Journal of the Senate

FIRST REGULAR SESSION

TWENTY-FIFTH DAY—THURSDAY, FEBRUARY 19, 2009

The Senate met pursuant to adjournment.

President Kinder in the Chair.

Reverend Carl Gauck offered the following prayer:

"Sometimes the Lord rides out the storm with us and other times He calms the restless sea around us. Most of all, He calms the storm inside us in our deepest inner soul." (Lloyd John Ogilvie)

Merciful God, You truly do what is best for us and can help to calm the passions that sometimes grow unchecked within us. Do so as we travel home to loved ones and leave what is frustrating us here so we may use this time to share in loving and caring ways with those You have given us to love. And may we be found in prayer in Your house this weekend beside those we love. 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.

Senator Engler announced that photographers from KOMU-TV were given permission to take pictures in the Senate Chamber today.

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	Ridgeway	Rupp	
Schaefer	Schmitt	Scott	Shields	Shoemyer	Smith	Stouffer	Vogel	
Wilson	Wright-Jones—34							

Absent-Senators-None

Absent with leave—Senators—None

Vacancies-None

The Lieutenant Governor was present.

RESOLUTIONS

Senator Shoemyer offered Senate Resolution No. 355, regarding the One Hundredth Birthday of Leona Blanche Gibson Calvert, Shelbina, which was adopted.

Senator Shoemyer offered Senate Resolution No. 356, regarding the One Hundred Twenty-fifth Anniversary of the founding of Saint John's Lutheran Church, Mexico, which was adopted.

Senator Schaefer offered Senate Resolution No. 357, regarding Cadet Second Lieutenant Spenser Market, Columbia, which was adopted.

Senator Pearce offered Senate Resolution No. 358, regarding Daniel P. Frazier, Holden, which was adopted.

Senator Nodler offered Senate Resolution No. 359, regarding Rex West, Greenfield, which was adopted.

Senator Goodman offered Senate Resolution No. 360, regarding Donavon C. Lakin, Pierce City, which was adopted.

CONCURRENT RESOLUTIONS

Senator Shields moved that SCR 17 be taken up for adoption, which motion prevailed.

On motion of Senator Shields, SCR 17 was adopted by the following vote:

YEAS—Senators							
Barnitz	Bartle	Bray	Callahan	Champion	Clemens	Crowell	Cunningham
Days	Dempsey	Engler	Goodman	Green	Griesheimer	Justus	Lager
Lembke	Mayer	McKenna	Nodler	Pearce	Purgason	Ridgeway	Rupp
Schmitt	Scott	Shields	Shoemyer	Smith	Stouffer	Vogel	Wilson
Wright-Jones—33							

NAYS—Senators—None

Absent—Senator Schaefer—1

Absent with leave—Senators—None

Vacancies-None

INTRODUCTION OF BILLS

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

SB 399–By Justus.

An Act to amend chapter 141, RSMo, by adding thereto one new section relating to the compromise of taxes and penalties for properties subject to certain actions as abandoned property.

SB 400–By Dempsey.

An Act to amend chapter 324, RSMo, by adding thereto twenty-four new sections relating to the

regulation of the auto body repair industry, with penalty provisions.

SB 401-By Goodman.

An Act to amend chapter 478, RSMo, by adding thereto three new sections relating to certain judicial circuits.

SB 402-By Goodman.

An Act to repeal section 565.084, RSMo, and to enact in lieu thereof one new section relating to tampering with a judicial officer, with penalty provisions.

SB 403-By Vogel.

An Act to repeal section 105.270, RSMo, and to enact in lieu thereof one new section relating to the salaries of certain state officials, with penalty provisions.

SB 404-By Mayer.

An Act to repeal sections 313.055 and 313.057, RSMo, and to enact in lieu thereof one new section relating to the repeal of certain taxes on licensed gaming activities, with penalty provisions.

SB 405-By Scott.

