

Journal of the Senate

FIRST REGULAR SESSION

FORTY-SEVENTH DAY—MONDAY, APRIL 6, 2009

The Senate met pursuant to adjournment.

Senator Lager in the Chair.

Reverend Carl Gauck offered the following prayer:

“The world is new to us every morning—this is the Holy One's gift and every person should believe he is reborn each day.” (Baal Shem Tov)

Merciful Father, we are grateful that we have this new day to give You thanks for all we receive from Your gracious hand. Help us this week to be about all You would have us do and guide our steps to that end. We are thankful for Your mercy and grace and ask that You be present and comfort Jim Howerton and his family at the death of his father. Walk with them through this time of grief and stand with them in their sorrow. 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, April 2, 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 | Ridgeway | Rupp | Schaefer |
| Schmitt | Scott | Shields | Shoemyer | Smith | Stouffer | Vogel | Wilson |

Wright-Jones—33

Absent—Senators—None

Absent with leave—Senator Purgason—1

Vacancies—None

The Lieutenant Governor was present.

RESOLUTIONS

Senator Crowell offered Senate Resolution No. 744, regarding Mr. and Mrs. Jay Kaplan, which was adopted.

Senator Wright-Jones offered Senate Resolution No. 745, regarding Amber Boykins, Saint Louis, which was adopted.

Senator Griesheimer offered Senate Resolution No. 746, regarding Clearview Elementary School, Washington School District, which was adopted.

Senator Rupp offered Senate Resolution No. 747, regarding Patrick Hennessy, which was adopted.

Senator Justus offered Senate Resolution No. 748, regarding the Twentieth Anniversary of Garozzo's Ristorante, Kansas City, which was adopted.

Senator Crowell offered Senate Resolution No. 749, regarding Albert "Mick" Paulus, Perryville, which was adopted.

Senator Crowell offered Senate Resolution No. 750, regarding the One Hundred Third Birthday of Mildred Lydia Eifert Uelsmann, Cape Girardeau, which was adopted.

Senator Barnitz offered Senate Resolution No. 751, regarding Kay McMurtrey, Edgar Springs, which was adopted.

Senator Shields offered Senate Resolution No. 752, regarding Officer Timothy L. Kehm, which was adopted.

Senator Days offered Senate Resolution No. 753, regarding Chief Joe D. Collins, Beverly Hills, which was adopted.

Senator Engler offered Senate Resolution No. 754, regarding Louise McDonough, which was adopted.

Senator Smith offered Senate Resolution No. 755, regarding Stephen F. Meyerkord, Sunset Hills, which was adopted.

Senator Dempsey offered Senate Resolution No. 756, regarding Johnathon Pipitone, St. Charles, which was adopted.

Senator Dempsey offered Senate Resolution No. 757, regarding Jani Wilkins, which was adopted.

Senator Dempsey offered Senate Resolution No. 758, regarding Sara Martens, which was adopted.

Senator Dempsey offered Senate Resolution No. 759, regarding Lindsay LaMarche, which was adopted.

Senator Dempsey offered Senate Resolution No. 760, regarding Karen Hessel, which was adopted.

Senator Dempsey offered Senate Resolution No. 761, regarding Lindsey Scheller, which was adopted.

SENATE BILLS FOR PERFECTION

Senator Mayer moved that **SB 558**, with **SCS**, be taken up for perfection, which motion prevailed.

SCS for **SB 558**, entitled:

SENATE COMMITTEE SUBSTITUTE FOR SENATE BILL NO. 558

An Act to repeal section 160.545, RSMo, and to enact in lieu thereof two new sections relating to higher education scholarships.

Was taken up.

Senator Mayer moved that **SCS** for **SB 558** be adopted.

Senator Mayer offered **SS** for **SCS** for **SB 558**:

SENATE SUBSTITUTE FOR
SENATE COMMITTEE SUBSTITUTE FOR
SENATE BILL NO. 558

An Act to repeal section 160.545, RSMo, and to enact in lieu thereof two new sections relating to higher education scholarships for qualified recipients under the A+ schools program.

Senator Mayer moved that **SS** for **SCS** for **SB 558** be adopted.

