Joint Rules, Resolutions and Ethics.

President Pro Tem Gibbons referred **SS** for **SCS** for **SB 898** and **SCS** for **SB 907** to the Committee on Governmental Accountability and Fiscal Oversight.

REPORTS OF STANDING COMMITTEES

Senator Nodler, Chairman of the Committee on Appropriations, submitted the following report:

Mr. President: Your Committee on Appropriations, to which was referred **HCS** for **HB 2014**, begs leave to report that it has considered the same and recommends that the Senate Committee Substitute, hereto attached, do pass.

Senator Purgason requested unanimous consent of the Senate to correct the report made by the Committee on Health and Mental Health on March 13, 2008 by submitting the correct Senate Committee Substitute for **SB 1081**, which request was granted.

SENATE BILLS FOR PERFECTION

Senator Crowell moved that **SJR 34** and **SJR 30**, with **SCS**, be called from the Informal Calendar and taken up for perfection, which motion prevailed.

SCS for **SJR 34** and **30**, entitled:

SENATE COMMITTEE SUBSTITUTE FOR
SENATE JOINT RESOLUTIONS NOS. 34 and 30

Joint Resolution submitting to the qualified voters of Missouri, an amendment repealing section 13 of article I of the Constitution of Missouri, and adopting one new section in lieu thereof relating to laws that are retrospective in operation.

Was taken up.

Senator Crowell moved that **SCS** for **SJR 34** and **30** be adopted.

Senators Crowell and Coleman offered **SS** for **SCS** for **SJR 34** and **30**, entitled:

SENATE SUBSTITUTE FOR
SENATE COMMITTEE SUBSTITUTE FOR
SENATE JOINT RESOLUTIONS NOS. 34 and 30

Joint Resolution submitting to the qualified voters of Missouri, an amendment repealing section 13 of article I of the Constitution of Missouri, and adopting one new section in lieu thereof relating to laws that are retrospective in operation.

Senator Crowell moved that **SS** for **SCS** for **SJR 34** and **30** be adopted.

Senator Bartle offered **SA 1**:

SENATE AMENDMENT NO. 1

Amend Senate Substitute for Senate Committee Substitute for Senate Joint Resolutions Nos. 34 and 30, Page 1, Section 13, Line 15 of said page, by striking the word “or” from said line; and further amend line 17 of said page, by inserting after “law” the following: “, **or requiring every individual who pleads guilty or nolo contendere to or is found guilty or convicted of a felony to have a biological sample collected for purposes of DNA analysis**”.

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

Senator Crowell moved that **SS** for **SCS** for **SJR 34** and **30**, as amended, be adopted, which motion prevailed.

On motion of Senator Crowell, **SS** for **SCS** for **SJR 34** and **30**, as amended, was declared perfected and ordered printed.

Senator Goodman moved that **SB 767**, with **SCS**, be called from the Informal Calendar and taken up for perfection, which motion prevailed.

SCS for **SB 767**, entitled:

SENATE COMMITTEE SUBSTITUTE FOR
SENATE BILL NO. 767

An Act to repeal sections 600.011, 600.015, 600.017, 600.019, 600.021, 600.040, 600.042, 600.048, 600.086, 600.089, 600.090, and 600.096, RSMo, and to enact in lieu thereof fourteen new sections relating to the public defender system, with penalty provisions.

Was taken up.

Senator Goodman moved that **SCS** for **SB 767** be adopted.

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

SENATE AMENDMENT NO. 1

Amend Senate Committee Substitute for Senate Bill No. 767, Pages 10-11, Section 600.052, by striking all of said section from the bill; and

Further amend the title and enacting clause accordingly.

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

Senator Scott assumed the Chair.

Senator Goodman moved that **SCS** for **SB 767** be adopted, which motion prevailed.

On motion of Senator Goodman, **SCS** for **SB 767** was declared perfected and ordered printed.