An Act to repeal sections 700.100, 700.350, 700.370, 700.385, 700.525, 700.527, 700.529, 700.530, 700.531, 700.533, 700.535, 700.537, and 700.539, RSMo, and to enact in lieu thereof nine new sections relating to manufactured housing.

SB 406-By Scott.

An Act to repeal sections 195.070, 195.100, and 334.735, RSMo, and to enact in lieu thereof four new sections relating to physician assistants prescribing controlled substances.

SB 407–By Scott.

An Act to amend chapter 103, RSMo, by adding thereto one new section relating to state employee health care.

SB 408–By Scott.

An Act to repeal section 570.120, RSMo, and to enact in lieu thereof one new section relating to prosecuting the crime of passing bad checks, with penalty provisions.

REPORTS OF STANDING COMMITTEES

Senator Purgason, Chairman of the Committee on Governmental Accountability and Fiscal Oversight, submitted the following report:

Mr. President: Your Committee on Governmental Accountability and Fiscal Oversight, to which was referred **SS** for **SCS** for **SB 1**, begs leave to report that it has considered the same and recommends that the bill do pass.

THIRD READING OF SENATE BILLS

SB 26, introduced by Senator Ridgeway, entitled:

An Act to repeal section 578.255, RSMo, and to enact in lieu thereof one new section relating to alcohol

beverage vaporizers.

Was taken up.

Senator Dempsey assumed the Chair.

On motion of Senator Ridgeway, SB 26 was read the 3rd time and passed by the following vote:

YEAS—S	Senators						
Bartle	Bray	Callahan	Champion	Clemens	Crowell	Cunningham	Days
Dempsey	Engler	Goodman	Green	Justus	Lager	Lembke	Mayer
McKenna	Nodler	Pearce	Purgason	Ridgeway	Rupp	Schaefer	Schmitt
Scott	Shields	Smith	Stouffer	Vogel	Wilson	Wright-Jones	31

NAYS—Senators—None

Absent—Senators Barnitz Griesheimer Shoemyer—3

Absent with leave—Senators—None

Vacancies-None

The President declared the bill passed.

On motion of Senator Ridgeway, title to the bill was agreed to.

Senator Ridgeway moved that the vote by which the bill passed be reconsidered.

Senator Engler moved that motion lay on the table, which motion prevailed.

SCS for SBs 36 and 112, entitled:

SENATE COMMITTEE SUBSTITUTE FOR SENATE BILLS NOS. 36 and 112

An Act to repeal sections 559.115, 566.030, and 566.060, RSMo, and to enact in lieu thereof three new sections relating to the penalties for certain forcible sexual offenses committed against children, with penalty provisions.

Was taken up by Senator Goodman.

On motion of Senator Goodman, SCS for SBs 36 and 112 was read the 3rd time and passed by the following vote:

YEAS—Senators								
Barnitz	Bartle	Bray	Callahan	Champion	Clemens	Crowell	Cunningham	
Days	Dempsey	Engler	Goodman	Green	Griesheimer	Justus	Lager	
Lembke	Mayer	McKenna	Nodler	Pearce	Purgason	Ridgeway	Rupp	
Schaefer	Schmitt	Scott	Shields	Shoemyer	Smith	Stouffer	Vogel	
Wilson	Wright-Jones—34							

NAYS—Senators—None

339

Absent—Senators—None

Absent with leave-Senators-None

Vacancies-None

The President declared the bill passed.

On motion of Senator Goodman, title to the bill was agreed to.

Senator Goodman moved that the vote by which the bill passed be reconsidered.

Senator Engler moved that motion lay on the table, which motion prevailed.

SS for SCS for SB 1, introduced by Senator Scott, entitled:

SENATE SUBSTITUTE FOR SENATE COMMITTEE SUBSTITUTE FOR SENATE BILL NO. 1

An Act to repeal sections 208.010, 436.005, 436.007, 436.011, 436.015, 436.021, 436.027, 436.031, 436.035, 436.038, 436.041, 436.045, 436.048, 436.051, 436.053, 436.055, 436.061, 436.063, 436.065, 436.067, 436.069, and 436.071, RSMo, and to enact in lieu thereof thirty-five new sections relating to preneed funeral contracts, with penalty provisions.