Senator Schaefer offered **SA 1**:

SENATE AMENDMENT NO. 1

Amend Senate Substitute for Senate Committee Substitute for Senate Bill No. 558, Page 1, In the Title, Lines 4-5, by striking all of said lines from the bill and inserting in lieu thereof the following: “scholarships.”; and

Further amend said bill, page 13, section 173.268, line 8, by inserting after all of said line the following:

“173.1105. 1. [Beginning with the 2007-08 academic year,] An applicant who is an undergraduate postsecondary student at an approved private or public institution and who meets the other eligibility criteria shall be eligible for financial assistance, with a minimum and maximum award amount as follows:

(1) For academic years 2009-2010, 2010-2011, 2011-2012, and 2012-2013:

(a) One thousand dollars maximum and three hundred dollars minimum for students attending institutions classified as part of the public two-year sector;

[(2)] (b) Two thousand one hundred fifty dollars maximum and one thousand dollars minimum for students attending institutions classified as part of the public four-year sector, including Linn State Technical College; and

[(3)] (c) Four thousand six hundred dollars maximum and two thousand dollars minimum for students attending approved private institutions.

(2) For the 2013-14 academic year and subsequent years:

(a) One thousand dollars maximum and three hundred dollars minimum for students attending institutions classified as part of the public two-year sector; and

(b) Two thousand eight hundred fifty dollars maximum and one thousand five hundred dollars minimum for students attending institutions classified as part of the public four-year sector, including Linn State Technical College, or approved private institutions.

2. All students with an expected family contribution of twelve thousand dollars or less shall receive at least the minimum award amount for his or her institution. Maximum award amounts for an eligible student with an expected family contribution above seven thousand dollars shall be reduced by ten percent of the maximum expected family contribution for his or her increment group. Any award amount shall be reduced by the amount of a student's [reimbursement pursuant to section 160.545, RSMo] **payment from the A+ schools program or its successor**. For purposes of this subsection, the term “increment group” shall mean a group organized by expected family contribution in five hundred dollar increments into which all eligible

students shall be placed.

3. If appropriated funds are insufficient to fund the program as described, the maximum award shall be reduced across all sectors by the percentage of the shortfall. If appropriated funds exceed the amount necessary to fund the program, the additional funds shall be used to increase the number of recipients by raising the cutoff for the expected family contribution rather than by increasing the size of the award.

4. Every three years, beginning with academic year 2009-10, the award amount may be adjusted to increase no more than the Consumer Price Index for All Urban Consumers (CPI-U), 1982-1984 = 100, not seasonally adjusted, as defined and officially recorded by the United States Department of Labor, or its successor agency, for the previous academic year. The coordinating board shall prepare a report prior to the legislative session for use of the general assembly and the governor in determining budget requests which shall include the amount of funds necessary to maintain full funding of the program based on the baseline established for the program upon the passage of sections 173.1101 to 173.1107. Any increase in the award amount shall not become effective unless an increase in the amount of money appropriated to the program necessary to cover the increase in award amount is passed by the general assembly.”; and

Further amend the title and enacting clause accordingly.

Senator Schaefer moved that the above amendment be adopted.

Senator Cunningham raised the point of order that **SA 1** is out of order as it goes beyond the title of the underlying bill.

The point of order was referred to the President Pro Tem who ruled it not well taken.

SA 1 was again taken up.

Senator Crowell 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 Substitute for Senate Committee Substitute for Senate Bill No. 558, Page 3, Section 173.1105, Line 16, by inserting after said line the following:

“5. For an eligible student who cannot attend an approved institution as a result of military service in any branch of the armed forces of the United States, if the student returns to full-time status within six months after the eligible student first ceases service to the armed forces and provides verification to the coordinating board for higher education that the military service was satisfactorily completed, then the student shall be eligible for a scholarship at the amount in effect at the time the student began military service in the armed forces of the United States.”.

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

SA 1, as amended, was again taken up.

Senator Schaefer moved that the above amendment be adopted and requested a roll call vote be taken. He was joined in his request by Senators Callahan, Barnitz, Shoemyer and Pearce.

SA 1, as amended, failed of adoption by the following vote:

YEAS—Senators

| | | | | | | | |
|---------|------|----------|----------|-------|-------|---------|--------|
| Barnitz | Bray | Callahan | Champion | Green | Lager | McKenna | Nodler |
|---------|------|----------|----------|-------|-------|---------|--------|

Pearce Schaefer Shoemyer Vogel Wilson Wright-Jones—14

NAYS—Senators

Bartle Clemens Crowell Cunningham Dempsey Engler Goodman Griesheimer
Lembke Mayer Ridgeway Rupp Schmitt Scott Shields Stouffer—16

Absent—Senators

Justus Smith—2

Absent with leave—Senators

Days Purgason—2

Vacancies—None

Senator Stouffer offered **SA 2**, which was read:

SENATE AMENDMENT NO. 2

Amend Senate Substitute for Senate Committee Substitute for Senate Bill No. 558, Page 6, Section 160.545, Line 16 of said page, by inserting after said line the following:

“(3) Have performed at least fifty hours of unpaid tutoring or mentoring;”; and further amend the remaining subdivisions accordingly.

