

Journal of the Senate

FIRST REGULAR SESSION

THIRTY-THIRD DAY—THURSDAY, MARCH 5, 2009

The Senate met pursuant to adjournment.

President Kinder in the Chair.

Reverend Carl Gauck offered the following prayer:

“The greatest happiness of life is the conviction that we are loved - loved for ourselves, or rather, loved in spite of ourselves.” (Victor Hugo)

Loving Father, as we finish up our work this day and respond to the “homing instinct” that calls us back to family and home may we remember that we are loved and ought to be loving towards those You have given us to love. Make us humbled by efforts that go on in our absence and appreciate those who make it possible for us to do our work here. 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 KRCG-TV, Jefferson City News Tribune and KMIZ-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
Schmitt	Scott	Shields	Shoemyer	Smith	Stouffer	Vogel	Wilson

Wright-Jones—33

Absent—Senators—None

Absent with leave—Senator Schaefer—1

Vacancies—None

The Lieutenant Governor was present.

RESOLUTIONS

Senator Griesheimer offered Senate Resolution No. 466, regarding Charles Edward Kuhn, Eureka, which was adopted.

Senator Goodman offered Senate Resolution No. 467, regarding Nancy Ridgley, Monett, which was adopted.

Senators Schmitt and Lembke offered Senate Resolution No. 468, regarding Randy Martin, South St. Louis County, which was adopted.

Senator Schmitt offered Senate Resolution No. 469, regarding Nicholas Harrison Debandt, Kirkwood, which was adopted.

Senator Schmitt offered Senate Resolution No. 470, regarding Saint Louis Synergy Juvenile Synchronized Skating Team, which was adopted.

Senator Schmitt offered Senate Resolution No. 471, regarding Sharray Hoff and Barb Watts, which was adopted.

Senator Lembke offered Senate Resolution No. 472, regarding Gene Rauscher, Saint Louis, which was adopted.

Senator Lembke offered Senate Resolution No. 473, regarding Deborah Czmarko, Saint Louis, which was adopted.

Senator Lembke offered Senate Resolution No. 474, regarding Jennifer Dittrich, Columbia, Illinois, which was adopted.

Senator Lembke offered Senate Resolution No. 475, regarding Joyce Sevem, Saint Louis, which was adopted.

Senator Lembke offered Senate Resolution No. 476, regarding Christen Otto, Saint Louis, which was adopted.

Senator Lembke offered Senate Resolution No. 477, regarding Cheryl Tentschert, Saint Louis, which was adopted.

Senator Lembke offered Senate Resolution No. 478, regarding Judy Buckley, Fenton, which was adopted.

Senator Lembke offered Senate Resolution No. 479, regarding Robert Schimmel, Saint Louis, which was adopted.

Senator Lembke offered Senate Resolution No. 480, regarding Heather Black, which was adopted.

Senator Lembke offered Senate Resolution No. 481, regarding Jan Cibulka, Saint Louis, which was adopted.

Senator Lembke offered Senate Resolution No. 482, regarding Amy Wagner, Arnold, which was adopted.

Senator Lembke offered Senate Resolution No. 483, regarding Christine Vonder Haar, Saint Louis, which was adopted.

SENATE BILLS FOR PERFECTION

At the request of Senator Stouffer, **SB 57**, with **SCS**, was placed on the Informal Calendar.

Senator Cunningham moved that **SB 231**, with **SCS**, be taken up for perfection, which motion prevailed.

SCS for **SB 231**, entitled:

SENATE COMMITTEE SUBSTITUTE FOR
SENATE BILL NO. 231

An Act to repeal section 535.040, RSMo, and to enact in lieu thereof one new section relating to landlord-tenant actions.

Was taken up.

Senator Griesheimer assumed the Chair.

Senator Cunningham moved that **SCS** for **SB 231** be adopted.

Senator Justus offered **SA 1**:

SENATE AMENDMENT NO. 1

Amend Senate Committee Substitute for Senate Bill No. 231, Page 1, Section A, Line 2, by inserting after all of said line the following:

“534.030. **1. Except as provided in subsection 2 of this section**, when any person willfully and without force holds over any lands, tenements or other possessions, after the termination of the time for which they were demised or let to the person, or the person under whom such person claims; or after a mortgage or deed of trust has been foreclosed and the person has received written notice [of] **that a foreclosure sale has occurred and either such person is in violation of any lease agreement or at least forty-five days have elapsed after the date of notification of the foreclosure sale**; or when premises are occupied incident to the terms of employment and the employee holds over after the termination of such employment; or when any person wrongfully and without force, by disseisin, shall obtain and continue in possession of any lands, tenements or other possessions, and after demand made, in writing, for the delivery of such possession of the premises by the person having the legal right to such possession, or the person's agent or attorney, shall refuse or neglect to vacate such possession, such person is guilty of an “unlawful detainer”.