Senator Loudon moved that **SB 714**, **SB 933**, **SB 899** and **SB 758**, with **SCS**, be called from the Informal Calendar and taken up for perfection, which motion prevailed.

SCS for **SBs 714**, **933**, **899** and **758**, entitled:

SENATE COMMITTEE SUBSTITUTE FOR
SENATE BILLS NOS. 714, 933, 899 and 758

An Act to repeal sections 43.650, 211.425, 491.075, 566.083, 566.147, 566.149, 573.025, 573.035, 573.037, 573.040, 589.400, 589.402, 589.403, 589.405, 589.407, 589.414, 589.425, and 650.120, RSMo, and to enact in lieu thereof twenty-two new sections relating to sexual offenses, with penalty provisions and an emergency clause for certain sections.

Was taken up.

Senator Loudon moved that **SCS** for **SBs 714**, **933**, **899** and **758** be adopted.

Senator Loudon offered **SS** for **SCS** for **SBs 714**, **933**, **899** and **758**, entitled:

SENATE SUBSTITUTE FOR
SENATE COMMITTEE SUBSTITUTE FOR
SENATE BILLS NOS. 714, 933, 899 and 758

An Act to repeal sections 43.650, 211.425, 491.075, 566.083, 566.147, 566.149, 573.025, 573.035, 573.037, 573.040, 589.015, 589.400, 589.402, 589.403, 589.405, 589.407, 589.414, 589.425, and 650.120, RSMo, and to enact in lieu thereof twenty-two new sections relating to sexual offenses, with penalty provisions and an emergency clause for certain sections.

Senator Loudon moved that **SS** for **SCS** for **SBs 714, 933, 899** and **758** be adopted.

Senator Koster offered **SA 1**:

SENATE AMENDMENT NO. 1

Amend Senate Substitute for Senate Committee Substitute for Senate Bills Nos. 714, 933, 899 and 758, Page 9, Section 491.075, Line 28, by inserting after all of said line the following:

“556.061. In this code, unless the context requires a different definition, the following shall apply:

(1) “Affirmative defense” has the meaning specified in section 556.056;

(2) “Burden of injecting the issue” has the meaning specified in section 556.051;

(3) “Commercial film and photographic print processor”, any person who develops exposed photographic film into negatives, slides or prints, or who makes prints from negatives or slides, for compensation. The term commercial film and photographic print processor shall include all employees of such persons but shall not include a person who develops film or makes prints for a public agency;

(4) “Confinement”:

(a) A person is in confinement when such person is held in a place of confinement pursuant to arrest or order of a court, and remains in confinement until:

a. A court orders the person's release; or

b. The person is released on bail, bond, or recognizance, personal or otherwise; or

c. A public servant having the legal power and duty to confine the person authorizes his release without guard and without condition that he return to confinement;

(b) A person is not in confinement if:

a. The person is on probation or parole, temporary or otherwise; or

b. The person is under sentence to serve a term of confinement which is not continuous, or is serving a sentence under a work-release program, and in either such case is not being held in a place of confinement or is not being held under guard by a person having the legal power and duty to transport the person to or from a place of confinement;

(5) “Consent”: consent or lack of consent may be expressed or implied. Assent does not constitute consent if:

(a) It is given by a person who lacks the mental capacity to authorize the conduct charged to constitute the offense and such mental incapacity is manifest or known to the actor; or

(b) It is given by a person who by reason of youth, mental disease or defect, or intoxication, is manifestly unable or known by the actor to be unable to make a reasonable judgment as to the nature or harmfulness of the conduct charged to constitute the offense; or

(c) It is induced by force, duress or deception;

(6) “Criminal negligence” has the meaning specified in section 562.016, RSMo;

(7) “Custody”, a person is in custody when the person has been arrested but has not been delivered to a place of confinement;