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

Senator Rupp offered **SA 3**:

SENATE AMENDMENT NO. 3

Amend Senate Substitute for Senate Committee Substitute for Senate Bill No. 558, Page 1, In the Title, Lines 4-5 of said title, by striking said lines and inserting in lieu thereof the following: “scholarships.”; and

Further amend said bill, Page 9, Section 160.545, Line 26 of said page, by inserting after all of said line the following:

“173.250. 1. There is hereby established a “Higher Education Academic Scholarship Program” and any moneys appropriated by the general assembly for this program shall be used to provide scholarships for Missouri citizens to attend a Missouri college or university of their choice pursuant to the provisions of this section.

2. The definitions of terms set forth in section [173.205] **173.1102** shall be applicable to such terms as used in this section. [The term “academic scholarship” means an amount of money paid by the state of Missouri to a qualified college or university student who has demonstrated superior academic achievement pursuant to the provisions of this section.] **In addition, the following definitions shall apply:**

(1) “Academic scholarship”, an amount of money paid by the state of Missouri to a student pursuant to the provisions of this section;

(2) “ACT”, the American College Testing Program examination;

(3) “Approved institution”, an approved public or approved private institution as defined in section 173.1102;

(4) “Eligible student”, an individual who meets the criteria set forth in section 173.1104, excluding the requirements of financial need and undergraduate status, and in addition, meets the following requirements:

(a) Has achieved a qualifying score on the ACT or SAT;

(b) Is a Missouri resident who has completed secondary coursework through graduation from high school, receipt of a general education development diploma (GED), or completion of a program of study through homeschooling; and

(c) Is enrolled full-time or accepted for full-time enrollment as a postsecondary student at an approved institution during the academic year immediately following the completion of his or her secondary coursework;

(5) “Missouri test-takers”, all Missouri high school seniors who take the ACT or the SAT;

(6) “Qualifying score”, a composite score on the ACT or the SAT achieved as a high school sophomore, junior, or senior, that is in the top three percent of Missouri test-takers for fiscal years prior to 2011, and five percent of Missouri test-takers for fiscal year 2011 and each fiscal year thereafter, as established at the beginning of an eligible student’s final year of secondary coursework;

(7) “Recipient”, an eligible or renewal student who receives an academic scholarship pursuant to this section;

(8) “Renewal student”, an eligible student who remains in compliance with the provisions of section 173.1104, maintains continuous enrollment, and makes satisfactory academic degree progress;

(9) “SAT”, the Scholastic Aptitude Test.

3. The coordinating board for higher education shall be the administrative agency for the implementation of the program established by this section, and shall:

(1) Promulgate reasonable rules and regulations for the exercise of its functions and the effectuation of the purposes of this section, including regulations for granting scholarship deferments;

(2) Prescribe the form and the time and method of awarding academic scholarships, and shall supervise the processing thereof; and

(3) Select qualified recipients to receive academic scholarships, make such awards of academic scholarships to qualified recipients and determine the manner and method of payment to the recipient.

4. [A student shall be eligible for initial or renewed academic scholarship if he or she is in compliance with the eligibility requirements set forth in section 173.215 excluding the requirement of financial need and undergraduate status, and in addition meets the following requirements:

(1) Initial academic scholarships shall be offered in the academic year immediately following graduation from high school to Missouri high school seniors whose composite scores on the American College Testing Program (ACT) or the Scholastic Aptitude Test (SAT) of the College Board are in the top five percent of all Missouri students taking those tests during the school year in which the scholarship recipients graduate from high school. In the freshman year of college, scholarship recipients are required to maintain status as a full-time student;

(2) Academic scholarships are renewable if the recipient remains in compliance with the applicable

provisions of section 173.215 and the recipient makes satisfactory academic degree progress as a full-time student.