Was taken up.

On motion of Senator Scott, SS for SCS for SB 1 was read the 3rd time and passed by the following vote:

YEAS—S	enators						
Bartle	Bray	Callahan	Champion	Crowell	Cunningham	Days	Dempsey
Engler	Goodman	Green	Griesheimer	Justus	Lager	Lembke	Mayer
McKenna	Pearce	Purgason	Ridgeway	Rupp	Schaefer	Schmitt	Scott
Shields	Shoemyer	Smith	Stouffer	Vogel	Wilson	Wright-Jones-	-31

NAYS—Senators Barnitz Clemens

Clemens Nodler—3

Absent-Senators-None

Absent with leave—Senators—None

Vacancies-None

The President declared the bill passed.

On motion of Senator Scott, title to the bill was agreed to.

Senator Scott moved that the vote by which the bill passed be reconsidered.

Senator Engler moved that motion lay on the table, which motion prevailed.

SCS for SB 100, entitled:

SENATE COMMITTEE SUBSTITUTE FOR SENATE BILL NO. 100

An Act to repeal section 260.750, RSMo, and to enact in lieu thereof three new sections relating to the transportation of radioactive waste.

Was taken up by Senator Schaefer.

On motion of Senator Schaefer, SCS for SB 100 was read the 3rd time and passed by the following vote:

YEAS—S	enators						
Barnitz	Bartle	Bray	Callahan	Champion	Clemens	Crowell	Cunningham
Days	Dempsey	Engler	Goodman	Green	Griesheimer	Justus	Lager
Lembke	Mayer	McKenna	Nodler	Pearce	Purgason	Ridgeway	Rupp
Schaefer	Schmitt	Scott	Shields	Shoemyer	Smith	Stouffer	Vogel
Wilson	Wright-Jones—34						

NAYS—Senators—None

Absent-Senators-None

Absent with leave—Senators—None

Vacancies-None

The President declared the bill passed.

On motion of Senator Schaefer, title to the bill was agreed to.

Senator Schaefer moved that the vote by which the bill passed be reconsidered.

Senator Engler moved that motion lay on the table, which motion prevailed.

SCS for SB 313, entitled:

SENATE COMMITTEE SUBSTITUTE FOR SENATE BILL NO. 313

An Act to amend chapter 30, RSMo, by adding thereto three new sections relating to the receipt of federal economic stimulus funds, with an emergency clause.

Was taken up by Senator Nodler.

On motion of Senator Nodler, SCS for SB 313 was read the 3rd time and passed by the following vote:

YEAS—	Senators						
Barnitz	Bartle	Bray	Callahan	Champion	Clemens	Crowell	Cunningham
Days	Dempsey	Engler	Goodman	Green	Griesheimer	Justus	Lager
Lembke	Mayer	McKenna	Nodler	Pearce	Purgason	Ridgeway	Rupp
Schaefer	Schmitt	Scott	Shields	Shoemyer	Smith	Stouffer	Vogel
Wilson—33							

NAYS—Senators—None

Absent—Senator Wright-Jones—1

Absent with leave—Senators—None

Vacancies-None

The President declared the bill passed.

The emergency clause was adopted by the following vote:

YEAS—Senators

Barnitz	Bartle	Bray	Callahan	Champion	Clemens	Crowell	Cunningham
Days	Dempsey	Engler	Goodman	Green	Griesheimer	Justus	Lager
Lembke	Mayer	McKenna	Nodler	Pearce	Purgason	Ridgeway	Rupp
Schaefer	Schmitt	Scott	Shields	Shoemyer	Smith	Stouffer	Vogel
Wilson-33							

NAYS—Senators—None

Absent—Senator Wright-Jones—1

Absent with leave-Senators-None

Vacancies-None

On motion of Senator Nodler, title to the bill was agreed to.