(8) “Dangerous felony” means the felonies of arson in the first degree, assault in the first degree, attempted forcible rape if physical injury results, attempted forcible sodomy if physical injury results, forcible rape, forcible sodomy, kidnaping, murder in the second degree, assault of a law enforcement officer in the first degree, domestic assault in the first degree, elder abuse in the first degree, robbery in the first degree, statutory rape in the first degree when the victim is a child less than twelve years of age at the time of the commission of the act giving rise to the offense, statutory sodomy in the first degree when the victim is a child less than twelve years of age at the time of the commission of the act giving rise to the offense, and, abuse of a child pursuant to subdivision (2) of subsection 3 of section 568.060, RSMo, [and] child kidnaping, **and parental kidnaping committed by detaining or concealing the whereabouts of the child for not less than one hundred twenty days under section 565.153, RSMo;**

(9) “Dangerous instrument” means any instrument, article or substance, which, under the circumstances in which it is used, is readily capable of causing death or other serious physical injury;

(10) “Deadly weapon” means any firearm, loaded or unloaded, or any weapon from which a shot, readily capable of producing death or serious physical injury, may be discharged, or a switchblade knife, dagger, billy, blackjack or metal knuckles;

(11) “Felony” has the meaning specified in section 556.016;

(12) “Forcible compulsion” means either:

(a) Physical force that overcomes reasonable resistance; or

(b) A threat, express or implied, that places a person in reasonable fear of death, serious physical injury or kidnaping of such person or another person;

(13) “Incapacitated” means that physical or mental condition, temporary or permanent, in which a person is unconscious, unable to appraise the nature of such person's conduct, or unable to communicate unwillingness to an act. A person is not incapacitated with respect to an act committed upon such person if he or she became unconscious, unable to appraise the nature of such person's conduct or unable to communicate unwillingness to an act, after consenting to the act;

(14) “Infraction” has the meaning specified in section 556.021;

(15) “Inhabitable structure” has the meaning specified in section 569.010, RSMo;

(16) “Knowingly” has the meaning specified in section 562.016, RSMo;

(17) “Law enforcement officer” means any public servant having both the power and duty to make arrests for violations of the laws of this state, and federal law enforcement officers authorized to carry firearms and to make arrests for violations of the laws of the United States;

(18) “Misdemeanor” has the meaning specified in section 556.016;

(19) “Offense” means any felony, misdemeanor or infraction;

(20) “Physical injury” means physical pain, illness, or any impairment of physical condition;

(21) “Place of confinement” means any building or facility and the grounds thereof wherein a court is legally authorized to order that a person charged with or convicted of a crime be held;

(22) “Possess” or “possessed” means having actual or constructive possession of an object with knowledge of its presence. A person has actual possession if such person has the object on his or her person

or within easy reach and convenient control. A person has constructive possession if such person has the power and the intention at a given time to exercise dominion or control over the object either directly or through another person or persons. Possession may also be sole or joint. If one person alone has possession of an object, possession is sole. If two or more persons share possession of an object, possession is joint;

(23) "Public servant" means any person employed in any way by a government of this state who is compensated by the government by reason of such person's employment, any person appointed to a position with any government of this state, or any person elected to a position with any government of this state. It includes, but is not limited to, legislators, jurors, members of the judiciary and law enforcement officers. It does not include witnesses;

(24) "Purposely" has the meaning specified in section 562.016, RSMo;

(25) "Recklessly" has the meaning specified in section 562.016, RSMo;

(26) "Ritual" or "ceremony" means an act or series of acts performed by two or more persons as part of an established or prescribed pattern of activity;

(27) "Serious emotional injury", an injury that creates a substantial risk of temporary or permanent medical or psychological damage, manifested by impairment of a behavioral, cognitive or physical condition. Serious emotional injury shall be established by testimony of qualified experts upon the reasonable expectation of probable harm to a reasonable degree of medical or psychological certainty;

(28) "Serious physical injury" means physical injury that creates a substantial risk of death or that causes serious disfigurement or protracted loss or impairment of the function of any part of the body;

(29) "Sexual conduct" means acts of human masturbation; deviate sexual intercourse; sexual intercourse; or physical contact with a person's clothed or unclothed genitals, pubic area, buttocks, or the breast of a female in an act of apparent sexual stimulation or gratification;

(30) "Sexual contact" means any touching of the genitals or anus of any person, or the breast of any female person, or any such touching through the clothing, for the purpose of arousing or gratifying sexual desire of any person;

(31) "Sexual performance", any performance, or part thereof, which includes sexual conduct by a child who is less than seventeen years of age;

(32) "Voluntary act" has the meaning specified in section 562.011, RSMo.