5. A student who is enrolled or has been accepted for enrollment as a postsecondary student at an approved private or public institution beginning with the fall 1987, term and who meets the other eligibility requirements for an academic scholarship shall, within the limits of the funds appropriated and made available, be offered an academic scholarship in the amount of two thousand dollars for each eligible student whose composite scores on the American College Testing Program (ACT) or the Scholastic Aptitude Test (SAT) of the College Board are in the top three percent of all Missouri students taking those tests during the school year in which the scholarship recipients graduate from high school for each fiscal year prior to fiscal year 2011, and, subject to appropriations, three thousand dollars for fiscal year 2011 and every fiscal year thereafter, and one thousand dollars for fiscal year 2011 and every fiscal year thereafter for each eligible student whose composite scores on the American College Testing Program (ACT) or the Scholastic Aptitude Test (SAT) of the College Board are between the top five and three percent of all Missouri students taking those tests during the school year in which the scholarship recipients graduate from high school, for the first academic year of study, which scholarship shall be renewable in the amount of two thousand dollars for each eligible student whose composite scores on the American College Testing Program (ACT) or the Scholastic Aptitude Test (SAT) of the College Board are in the top three percent of all Missouri students taking those tests during the school year in which the scholarship recipients graduate from high school for each fiscal year prior to fiscal year 2011, and, subject to appropriations, three thousand dollars for fiscal year 2011 and every fiscal year thereafter, and one thousand dollars for fiscal year 2011 and every fiscal year thereafter for each eligible student whose composite scores on the American College Testing Program (ACT) or the Scholastic Aptitude Test (SAT) of the College Board are between the top five and three percent of all Missouri students taking those tests during the school year in which the scholarship recipients graduate from high school, annually for the second, third and fourth academic years or as long as the recipient is in compliance with the applicable eligibility requirements set forth in section 173.215, provided those years of study are continuous and the student continues to meet eligibility requirements for the scholarship; provided, however, if a recipient ceases all attendance at an approved public or private institution for the purpose of providing service to a nonprofit organization, a state or federal government agency or any branch of the armed forces of the United States, the recipient shall be eligible for a renewal scholarship upon return to any approved public or private institution, provided the recipient:

(1) Returns to full-time status within twenty-seven months;

(2) Provides verification in compliance with coordinating board for higher education rules that the service to the nonprofit organization was satisfactorily completed and was not compensated other than for expenses or that the service to the state or federal governmental agency or branch of the armed forces of the United States was satisfactorily completed; and

(3) Meets all other requirements established for eligibility to receive a renewal scholarship.

6.] Eligible students shall be offered academic scholarships in the following amounts, within the limits of the funds appropriated and made available:

(1) During each fiscal year prior to fiscal year 2011, each eligible student with a qualifying score in the top three percent of all Missouri test-takers shall be offered an academic scholarship in the amount of two thousand dollars per year;

(2) During fiscal year 2011 and each fiscal year thereafter:

(a) Each eligible student with a qualifying score in the top three percent of all Missouri test-takers shall be offered an academic scholarship in the amount of three thousand dollars per year; and

(b) Each eligible student with a qualifying score in the top five percent shall be offered an academic scholarship in the amount of one thousand dollars per year;

(3) Eligible students may renew academic scholarships for their second, third, and fourth years of postsecondary education, or as long as the recipient is in compliance with the criteria to be a renewal student;

(4) If an eligible student is unable to enroll during the first academic year or a renewal student ceases attendance at an approved institution for the purpose of providing service to a nonprofit organization, a state or federal government agency, or any branch of the armed forces of the United States, such student shall be offered an academic scholarship upon enrollment in any approved institution after the completion of their service, if the student meets all other requirements for an initial or renewal award and if the following criteria are met:

(a) For an eligible student who cannot attend an approved institution as a result of service to a non-profit organization or the state or federal government, the student returns to full-time status within twenty-seven months and provides verification to the coordinating board for higher education that the service to the nonprofit organization was satisfactorily completed and was not compensated other than for expenses, or that the service to the state or federal government was satisfactorily completed; or

(b) For an eligible student who cannot attend an approved institution as a result of military service in the armed forces of the United States, the student returns to full-time status within six months after the eligible student first ceases service to the armed forces and provides verification to the coordinating board for higher education that the military service was satisfactorily completed.

5. A recipient of an academic scholarship awarded under this section may transfer from one approved [Missouri public or private] institution to another without losing eligibility for the **academic** scholarship.