Senator Nodler moved that the vote by which the bill passed be reconsidered.

Senator Engler moved that motion lay on the table, which motion prevailed.

Senator Bartle assumed the Chair.

RESOLUTIONS

Senator Dempsey offered the following resolution:

SENATE RESOLUTION NO. 361

WHEREAS, there are 6,467 Missourians suffering from Chronic Kidney Failure, which requires dialysis or transplantation for maintenance of life; and

WHEREAS, every year more than 2,000 Missourians are newly diagnosed with Chronic Kidney Disease (CKD) Stage 5; and

WHEREAS, an increasing number of Missourians are at risk for developing chronic kidney disease due to our aging population, our level of obesity, plus the complications of diabetes and hypertension; and

WHEREAS, almost half of those who currently have CKD may have been able to prevent contracting this disease through healthy lifestyle choices; and

WHEREAS, early detection and treatment of CKD may prevent undue suffering, the need for dialysis treatments, and kidney transplantation; and

WHEREAS, March is National Kidney Month and Missourians need to be aware of Chronic Kidney Disease:

NOW, THEREFORE, BE IT RESOLVED by the members of the Missouri Senate, Ninety-fifth General Assembly, First Regular Session, hereby recognize the month of March as Kidney Month in the State of Missouri and recommend that it be observed by the people with appropriate activities to promote public awareness of chronic kidney disease.

Senator Lembke offered Senate Resolution No. 362, regarding Joe Weinmann, Saint Louis, which was adopted.

Senator Lembke offered Senate Resolution No. 363, regarding Marlene Shelton, Chesterfield, which was adopted.

Senator Lembke offered Senate Resolution No. 364, regarding John Weinmann, Saint Louis, which was adopted.

Senator Lembke moved that SR 207, with SCS, be taken up for adoption, which motion prevailed.

SCS for SR 207 was taken up.

Senator Lembke moved that SCS for SR 207 be adopted.

At the request of Senator Lembke, the motion to adopt SCS for SR 207 was withdrawn, which placed the resolution back on the Calendar.

MESSAGES FROM THE GOVERNOR

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

GOVERNOR OF MISSOURI

Jefferson City

65102

February 18, 2009

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

The following addendum should be made to the appointment of Peggy Gettemeier to the Missouri Board of Occupational Therapy, submitted on February 16, 2009. Line 1 should be amended as follows:

"Peggy Gettemeier, 1072 Chatelet Drive, Ferguson, Saint Louis County, Missouri 63135, as"

Respectfully submitted, Jeremiah W. (Jay) Nixon Governor

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

REPORTS OF STANDING COMMITTEES

Senator Shields, Chairman of the Committee on Gubernatorial Appointments, submitted the following reports, reading of which was waived:

Mr. President: Your Committee on Gubernatorial Appointments, to which were referred the following appointments, begs leave to report that it has considered the same and recommends that the Senate do give its advice and consent to the following:

John M. Huff, as Director of the Department of Insurance, Financial Institutions and Professional Registration;

Also,

Mark E. Ohrenberg, as a member of the Missouri Planning Council for Developmental Disabilities.

Senator Shields requested unanimous consent of the Senate to vote on the above reports in one motion. There being no objection, the request was granted. Senator Shields moved that the committee reports be adopted, and the Senate do give its advice and consent to the above appointments, which motion prevailed.

RE-REFERRALS

President Pro Tem Shields re-referred **SB 262** to the Committee on the Judiciary and Civil and Criminal Jurisprudence.

President Pro Tem Shields assumed the Chair.

REPORTS OF STANDING COMMITTEES

Senator Vogel, Chairman of the Committee on Ways and Means, submitted the following report:

Mr. President: Your Committee on Ways and Means, to which was referred **SB 215**, begs leave to report that it has considered the same and recommends that the bill do pass.