565.153. 1. In the absence of a court order determining rights of custody or visitation to a child, a person having a right of custody of the child commits the crime of parental kidnapping if he removes, takes, detains, conceals, or entices away that child within or without the state, without good cause, and with the intent to deprive the custody right of another person or a public agency also having a custody right to that child.

2. Parental kidnapping is a class D felony, **unless committed by detaining or concealing the whereabouts of the child for:**

(1) Not less than sixty days but not longer than one hundred nineteen days, in which case, the crime is a class C felony;

(2) Not less than one hundred twenty days, in which case, the crime is a class B felony.

3. A subsequently obtained court order for custody or visitation shall not affect the application of this section.”; and

Further amend the title and enacting clause accordingly.

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

Senator Lager offered **SA 2**:

SENATE AMENDMENT NO. 2

Amend Senate Substitute for Senate Committee Substitute for Senate Bills Nos. 714, 933, 899 and 758, Page 33, Section 589.425, Line 17 of said page, by inserting after all of said line the following:

“589.426. 1. Any person required to register as a sexual offender under sections 589.400 to 589.425 shall be required on October thirty-first of each year to:

(1) Avoid all Halloween-related contact with children;

(2) Remain inside his or her residence between the hours of 5 p.m. and 10:30 p.m. unless required to be elsewhere for just cause, including but not limited to, employment or medical emergencies;

(3) Post a sign at his or her residence stating, “No candy at this residence”; and

(4) Leave all outside residential lighting off during the evening hours after 5 p.m.

2. Any person required to register as a sexual offender under sections 589.400 to 589.425 who violates the provisions of subsection 1 of this section shall be guilty of a class A misdemeanor.”; and

Further amend the title and enacting clause accordingly.

Senator Lager moved that the above amendment be adopted.

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

SENATE AMENDMENT NO. 1 TO
SENATE AMENDMENT NO. 2

Amend Senate Amendment No. 2 to Senate Substitute for Senate Committee Substitute for Senate Bills Nos. 714, 933, 899 and 758, Page 1, Section 589.426, Line 11, by inserting after the word “candy” the following:

“or treats”.

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

SA 2, as amended, was again taken up.

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

Senator Loudon moved that **SS for SCS for SBs 714, 933, 899 and 758**, as amended, be adopted, which motion prevailed.

On motion of Senator Loudon, **SS for SCS for SBs 714, 933, 899 and 758**, 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 reports:

Mr. President: Your Committee on Rules, Joint Rules, Resolutions and Ethics, to which were referred **SS** for **SCS** for **SJR**s **34** and **30**; and **SCS** for **SB 767**, begs leave to report that it has examined the same and finds that the joint resolution and the bill have 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 **HCS No. 2** for **HB 1463**, entitled:

An Act to repeal sections 172.360, 174.130, 178.635, and 178.780, RSMo, and to enact in lieu thereof six new sections relating to prohibiting the admission of aliens unlawfully present in the United States at public institutions of higher education.

In which the concurrence of the Senate is respectfully requested.

Read 1st time.

SENATE BILLS FOR PERFECTION

Senator Stouffer moved that **SB 939**, with **SCS**, be called from the Informal Calendar and taken up for perfection, which motion prevailed.

SCS for **SB 939**, entitled:

SENATE COMMITTEE SUBSTITUTE FOR SENATE BILL NO. 939

An Act to repeal sections 242.430 and 245.175, RSMo, and to enact in lieu thereof two new sections relating to certain district taxes.

