

Journal of the Senate

FIRST REGULAR SESSION

EIGHTEENTH DAY—MONDAY, FEBRUARY 9, 2009

The Senate met pursuant to adjournment.

President Kinder in the Chair.

Reverend Carl Gauck offered the following prayer:

Gracious God, we are thankful that You have brought us safely here to begin a new week of decisions and conversations. We hope our efforts will lead us to where You want us to be and do what You want us to do serving our people in authentic ways. In Your Holy Name we pray. Amen.

The Pledge of Allegiance to the Flag was recited.

A quorum being established, the Senate proceeded with its business.

The Journal for Thursday, February 5, 2009 was read and approved.

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

Present—Senators

Barnitz	Bartle	Bray	Callahan	Champion	Clemens	Crowell	Cunningham
Days	Dempsey	Engler	Goodman	Green	Griesheimer	Justus	Lager
Lembke	Mayer	McKenna	Nodler	Pearce	Purgason	Rupp	Schaefer
Schmitt	Scott	Shields	Shoemyer	Smith	Stouffer	Vogel	Wilson

Wright-Jones—33

Absent—Senators—None

Absent with leave—Senator Ridgeway—1

Vacancies—None

The Lieutenant Governor was present.

RESOLUTIONS

Senator Wright-Jones offered Senate Resolution No. 248, regarding Janette M. Lohman, St. Louis, which was adopted.

Senator Engler offered Senate Resolution No. 249, regarding Robert Louis Lemmon, Farmington, which was adopted.

Senator Crowell offered Senate Resolution No. 250, regarding Perry County Memorial Hospital, which was adopted.

Senator Crowell offered Senate Resolution No. 251, regarding Kevin Gruenwald, which was adopted.

Senator Crowell offered Senate Resolution No. 252, regarding Doug Leslie, Cape Girardeau, which was adopted.

Senator Stouffer offered Senate Resolution No. 253, regarding Lions Quest programs, which was adopted.

Senator Shields offered Senate Resolution No. 254, regarding Christopher A. Woods, Kansas City, which was adopted.

Senator Shields offered Senate Resolution No. 255, regarding Spencer Smith, Kansas City, which was adopted.

Senator Shields offered Senate Resolution No. 256, regarding Benjamin T. Vleisides, Parkville, which was adopted.

Senator Engler offered Senate Resolution No. 257, regarding Leonard Ruble, Potosi, which was adopted.

Senator Schmitt offered Senate Resolution No. 258, regarding Teddi Speeler, Affton, which was adopted.

Senator Schmitt offered Senate Resolution No. 259, regarding Mike Swederska, Webster Groves, which was adopted.

Senator Barnitz offered Senate Resolution No. 260, regarding the Eighty-fifth Birthday of Gretel Parks, Salem, which was adopted.

Senator Barnitz offered Senate Resolution No. 261, regarding the Ninetieth Birthday of Virgil Paul Timmerberg, High Hill, which was adopted.

Senator Barnitz offered Senate Resolution No. 262, regarding Evelyn E. Pfautsch, Montgomery City, which was adopted.

Senator Barnitz offered Senate Resolution No. 263, regarding the Ninety-sixth Birthday of Herman Gibbs, Salem, which was adopted.

Senator Purgason offered Senate Resolution No. 264, regarding Kirby Killgore, Mountain View, which was adopted.

Senator Stouffer offered Senate Resolution No. 265, regarding Aleah Grace Kolkmeier, Wellington, which was adopted.

Senator Stouffer offered Senate Resolution No. 266, regarding Benjamin and Amanda Mook, Excelsior

Springs, which was adopted.

Senator Crowell offered Senate Resolution No. 267, regarding Delta Companies, Incorporated, Cape Girardeau, which was adopted.

Senator Stouffer offered Senate Resolution No. 268, regarding Tony and Tena Levett, New Cambria, which was adopted.

INTRODUCTION OF BILLS

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

SB 330—By Justus.

An Act to amend chapter 565, RSMo, by adding thereto three new sections relating to assault of an employee of a mass transit system while in the scope of his or her duties, with penalty provisions.

SB 331—By Justus.

An Act to amend chapter 174, RSMo, by adding thereto one new section relating to higher education tuition policy, with an effective date.

SB 332—By Dempsey, Schmitt, Engler, Lembke, Wright-Jones, McKenna, Griesheimer and Shoemyer.

An Act to amend chapter 287, RSMo, by adding thereto one new section relating to compensation for public safety workers killed in the line of duty.

SB 333—By Barnitz.

An Act to repeal section 204.472, RSMo, and to enact in lieu thereof one new section relating to sewer service for certain annexed areas.

SB 334—By Pearce.

An Act to repeal section 143.124, RSMo, and to enact in lieu thereof one new section relating to exempting military pensions from income tax.

SB 335—By Rupp.