Senator Champion, Chairman of the Committee on Health, Mental Health, Seniors and Families, submitted the following reports:

Mr. President: Your Committee on Health, Mental Health, Seniors and Families, to which was referred **SB 72**, begs leave to report that it has considered the same and recommends that the Senate Committee Substitute, hereto attached, do pass.

Also,

Mr. President: Your Committee on Health, Mental Health, Seniors and Families, to which was referred **SB 89**, begs leave to report that it has considered the same and recommends that the Senate Committee Substitute, hereto attached, do pass.

Also,

Mr. President: Your Committee on Health, Mental Health, Seniors and Families, to which was referred **SB 104**, begs leave to report that it has considered the same and recommends that the Senate Committee Substitute, hereto attached, do pass.

Senator Bartle, Chairman of the Committee on the Judiciary and Civil and Criminal Jurisprudence, submitted the following report:

Mr. President: Your Committee on the Judiciary and Civil and Criminal Jurisprudence, to which were referred **SB 261**, **SB 159**, **SB 180** and **SB 181**, begs leave to report that it has considered the same and recommends that the Senate Committee Substitute, hereto attached, do pass.

Senator Callahan, Chairman of the Committee on Progress and Development, submitted the following report:

Mr. President: Your Committee on Progress and Development, to which was referred **SB 18**, begs leave to report that it has considered the same and recommends that the Senate Committee Substitute, hereto attached, do pass.

Senator Mayer, Chairman of the Committee on Education, submitted the following report:

Mr. President: Your Committee on Education, to which was referred **SB 255**, begs leave to report that it has considered the same and recommends that the bill do pass.

Senator Stouffer, Chairman of the Committee on Transportation, submitted the following reports:

Mr. President: Your Committee on Transportation, to which was referred **SB 84**, begs leave to report that it has considered the same and recommends that the bill do pass.

Also,

Mr. President: Your Committee on Transportation, to which was referred **SB 88**, begs leave to report that it has considered the same and recommends that the Senate Committee Substitute, hereto attached, do pass.

Senator Rupp, Chairman of the Committee on Small Business, Insurance and Industry, submitted the following report:

Mr. President: Your Committee on Small Business, Insurance and Industry, to which was referred **SB 126**, begs leave to report that it has considered the same and recommends that the bill do pass.

Senator Rupp assumed the Chair.

SECOND READING OF SENATE BILLS

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

SB 376—Commerce, Consumer Protection, Energy and the Environment.

SB 377—Jobs, Economic Development and Local Government.

SB 378—Health, Mental Health, Seniors and Families.

SB 379—Financial and Governmental Organizations and Elections.

SB 380—Governmental Accountability and Fiscal Oversight.

SB 381—Agriculture, Food Production and Outdoor Resources.

SB 382—Health, Mental Health, Seniors and Families.

SB 383—Veterans' Affairs, Pensions and Urban Affairs.

SB 384—Agriculture, Food Production and Outdoor Resources.

SB 385—Jobs, Economic Development and Local Government.

SB 386—Jobs, Economic Development and Local Government.

SB 387—Jobs, Economic Development and Local Government.

SB 388—Health, Mental Health, Seniors and Families.

SB 389—Governmental Accountability and Fiscal Oversight.

SB 390—Education.

SB 391—Commerce, Consumer Protection, Energy and the Environment.

SB 392—Ways and Means.

SB 393—Governmental Accountability and Fiscal Oversight.

SB 394—Small Business, Insurance and Industry.

SB 395—Veterans' Affairs, Pensions and Urban Affairs.

SB 396—Financial and Governmental Organizations and Elections.

SB 397—Small Business, Insurance and Industry.

SB 398—Agriculture, Food Production and Outdoor Resources.

INTRODUCTIONS OF GUESTS

Senator Pearce introduced to the Senate, Manuel Abarca, Trevor Cunningham and Darren Doherty, members of the University of Central Missouri Student Government Association, Warrensburg.