Was taken up.

Senator Stouffer moved that **SCS** for **SB 939** be adopted, which motion prevailed.

On motion of Senator Stouffer, **SCS** for **SB 939** was declared perfected and ordered printed.

CONCURRENT RESOLUTIONS

Senator Shields offered the following concurrent resolution:

SENATE CONCURRENT RESOLUTION NO. 39

WHEREAS, public and teaching hospitals in Missouri serve as an integral part of the safety net system in this state. Major teaching hospitals account for approximately twenty-five percent of all Medicaid discharges; and

WHEREAS, currently there are thirty-three teaching hospitals and mental health centers in Missouri receiving graduate medical education funds. Such funding is used to train cardiologists, oncologists, neurologists, pediatricians, and numerous other types of physicians; and

WHEREAS, such hospitals are recognized for offering the most advanced and state-of-the-art services. Therefore, such training for the future health care workforce is an important and critical policy objective for this state; and

WHEREAS, such public and teaching hospitals are concerned about proposed regulations from the federal Centers for Medicare and Medicaid Services asserting that the federal Medicaid program lacks statutory authority to match payments for direct graduate medical

education and activities. Such a rule change represents a significant reversal of long-standing Medicaid policy; and

WHEREAS, the State of Missouri will annually lose between 65 and 70 million dollars in lost federal funding starting May 25, 2008, should the rule take effect; and

WHEREAS, Truman Medical Center, in particular, is concerned that the proposed regulations would narrow the definition of "public" so that many current public hospitals, including Truman Medical Center, would no longer qualify as public for purposes of providing the local match required to obtain federal Medicaid funds. Initial estimates of the impact to Truman Medical Center is that it would exceed \$37 million in lost Medicaid funding; and

WHEREAS, United States Representative Engel has introduced HR 3533, the Public and Teaching Hospital Preservation Act, in the House of Representatives extending the proposed rule by one year until May 25, 2009, prohibiting implementation of the proposed rule on Medicaid match for direct graduate medical education:

NOW THEREFORE BE IT RESOLVED that the members of the Missouri Senate, Ninety-Fourth General Assembly, Second Regular Session, the House of Representatives concurring therein, hereby request that the Missouri Congressional delegation ask the Centers for Medicare and Medicaid Services to withdraw this rule or delay implementation until May 25, 2009; and

BE IT FURTHER RESOLVED that the Secretary of the Missouri Senate be instructed to prepare properly inscribed copies of this resolution to each member of Missouri's Congressional delegation and to the administrator of the Centers for Medicare and Medicaid Services.

RESOLUTIONS

Senator Shields offered Senate Resolution No. 2119, regarding the Fiftieth Anniversary of North Kansas City Hospital, which was adopted.

Senator Gibbons offered Senate Resolution No. 2120, regarding members of Phi Theta Kappa's All-Missouri Academic Team and the Missouri Community College Association, which was adopted.

COMMUNICATIONS

President Pro Tem Gibbons submitted the following:

March 24, 2008

Senator Mike Gibbons
President Pro Tem
Missouri Senate
State Capitol, Room 326
Jefferson City, MO 65101

Dear Senator Gibbons:

This is to advise you that I will be acting Governor Monday, March 24, 2008 at approximately 8:40 a.m. until the Governor returns on Friday, March 28, 2008 at approximately 10:55 p.m.

Please submit this to the Senate Journal. Thank you for your assistance.

Sincerely,

/s/ Peter Kinder

PETER D. KINDER

Lieutenant Governor

Also,

March 25, 2008

Mrs. Terry Spieler
Secretary of the Senate
State Capitol Building
Jefferson City, MO 65101

Dear Mrs. Spieler:

Please be advised that I am appointing Senator Yvonne Wilson to the Missouri Emancipation Day Commission.

Please do not hesitate to contact me if you have any questions regarding this matter.

Thank you.