6. If a recipient of [the] **an academic** scholarship at any time withdraws from an approved [private or public] institution so that under the rules and regulations of that institution he or she is entitled to a refund of any tuition, fees or other charges, the institution shall pay the portion of the refund attributable to the **academic** scholarship for that term to the coordinating board for higher education.

7. Other provisions of this section to the contrary notwithstanding, if [a recipient] **an eligible student** has been awarded an initial academic scholarship pursuant to the provisions of this section but is unable to [use the scholarship] **attend an approved institution** during the first academic year because of illness, disability, pregnancy or other medical need or if a [recipient] **renewal student** ceases all attendance at an approved [public or private] institution because of illness, disability, pregnancy or other medical need, the recipient shall be eligible for an initial or renewal **academic** scholarship upon enrollment in or return to any approved [public or private] institution, provided the recipient:

(1) Enrolls in or returns to full-time status within twenty-seven months;

(2) Provides verification in compliance with coordinating board for higher education rules of sufficient medical evidence documenting an illness, disability, pregnancy or other medical need of such person to require that that person will not be able to use the [initial or renewal] **academic** scholarship during the time

period for which it was originally offered; and

(3) Meets all other requirements established for eligibility to receive an [initial or a renewal] **academic** scholarship.”; and

Further amend the title and enacting clause accordingly.

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

Senator Mayer moved that **SS** for **SCS** for **SB 558**, as amended, be adopted, which motion prevailed.

On motion of Senator Mayer, **SS** for **SCS** for **SB 558**, as amended, was declared perfected and ordered printed.

Senator Scott moved that **SJR 12**, with **SCS**, be taken up for perfection, which motion prevailed.

SCS for **SJR 12**, entitled:

SENATE COMMITTEE SUBSTITUTE FOR
SENATE JOINT RESOLUTION NO. 12

Joint Resolution submitting to the qualified voters of Missouri, an amendment repealing section 5 of article I of the Constitution of Missouri, and adopting one new section in lieu thereof relating to religious freedom.

Was taken up.

Senator Scott moved that **SCS** for **SJR 12** be adopted.

At the request of Senator Scott, **SJR 12**, with **SCS** (pending), was placed on the Informal Calendar.

Senator Stouffer moved that **SB 57**, with **SCS**, be called from the Informal Calendar and taken up for perfection, which motion prevailed.

SCS for **SB 57**, entitled:

SENATE COMMITTEE SUBSTITUTE FOR
SENATE BILL NO. 57

An Act to amend chapter 226, RSMo, by adding thereto one new section relating to billboards.

Was taken up.

Senator Stouffer moved that **SCS** for **SB 57** be adopted.

President Kinder assumed the Chair.

Senator Bray offered **SA 1**:

SENATE AMENDMENT NO. 1

Amend Senate Committee Substitute for Senate Bill No. 57, Page 1, Section A, Line 2, by inserting after all of said line the following:

“226.540. Notwithstanding any other provisions of sections 226.500 to 226.600, outdoor advertising shall be permitted within six hundred and sixty feet of the nearest edge of the right-of-way of highways located on the interstate, federal-aid primary system as it existed on June 1, 1991, or the national highway system as amended in areas zoned industrial, commercial or the like and in unzoned commercial and

industrial areas as defined in this section, subject to the following regulations which are consistent with customary use in this state:

(1) Lighting:

(a) No revolving or rotating beam or beacon of light that simulates any emergency light or device shall be permitted as part of any sign. No flashing, intermittent, or moving light or lights, **nor tri-vision, projection, digital, or other changeable copy technology** will be permitted except scoreboards and other illuminated signs designating public service information, such as time, date, or temperature, or similar information, will be allowed; [tri-vision, projection, and other changeable message signs shall be allowed subject to Missouri highways and transportation commission regulations;]

(b) External lighting, such as floodlights, thin line and gooseneck reflectors are permitted, provided the light source is directed upon the face of the sign and is effectively shielded so as to prevent beams or rays of light from being directed into any portion of the main traveled way of the federal-aid primary highways as of June 1, 1991, and all highways designated as part of the National Highway System by the National Highway System Designation Act of 1995 and those highways subsequently designated as part of the National Highway System and the lights are not of such intensity so as to cause glare, impair the vision of the driver of a motor vehicle, or otherwise interfere with a driver's operation of a motor vehicle;

(c) No sign shall be so illuminated that it interferes with the effectiveness of, or obscures, an official traffic sign, device, or signal;