An Act to amend chapter 303, RSMo, by adding thereto one new section relating to the recovery of noneconomic damages by uninsured motorists.

SB 336—By Rupp.

An Act to amend chapter 375, RSMo, by adding thereto one new section relating to the right of an insurance company to contest insurance coverage in certain judicial proceedings.

SB 337—By Rupp.

An Act to amend chapter 190, RSMo, by adding thereto one new section relating to ambulance district directors.

SB 338—By Rupp.

An Act to repeal sections 191.225, 595.010, 595.015, 595.020, 595.025, 595.027, 595.030, 595.035, 595.037, 595.040, 595.045, and 595.060, RSMo, and to enact in lieu thereof twelve new sections relating to crime victims.

SB 339—By Goodman.

An Act to repeal section 575.060, RSMo, and to enact in lieu thereof one new section relating to false declarations, with penalty provisions.

SB 340—By Bray.

An Act to amend chapter 260, RSMo, by adding thereto three new sections relating to plastic bag reduction act, with penalty provisions.

SB 341—By Bray.

An Act to amend chapter 26, RSMo, by adding thereto one new section relating to racial and gender equity in the membership of boards, commissions, committees, and councils.

SB 342—By Stouffer.

An Act to repeal sections 301.131, 301.150, 301.310, 301.420, 301.440, 301.716, 307.010, 307.015, 307.090, 307.120, 307.125, 307.155, 307.172, 307.173, 307.195, 307.198, 307.365, 307.375, 307.390, 307.400, and 556.021, RSMo, and to enact in lieu thereof twenty-two new sections relating to the modification of criminal penalties which are imposed on motor vehicle violations, with penalty provisions.

SB 343—By Stouffer.

An Act to repeal sections 226.030, 302.700, and 302.775, RSMo, and to enact in lieu thereof three new sections relating to transportation.

SB 344—By Lager.

An Act to repeal section 160.730, RSMo, and to enact in lieu thereof five new sections relating to the P-20 council.

SB 345—By Lager.

An Act to repeal sections 160.011, 160.041, 171.031, and 171.033, RSMo, and to enact in lieu thereof five new sections relating to four-day school weeks.

CONCURRENT RESOLUTIONS

Senator Pearce offered the following concurrent resolution:

SENATE CONCURRENT RESOLUTION NO. 20

WHEREAS, the Government Pension Offset (GPO) and Windfall Elimination Provision (WEP) of the federal Social Security Act penalize people who have dedicated their lives to public service by taking away benefits they have earned; and

WHEREAS, nine out of ten public employees affected by the GPO lose their entire spousal benefit, even though their spouse paid Social Security taxes for many years; and

WHEREAS, the WEP causes hard-working people to lose up to sixty percent of the benefits they earned themselves; and

WHEREAS, many workers rely on misleading Social Security Administration statements that fail to take into account the GPO and WEP when projecting benefits; and

WHEREAS, the impact of the GPO and WEP is not just felt in those states in which public employees, including educators, are not covered by Social Security, because people move from state to state and affected individuals are everywhere; and

WHEREAS, the GPO and WEP apply to all vested members of the Public School Retirement System of Missouri; and

WHEREAS, the number of people affected across the country is growing every day as more and more people reach retirement age; and

WHEREAS, some 300,000 individuals lose an average of \$3,600 a year due to the GPO; and

WHEREAS, this amount can make the difference between self-sufficiency and poverty; and

WHEREAS, these people have less money to spend in their local economy and sometimes have to turn to expensive government programs like food stamps to make ends meet; and

WHEREAS, during a national teacher shortage, the GPO and WEP discourage people from entering and staying in the teaching profession, since doing so will mean a loss of earned Social Security benefits; and

WHEREAS, the GPO and WEP are also causing current educators to leave the profession and students to choose courses of study other than education; and

WHEREAS, non-Social Security states are finding it increasingly difficult to attract quality educators as more people learn about the GPO and WEP; and

WHEREAS, the nation should respect, not penalize, public service; and

WHEREAS, the GPO and WEP are established in federal law and repeal of the GPO and WEP can only be enacted by the United States Congress:

NOW THEREFORE BE IT RESOLVED that the members of the Missouri Senate, Ninety-fifth General Assembly, First Regular Session, the House of Representatives concurring therein, hereby urge the Congress of the United States to immediately repeal the Government Pension Offset and Windfall Elimination Provision of the Social Security Act; and

BE IT FURTHER RESOLVED that the Secretary of the Missouri Senate be instructed to prepare properly inscribed copies of this resolution for the President of the United States Senate, the Speaker of the United States House of Representatives and the members of the Missouri congressional delegation.

SENATE BILLS FOR PERFECTION

Senator Rupp moved that **SB 128**, with **SCS**, be taken up for perfection, which motion prevailed.