2. In any case where a foreclosed property is lawfully occupied by a residential tenant who is not in violation of any lease agreement, no unlawful detainer action may be commenced against the tenant under this chapter within forty-five days following the date the tenant is given notice that the foreclosure sale has occurred.”; and

Further amend the title and enacting clause accordingly.

Senator Justus moved that the above amendment be adopted.

Senator Dempsey assumed the Chair.

At the request of Senator Cunningham, **SB 231**, with **SCS** and **SA 1** (pending), was placed on the Informal Calendar.

CONCURRENT RESOLUTIONS

Senator Pearce moved that **SCR 16** be taken up for adoption, which motion prevailed.

On motion of Senator Pearce, **SCR 16** was adopted by the following vote:

YEAS—Senators

Barnitz	Bartle	Bray	Callahan	Champion	Clemens	Crowell	Cunningham
Days	Dempsey	Engler	Goodman	Griesheimer	Justus	Lager	Lembke
Mayer	McKenna	Nodler	Pearce	Purgason	Ridgeway	Rupp	Scott
Shields	Shoemyer	Smith	Stouffer	Vogel	Wilson	Wright-Jones—31	

NAYS—Senators—None

Absent—Senators

Green Schmitt—2

Absent with leave—Senator Schaefer—1

Vacancies—None

Senator Stouffer moved that **SCR 5**, with **SCA 1**, be taken up for adoption, which motion prevailed.

SCA 1 was taken up.

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

On motion of Senator Stouffer, **SCR 5**, as amended, 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—Senators—None

Absent with leave—Senator Schaefer—1

Vacancies—None

Senator Shoemyer moved that **SCR 8** be taken up for adoption, which motion prevailed.

On motion of Senator Shoemyer, **SCR 8** was adopted by the following vote:

YEAS—Senators

Barnitz	Bartle	Bray	Callahan	Champion	Clemens	Crowell	Cunningham
Days	Dempsey	Engler	Goodman	Green	Griesheimer	Lager	Lembke
Mayer	McKenna	Nodler	Pearce	Purgason	Ridgeway	Rupp	Schmitt
Scott	Shields	Shoemyer	Smith	Stouffer	Vogel	Wilson—31	

NAYS—Senators—None

Absent—Senators

Justus Wright-Jones—2

Absent with leave—Senator Schaefer—1

Vacancies—None

Senator Crowell moved that **SCR 2**, entitled:

Concurrent Resolution relating to recognition of October 3rd as Science Day.

Be taken up for 3rd reading and final passage, which motion prevailed.

On motion of Senator Crowell, **SCR 2** 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	Griesheimer	Justus	Lager	Lembke
Mayer	McKenna	Nodler	Pearce	Purgason	Ridgeway	Rupp	Schmitt
Scott	Shields	Shoemyer	Smith	Stouffer	Wilson	Wright-Jones—31	

NAYS—Senators—None

Absent—Senators

Green Vogel—2

Absent with leave—Senator Schaefer—1

Vacancies—None

The President declared the concurrent resolution passed.

On motion of Senator Crowell, title to the concurrent resolution was agreed to.

Senator Crowell moved that the vote by which the concurrent resolution passed be reconsidered.

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

MESSAGES FROM THE GOVERNOR

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

GOVERNOR OF MISSOURI
Jefferson City
65102

March 04, 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:

David Crowe, 1420 Sylvan Lane, Cape Girardeau, Cape Girardeau County, Missouri 63701, as a member of the Missouri Commission on Autism Spectrum Disorders, for a term ending February 26, 2011, and until his successor is duly appointed and qualified; vice, RSMo 633.200.

Respectfully submitted,
Jeremiah W. (Jay) Nixon
Governor

Also,

GOVERNOR OF MISSOURI
Jefferson City
65102
March 04, 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:

Dennis H. Tesreau, 300 Dunklin Drive, Herculaneum, Jefferson County, Missouri 63048, as a member of the Mental Health Commission, for a term ending June 28, 2013, and until his successor is duly appointed and qualified; vice, Phillip McClendon, withdrawn.