(2) Size of signs:

(a) The maximum area for any one sign shall be eight hundred square feet with a maximum height of thirty feet and a maximum length of seventy-two feet, inclusive of border and trim but excluding the base or apron, supports, and other structural members. The area shall be measured as established herein and in rules promulgated by the commission. In determining the size of a conforming or nonconforming sign structure, temporary cutouts and extensions installed for the length of a specific display contract shall not be considered a substantial increase to the size of the permanent display; provided the actual square footage of such temporary cutouts or extensions may not exceed thirty-three percent of the permanent display area. Signs erected in accordance with the provisions of sections 226.500 to 226.600 prior to August 28, 2002, which fail to meet the requirements of this provision shall be deemed legally nonconforming as defined herein;

(b) The maximum size limitations shall apply to each side of a sign structure, and signs may be placed back to back, double faced, or in V-type construction with not more than two displays to each facing, but such sign structure shall be considered as one sign;

(c) After August 28, 1999, no new sign structure shall be erected in which two or more displays are stacked one above the other. Stacked structures existing on or before August 28, 1999, in accordance with sections 226.500 to 226.600 shall be deemed legally nonconforming and may be maintained in accordance with the provisions of sections 226.500 to 226.600. Structures displaying more than one display on a horizontal basis shall be allowed, provided that total display areas do not exceed the maximum allowed square footage for a sign structure pursuant to the provisions of paragraph (a) of this subdivision;

(3) Spacing of signs:

(a) On all interstate highways, freeways, and nonfreeway federal-aid primary highways as of June 1,

1991, and all highways designated as part of the National Highway System by the National Highway System Designation Act of 1995 and those highways subsequently designated as part of the National Highway System:

a. No sign structure shall be erected within one thousand four hundred feet of an existing sign on the same side of the highway;

b. Outside of incorporated municipalities, no structure may be located adjacent to or within five hundred feet of an interchange, intersection at grade, or safety rest area. Such five hundred feet shall be measured from the beginning or ending of the pavement widening at the exit from or entrance to the main traveled way. For purpose of this subparagraph, the term “incorporated municipalities” shall include “urban areas”, except that such “urban areas” shall not be considered “incorporated municipalities” if it is finally determined that such would have the effect of making Missouri be in noncompliance with the requirements of Title 23, United States Code, Section 131;

(b) The spacing between structure provisions of this subdivision do not apply to signs which are separated by buildings, natural surroundings, or other obstructions in such manner that only one sign facing located within such distance is visible at any one time. Directional or other official signs or those advertising the sale or lease of the property on which they are located, or those which advertise activities on the property on which they are located, including products sold, shall not be counted, nor shall measurements be made from them for the purpose of compliance with spacing provisions;

(c) No sign shall be located in such manner as to obstruct or otherwise physically interfere with the effectiveness of an official traffic sign, signal, or device or obstruct or physically interfere with a motor vehicle operator's view of approaching, merging, or intersecting traffic;

(d) The measurements in this section shall be the minimum distances between outdoor advertising sign structures measured along the nearest edge of the pavement between points directly opposite the signs along each side of the highway and shall apply only to outdoor advertising sign structures located on the same side of the highway involved;

(4) As used in this section, the words “unzoned commercial and industrial land” shall be defined as follows: that area not zoned by state or local law or ordinance and on which there is located one or more permanent structures used for a commercial business or industrial activity or on which a commercial or industrial activity is actually conducted together with the area along the highway extending outwardly seven hundred fifty feet from and beyond the edge of such activity. All measurements shall be from the outer edges of the regularly used improvements, buildings, parking lots, landscaped, storage or processing areas of the commercial or industrial activity and along and parallel to the edge of the pavement of the highway. Unzoned land shall not include:

(a) Land on the opposite side of the highway from an unzoned commercial or industrial area as defined in this section and located adjacent to highways located on the interstate, federal-aid primary system as it existed on June 1, 1991, or the national highway system as amended, unless the opposite side of the highway qualifies as a separate unzoned commercial or industrial area; or

(b) Land zoned by a state or local law, regulation, or ordinance;

(5) “Commercial or industrial activities” as used in this section means those which are generally recognized as commercial or industrial by zoning authorities in this state, except that none of the following shall be considered commercial or industrial:

(a) Outdoor advertising structures;

(b) Agricultural, forestry, ranching, grazing, farming, and related activities, including seasonal roadside fresh produce stands;