SCS for **SB 128**, entitled:

SENATE COMMITTEE SUBSTITUTE FOR SENATE BILL NO. 128

An Act to repeal section 227.107, RSMo, and to enact in lieu thereof one new section relating to state highways and transportation commission design-build highway project contracts, with an emergency clause.

Was taken up.

Senator Rupp moved that **SCS** for **SB 128** be adopted.

Senator Bartle assumed the Chair.

Senator Rupp offered **SA 1**:

SENATE AMENDMENT NO. 1

Amend Senate Committee Substitute for Senate Bill No. 128, Page 1, Section 227.107, Line 11, by inserting at the end of said line the following: “**The total number of highway design-build project contracts awarded by the commission in any state fiscal year shall not exceed five percent of the total number of all state highway system projects listed in the commission's approved statewide transportation improvement program for that state fiscal year.**”.

Senator Rupp moved that the above amendment be adopted.

Senator Lager offered **SA 1** to **SA 1**, which was read:

SENATE AMENDMENT NO. 1 TO SENATE AMENDMENT NO. 1

Amend Senate Amendment No. 1 to Senate Committee Substitute for Senate Bill No. 128, Page 1,

Line 4, by striking the word “five” and inserting in lieu thereof the following: “**two**”.

Senator Lager moved that the above amendment be adopted.

At the request of Senator Rupp, **SB 128**, with **SCS, SA 1** and **SA 1 to SA 1** (pending), was placed on the Informal Calendar.

MESSAGES FROM THE GOVERNOR

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

GOVERNOR OF MISSOURI

Jefferson City

65102

February 9, 2009

To the Senate of the 95th 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 M. Jarrett, 501 Turnberry Drive, Jefferson City, Cole County, Missouri 65109, as a member of the Advisory Committee for 911 Service Oversight, for a term ending April 9, 2013, and until his successor is duly appointed and qualified; vice, Linward Appling, term expired.

Respectfully submitted,
Jeremiah W. (Jay) Nixon
Governor

Also,

GOVERNOR OF MISSOURI

Jefferson City

65102

February 9, 2009

To the Senate of the 95th 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 H. Kellett, Democrat, 2025 Washington Street, Florissant, Saint Louis County, Missouri 63033, as a member of the Saint Louis County Board of Election Commissioners, for a term ending January 10, 2013, and until his successor is duly appointed and qualified; vice, John Fox Arnold, term expired.

Respectfully submitted,
Jeremiah W. (Jay) Nixon
Governor

Also,

GOVERNOR OF MISSOURI

Jefferson City

65102

February 9, 2009

To the Senate of the 95th General Assembly of the State of Missouri:

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

Orvin T. Kimbrough, Independent, 5119 Raymond Avenue, Saint Louis City, Missouri 63113, as a member of the Missouri State University Board of Governors, for a term ending January 1, 2015, and until his successor is duly appointed and qualified; vice, James Buford, resigned.

Respectfully submitted,
Jeremiah W. (Jay) Nixon
Governor

Also,

GOVERNOR OF MISSOURI

Jefferson City

65102

February 9, 2009

To the Senate of the 95th General Assembly of the State of Missouri:

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

Mark E. Ohrenberg, 5119 Clark Lane, Apartment 102, Columbia, Boone County, Missouri 65202, as a member of the Missouri Planning Council for Developmental Disabilities, for a term ending June 30, 2011, and until his successor is duly appointed and qualified; vice, Sharon Smith, withdrawn.

Respectfully submitted,
Jeremiah W. (Jay) Nixon
Governor

President Pro Tem Shields referred the above appointments to the Committee on Gubernatorial Appointments.

SECOND READING OF SENATE BILLS

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

SB 314—Education.

SB 315—Jobs, Economic Development and Local Government.

SB 316—Education.

SB 317—Education.

SB 318—Judiciary and Civil and Criminal Jurisprudence.

SB 319—Financial and Governmental Organizations and Elections.

SB 320—Health, Mental Health, Seniors and Families.

SB 321—Progress and Development.

SB 322—Judiciary and Civil and Criminal Jurisprudence.

SB 323—Small Business, Insurance and Industry.

SB 324—Education.

SB 325—Education.

SB 326—Veterans' Affairs, Pensions and Urban Affairs.

SB 327—Veterans' Affairs, Pensions and Urban Affairs.

SB 328—Commerce, Consumer Protection, Energy and the Environment.

SB 329—Education.

Senator Cunningham assumed the Chair.

HOUSE BILLS ON SECOND READING

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

HCS for **HB 191**—Jobs, Economic Development and Local Government.

COMMUNICATIONS

President Pro Tem Shields submitted the following:

February 5, 2009

Ms. Terry Spieler
Secretary of the Missouri Senate
State Capitol, Room 325
201 West Capitol Avenue
Jefferson City, MO 65101

Dear Ms. Spieler,

I have resigned from the Joint Committee on Legislative Research. Please remove my name.