Respectfully submitted,
Jeremiah W. (Jay) Nixon
Governor

Also,

GOVERNOR OF MISSOURI
Jefferson City
65102
March 04, 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:

Diana L. Willard, 4010 Belle Locke, Joplin, Jasper County, Missouri 64804, as a member of the Missouri Planning Council for Developmental Disabilities, for a term ending June 30, 2011, and until her successor is duly appointed and qualified; vice, Owen Lunn, term expired.

Respectfully submitted,
Jeremiah W. (Jay) Nixon
Governor

President Pro Tem Shields referred the above appointments 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:

Mark N. Templeton, as Director of the Department of Natural Resources;

Also,

Brenda L. Niemeyer, 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.

President Pro Tem Shields assumed the Chair.

Senator Scott, Chairman of the Committee on Financial and Governmental Organizations and Elections, submitted the following report:

Mr. President: Your Committee on Financial and Governmental Organizations and Elections, to which was referred **SB 216**, begs leave to report that it has considered the same and recommends that the Senate Committee Substitute, hereto attached, do pass.

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 235**, begs leave to report that it has considered the same and recommends that the bill do pass.

Senator Griesheimer, Chairman of the Committee on Jobs, Economic Development and Local Government, submitted the following report:

Mr. President: Your Committee on Jobs, Economic Development and Local Government, to which was referred **SB 284**, 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 report:

Mr. President: Your Committee on Health, Mental Health, Seniors and Families, to which was referred **SB 236**, begs leave to report that it has considered the same and recommends that the bill 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 was referred **SB 264**, begs leave to report that it has considered the same and recommends that the bill 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 291**, 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 report:

Mr. President: Your Committee on Transportation, to which was referred **SB 130**, 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 167**, begs leave to report that it has considered the same and recommends that the Senate Committee Substitute, hereto attached, do pass.

Senator Lager, Chairman of the Committee on Commerce, Consumer Protection, Energy and the Environment, submitted the following reports:

Mr. President: Your Committee on Commerce, Consumer Protection, Energy and the Environment, to which were referred **SB 65** and **SB 43**, 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 Commerce, Consumer Protection, Energy and the Environment, to which was referred **SB 188**, 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 Commerce, Consumer Protection, Energy and the Environment, to which was referred **SB 272**, begs leave to report that it has considered the same and recommends that the bill do pass.

Senator Dempsey assumed the Chair.

On motion of Senator Engler, the Senate recessed until 2:00 p.m.

RECESS

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

MESSAGES FROM THE HOUSE

The following messages were 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** for **HB 14**, entitled:

An Act to appropriate money for supplemental purposes for the several departments and offices of state government, and for the purchase of equipment, and for the payment of various claims for refunds, for persons, firms, and corporations, and for other purposes, and to transfer money among certain funds, from the funds designated for the fiscal period ending June 30, 2009.

In which the concurrence of the Senate is respectfully requested.

Read 1st time.

Also,

Mr. President: I am instructed by the House of Representatives to inform the Senate that the House has taken up and passed **HCS** for **HB 580**, entitled:

An Act to repeal section 287.090, RSMo, and to enact in lieu thereof two new sections relating to compensation for emergency personnel killed in the line of duty, with an emergency clause.

Emergency clause adopted.

In which the concurrence of the Senate is respectfully requested.

Read 1st time.

Also,

Mr. President: I am instructed by the House of Representatives to inform the Senate that the House has

taken up and passed **HCS** for **HB 82**, entitled:

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.

In which the concurrence of the Senate is respectfully requested.

Read 1st time.

Also,

Mr. President: I am instructed by the House of Representatives to inform the Senate that the House has taken up and passed **HCS** for **HB 310**, entitled:

An Act to repeal sections 311.332, 311.333, 311.334, 311.335, 311.336, 311.338, and 311.490, RSMo, and to enact in lieu thereof five new sections relating to liquor control, with a penalty provision.

In which the concurrence of the Senate is respectfully requested.

Read 1st time.

Also,

Mr. President: I am instructed by the House of Representatives to inform the Senate that the House has taken up and passed **HCS** for **HB 459**, entitled:

An Act to amend chapter 190, RSMo, by adding thereto sixteen new sections relating to ambulance service reimbursement allowance tax.

In which the concurrence of the Senate is respectfully requested.

Read 1st time.