Senator Shoemyer introduced to the Senate, Roger and Shelby Sutter, Taylor.

Senator Rupp introduced to the Senate, the Physician of the Day, Dr. Jay Moore, M.D., Lake St. Louis.

Senator Schmitt introduced to the Senate, Councilman Gerry Biedenstein, Kirkwood.

Senator Days introduced to the Senate, Alderperson Millicent Johnson, Cool Valley.

Senator Scott introduced to the Senate, Roxy Hudson, Tamera Heitz-Peek, Brenda Harris, Jaime Renfro, Ellis Hall, Ted Zeugin, Jennifer Earl, Steven G. Cain, Erin M. Russell, Tara Peterson, Carrie Beesley and Valerie Guston, members of Leadership Bolivar.

Senator Schmitt introduced to the Senate, Mayor David Willson and his wife, Mary, Manchester.

Senator Dempsey introduced to the Senate, Richard Veit, St. Charles.

Senator Bray introduced to the Senate, Mayor Mark Langston, Maplewood; and David Poger and Jenny Lorenz, Kirkwood.

On motion of Senator Engler, the Senate adjourned until 4:00 p.m., Monday, February 23, 2009.

SENATE CALENDAR

TWENTY-SIXTH DAY-MONDAY, FEBRUARY 23, 2009

FORMAL CALENDAR

SECOND READING OF SENATE BILLS

SB 399-Justus SB 400-Dempsey SB 401-Goodman SB 402-Goodman SB 403-Vogel SB 404-Mayer SB 405-Scott SB 406-Scott SB 407-Scott SB 408-Scott

HOUSE BILLS ON SECOND READING

THIRD READING OF SENATE BILLS

SCS for SB 140-Smith and Wright-Jones (In Fiscal Oversight)

SENATE BILLS FOR PERFECTION

1. SB 215-Shields 2. SB 72-Stouffer, with SCS 3. SB 89-Stouffer, with SCS 4. SB 104-Justus, et al, with SCS 5. SBs 261, 159, 180 & 181-Bartle, with SCS

6. SB 18-Bray, et al, with SCS 7. SB 255-Pearce 8. SB 84-Purgason 9. SB 88-Stouffer, with SCS 10. SB 126-Rupp

HOUSE BILLS ON THIRD READING

HCS for HB 191, with SCS (Griesheimer) (In Fiscal Oversight)

INFORMAL CALENDAR

SENATE BILLS FOR PERFECTION

SB-29-Stouffer SB 37-Goodman, with SCS & SA 1 (pending) SBs 45, 212, 136, 278, 279, 285 & 288-Pearce, with SCS (pending) SB 58-Stouffer

SB 128-Rupp, with SCS, SA 1 & SA 1 to SA 1 (pending) SCS for SB 189-Shields SBs 223 & 226-Goodman, with SCS (pending)

CONSENT CALENDAR

Senate Bills

Reported 2/11

SB 154-Goodman SB 147-Dempsey

SB 243-Pearce, with SCS

SB 9-Champion, with SCS#2

SB 156-Goodman SB 171-Griesheimer

Reported 2/18

SB 157-Schmitt, with SCS SB 8-Champion, with SCS

SB 265-Mayer, et al, with SCS SB 152-Clemens, with SCS SB 55-Days SB 79-Wilson SB 231-Cunningham, with SCS

SB 179-Wright-Jones, with SCS SB 15-Nodler, with SCS SB 217-Goodman SB 202-Schaefer, with SCS SB 280-Rupp and Cunningham

RESOLUTIONS

Reported from Committee

SR 141-Engler, with point of order (pending)SCR 5-Stouffer, with SCA 1SCR 7-Pearce SR 304-Shields SR 303-Shields SR 302-Shields SR 207-Lembke, with SCS (pending)

To be Referred

1

SR 361-Dempsey