In addition, Senator Nodler and I have resigned from the Joint Committee on Education and we ask that our names be removed as well.

If you have any questions, please feel free to contact me at your earliest convenience.

Sincerely,

/s/ Charlie
Charles W. Shields
President Pro-Tem

Also,

February 5, 2009

Ms. Terry Spieler
Secretary of the Missouri Senate
State Capitol, Room 325
201 West Capitol Avenue
Jefferson City, MO 65101

RE: Appointments to the Joint Committee on MO HealthNet

Dear Ms. Spieler,

Pursuant to Section 208.952, RSMo, I am appointing the following Senators to the Joint Committee on MO HealthNet:

Senator Dempsey
Senator Justus
Senator Schmitt

If you have any questions, please feel free to contact me at your earliest convenience.

Sincerely,

/s/ Charlie
Charles W. Shields

Also,

February 5, 2009

Ms. Terry Spieler
Secretary of the Missouri Senate
State Capitol, Room 325
201 West Capitol Avenue
Jefferson City, MO 65101

RE: Appointments to the Missouri State Employees Retirement System Board of Trustees

Dear Ms. Spieler,

Pursuant to Section 104.450, RSMo, I am appointing the following Senators to the Missouri State Employees Retirement System Board of Trustees (MOSERS):

Senator Crowell
Senator Green

If you have any questions, please feel free to contact me at your earliest convenience.

Sincerely,
/s/ Charlie
Charles W. Shields
President Pro-Tem

Also,

February 5, 2009

Ms. Terry Spieler
Secretary of the Missouri Senate
State Capitol, Room 325
201 West Capitol Avenue
Jefferson City, MO 65101

RE: Appointments to the Joint Committee on Administrative Rules

Dear Ms. Spieler,

Pursuant to Section 536.037, RSMo, I am appointing the following Senators to the Joint Committee on Administrative Rules:

Senator Victor Callahan
Senator Jack Goodman
Senator Luann Ridgeway

If you have any questions, please feel free to contact me at your earliest convenience.

Sincerely,
/s/ Charlie
Charles W. Shields
President Pro-Tem

Also,

February 5, 2009

Ms. Terry Spieler
Secretary of the Missouri Senate
State Capitol, Room 325
201 West Capitol Avenue
Jefferson City, MO 65101

RE: Appointments to the Joint Committee on Education

Dear Ms. Spieler,

Pursuant to Section 160.254, RSMo, I am appointing the following Senators to the Joint Committee on Education:

Senator Cunningham
Senator Mayer
Senator Schaefer
Senator Smith
Senator Wilson

If you have any questions, please feel free to contact me at your earliest convenience.

Sincerely,

/s/ Charlie

Charles W. Shields

President Pro Tem

Also,

February 9, 2009

Ms. Terry Spieler
Secretary of the Missouri Senate
State Capitol, Room 325
201 West Capitol Avenue
Jefferson City, MO 65101

RE: Appointments to the Joint Committee on Public Employees Retirement

Dear Ms. Spieler,

Pursuant to Section 21.553, RSMo, I am appointing the following Senators to the Joint Committee on Public Employees Retirement:

Senator Days
Senator Crowell
Senator Green
Senator Smith

If you have any questions, please feel free to contact me at your earliest convenience.

Sincerely,

/s/ Charlie

Charles W. Shields

President Pro-Tem

INTRODUCTIONS OF GUESTS

Senator Mayer introduced to the Senate, Scottie Landess, Kennett.

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

SENATE CALENDAR

NINETEENTH DAY—TUESDAY, FEBRUARY 10, 2009

FORMAL CALENDAR

SECOND READING OF SENATE BILLS

SB 330-Justus	SB 338-Rupp
SB 331-Justus	SB 339-Goodman
SB 332-Dempsey, et al	SB 340-Bray
SB 333-Barnitz	SB 341-Bray
SB 334-Pearce	SB 342-Stouffer
SB 335-Rupp	SB 343-Stouffer
SB 336-Rupp	SB 344-Lager
SB 337-Rupp	SB 345-Lager

SENATE BILLS FOR PERFECTION

SB 1-Scott, with SCS	SB 26-Ridgeway
SBs 36 & 112-Goodman, with SCS	SB 37-Goodman, with SCS

INFORMAL CALENDAR

SENATE BILLS FOR PERFECTION

SB 128-Rupp, with SCS, SA 1 & SA 1 to
SA 1 (pending)

CONSENT CALENDAR

Senate Bills

Reported 1/29

SB 31-Stouffer

Reported 2/4

SB 9-Champion, with SCS

SB 47-Scott, with SCS

RESOLUTIONS

SR 139-Engler

Reported from Committee

SR 141-Engler, with point of order
(pending)

To be Referred

SCR 20-Pearce

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