RESOLUTIONS

Senator Ridgeway offered Senate Resolution No. 484, regarding Kelly Scanlon, which was adopted.

INTRODUCTIONS OF GUESTS

Senator Crowell introduced to the Senate, Amber Lusk, Cape Girardeau; and John Moll and his children, Ella and Daniel, Jackson.

Senator Pearce introduced to the Senate, students from McEowen Elementary School, Harrisonville.

Senator Schmitt introduced to the Senate, one hundred twenty fourth grade students from North Glendale Elementary School; and James Fuszner and Rheaven Forbis were made honorary pages.

Senator Justus introduced to the Senate, Lt. Christopher Hanes, his wife, Julie, Grandview; and his parents, Bob and Mary Everitt.

Senator Lager introduced to the Senate, the Physician of the Day, Dr. James D. Humphreys, M.D., Mound City.

On motion of Senator Vogel, the Senate adjourned until 4:00 p.m., Monday, March 9, 2009.

SENATE CALENDAR

 THIRTY-FOURTH DAY—MONDAY, MARCH 9, 2009

FORMAL CALENDAR

SECOND READING OF SENATE BILLS

SJR 14-Wilson
 SJR 15-Cunningham
 SJR 16-Lager

SJR 17-Lembke
 SJR 18-Cunningham

HOUSE BILLS ON SECOND READING

HCS for HB 96
 HB 744-Icet
 HB 287-Day, et al
 HB 86-Sutherland
 HCS for HB 242
 HB 65-Wilson (119), et al

HCS for HB 14
 HCS for HB 580
 HCS for HB 82
 HCS for HB 310
 HCS for HB 459

THIRD READING OF SENATE BILLS

SB 38-Rupp
 SCS for SBs 237 & 137-Lembke
 SCS for SB 8-Champion

SCS for SB 93-Green
 SCS for SB 265-Mayer, et al (In Fiscal Oversight)
 SB 255-Pearce

SENATE BILLS FOR PERFECTION

1. SB 202-Schaefer, with SCS
 2. SB 216-Scott, with SCS
 3. SB 235-Cunningham
 4. SB 284-Lembke, et al
 5. SB 236-Lembke
 6. SB 264-Mayer

7. SB 291-Shields
 8. SB 130-McKenna, et al, with SCS
 9. SB 167-Rupp, with SCS
 10. SBs 65 & 43-Rupp, et al, with SCS
 11. SB 188-Dempsey, et al, with SCS
 12. SB 272-Lager

HOUSE BILLS ON THIRD READING

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

INFORMAL CALENDAR

SENATE BILLS FOR PERFECTION

SB 5-Griesheimer, with SCS, SS for SCS & SA 2 (pending)
SB 7-Griesheimer, with SS (pending)
SB 18-Bray, et al, with SCS & SS for SCS (pending)
SB 29-Stouffer
SB 44-Pearce, with SCS & SA 1 (pending)
SBs 45, 212, 136, 278, 279, 285 & 288-Pearce, with SCS (pending)
SB 57-Stouffer, with SCS
SB 58-Stouffer
SB 72-Stouffer, with SCS

SB 89-Stouffer, with SCS, SA 1 & SSA 1 for SA 1 (pending)
SB 174-Griesheimer and Goodman, with SCS, SS for SCS & SA 1 (pending)
SB 176-Stouffer, with SCS
SCS for SB 189-Shields
SBs 223 & 226-Goodman, with SCS (pending)
SB 231-Cunningham, with SCS & SA 1 (pending)
SBs 261, 159, 180 & 181-Bartle and Goodman, with SCS, SS#2 for SCS & SA 7 (pending)

CONSENT CALENDAR

Senate Bills

Reported 2/25

SB 368-Stouffer
SB 114-Crowell
SB 263-Mayer

SB 280-Rupp and Cunningham
SB 277-Cunningham

Reported 3/4

SB 66-Scott
SB 196-Shoemyer
SB 122-Griesheimer
SB 294-Barnitz
SB 262-Bartle

SB 224-Goodman
SB 232-Cunningham
SB 134-Dempsey, with SCS
SB 349-Goodman and McKenna
SB 127-Rupp, with SCS

RESOLUTIONS

Reported from Committee

SR 141-Engler, with point of order (pending)
SCR 7-Pearce
SR 207-Lembke and Smith, with SCS & SS for SCS (pending)

SCR 11-Bartle, et al
SCR 14-Schmitt
SCR 21-Clemens