Yours truly

/s/ Michael R. Gibbons

MICHAEL R. GIBBONS

INTRODUCTIONS OF GUESTS

Senator Loudon introduced to the Senate, one hundred fourth grade students from Bellerive Elementary School, Creve Coeur.

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

SENATE CALENDAR

FORTIETH DAY—WEDNESDAY, MARCH 26, 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
HB 1410-Flook, et al
HCS#2 for HB 1463

THIRD READING OF SENATE BILLS

SB 822-Shoemyer
SS for SCS for SB 898-Clemens
(In Fiscal Oversight)
SCS for SB 907-Engler and Gibbons
(In Fiscal Oversight)

SB 1116-Days
SS for SCS for SJRs 34 & 30-Crowell
and Coleman
SCS for SB 767-Goodman and Gibbons

HOUSE BILLS ON THIRD READING

HCS for HB 2014, with SCS (Nodler)

INFORMAL CALENDAR

THIRD READING OF SENATE BILLS

SS for SCS for SB 726-Shields

SCS for SB 759-Stouffer

SENATE BILLS FOR PERFECTION

SBs 712 & 882-Gibbons and Rupp, with SCS
 SB 713-Gibbons, with SCS
 SB 716-Loudon, et al
 SB 717-Kennedy and Shields
 SB 729-Griesheimer, with SCS
 SB 749-Ridgeway, with SCS
 SB 756-Engler and Rupp, with SCS (pending)
 SBs 761 & 774-Stouffer, with SCS
 SB 764-Wilson, et al, with SA 2 (pending)
 SB 768-Rupp and Gibbons, with SCS
 SB 776-Justus and Koster, with SCS
 SB 809-Stouffer, with SCS
 SB 811-Stouffer, with SCS
 SB 815-Goodman
 SB 817-Goodman
 SB 821-Shoemyer, with SCS (pending)
 SBs 840 & 857-Engler, with SCS
 SB 846-Rupp, with SCS
 SB 865-Rupp and Gibbons, with SCS
 SB 873-Graham, with SCS

SB 874-Graham, with SCS
 SB 881-Green
 SBs 909, 954, 934 & 1003-Engler, with SCS
 SB 915-Ridgeway
 SB 929-Green and Callahan, with SCS
 SBs 930 & 947-Stouffer, with SCS
 SB 957-Goodman
 SB 967-Mayer, with SCS (pending)
 SBs 982, 834 & 819-Purgason, with SCS
 SB 990-Champion
 SBs 993 & 770-Crowell, with SCS
 SB 996-Crowell, with SCS
 SB 997-Crowell
 SB 1007-Loudon
 SB 1035-Scott, with SCS
 SB 1046-Mayer
 SB 1058-Mayer
 SB 1093-Loudon, et al
 SB 1103-Gibbons

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 797-Bray

Reported 3/13

SB 1105-Coleman, with SCS	SB 1168-Dempsey and Smith, with SCS
SB 979-Vogel	SB 733-Champion and Gibbons
SB 1150-Barnitz, with SCS	SB 932-Loudon
SB 1140-Vogel	SB 976-Ridgeway
SB 1141-Vogel	SB 1074-Dempsey and Graham
SB 1175-Goodman	SB 1185-Gibbons and Bartle, with SCS
SB 1177-Barnitz	SB 1235-Justus, with SCS
SB 1190-Nodler	SB 1261-Bray, with SCS
SB 1187-Purgason	SB 928-Green
SB 1288-Shields	SB 839-Engler
SB 1131-Wilson, with SCS	SBs 1225 & 1226-Mayer, with SCS
SB 1135-Callahan	SB 1081-Nodler and Green, with SCS
SB 1157-Green, with SCS	SB 1099-Graham
SB 1149-Engler	SB 1204-Goodman
SB 1209-Callahan, with SCS	
SBs 1153, 1154, 1155 & 1156-Crowell, with SCS	

RESOLUTIONS

To be Referred

SCR 37-Gibbons	SCR 39-Shields
SCR 38-Smith	

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