(c) Transient or temporary activities;

(d) Activities more than six hundred sixty feet from the nearest edge of the right-of-way or not visible from the main traveled way;

(e) Activities conducted in a building principally used as a residence;

(f) Railroad tracks and minor sidings;

(6) The words “unzoned commercial or industrial land” shall also include all areas not specified in this section which constitute an “unzoned commercial or industrial area” within the meaning of the present Section 131 of Title 23 of the United States Code, or as such statute may be amended. As used in this section, the words “zoned commercial or industrial area” shall refer to those areas zoned commercial or industrial by the duly constituted zoning authority of a municipality, county, or other lawfully established political subdivision of the state, or by the state and which is within seven hundred fifty feet of one or more permanent commercial or industrial activities. Commercial or industrial activities as used in this section are limited to those activities:

(a) In which the primary use of the property is commercial or industrial in nature;

(b) Which are clearly visible from the highway and recognizable as a commercial business;

(c) Which are permanent as opposed to temporary or transitory and of a nature that would customarily be restricted to commercial or industrial zoning in areas comprehensively zoned; and

(d) In determining whether the primary use of the property is commercial or industrial pursuant to paragraph (a) of this subdivision, the state highways and transportation commission shall consider the following factors:

a. The presence of a permanent and substantial building;

b. The existence of utilities and local business licenses, if any, for the commercial activity;

c. On-premise signs or other identification;

d. The presence of an owner or employee on the premises for at least twenty hours per week;

(7) In zoned commercial and industrial areas, whenever a state, county or municipal zoning authority has adopted laws or ordinances which include regulations with respect to the size, lighting and spacing of signs, which regulations are consistent with the intent of sections 226.500 to 226.600 and with customary use, then from and after the effective date of such regulations, and so long as they shall continue in effect, the provisions of this section shall not apply to the erection of signs in such areas. Notwithstanding any other provisions of this section, after August 28, 1992, with respect to any outdoor advertising which is regulated by the provisions of subdivision (1), (3) or (4) of section 226.520 or subsection 1 of section 226.527:

(a) No county or municipality shall issue a permit to allow a regulated sign to be newly erected without a permit issued by the state highways and transportation commission;

(b) A county or municipality may charge a reasonable one-time permit or inspection fee to assure

compliance with local wind load and electrical requirements when the sign is first erected, but a county or municipality may not charge a permit or inspection fee for such sign after such initial fee. Changing the display face or performing routine maintenance shall not be considered as erecting a new sign;

(8) The state highways and transportation commission on behalf of the state of Missouri, may seek agreement with the Secretary of Transportation of the United States under Section 131 of Title 23, United States Code, as amended, that sections 226.500 to 226.600 are in conformance with that Section 131 and provides effective control of outdoor advertising signs as set forth therein. If such agreement cannot be reached and the penalties under subsection (b) of Section 131 are invoked, the attorney general of this state shall institute proceedings described in subsection (1) of that Section 131.”; and

Further amend the title and enacting clause accordingly.

Senator Bray moved that the above amendment be adopted.

At the request of Senator Stouffer, **SB 57**, with **SCS** and **SA 1** (pending), was placed on the Informal Calendar.

Senator Goodman moved that **SB 223** and **SB 226**, with **SCS** (pending), be called from the Informal Calendar and again taken up for perfection, which motion prevailed.

SCS for **SBs 223** and **226** was again taken up.

Senator Rupp assumed the Chair.

Senator Callahan offered **SA 1**:

SENATE AMENDMENT NO. 1

Amend Senate Committee Substitute for Senate Bills Nos. 223 and 226, Page 9, Section 573.540, Line 5, by inserting immediately after all of said section the following “**Section 1. 1. As used in this section, the term “director” shall mean the director of public safety or his designee.**

2. (1) It shall be unlawful for any person to operate or maintain a sexually oriented business unless the owner, operator or lessee thereof has obtained from the Director a license to do so, to be designated a “sexually oriented business license”, or to operate the business after the license has been revoked or while the license is suspended.

(2) It shall be unlawful for any employee or operator as defined in section 573.528 to knowingly perform any service or entertainment directly related to the operation of an unlicensed sexually oriented business.

(3) It shall be prima facie evidence that any sexually oriented business that fails to have prominently posted a sexually oriented business license required by this Chapter has not obtained a license. It shall be prima facie evidence that any employee or operator who performs any service or entertainment in a sexually oriented business in which a license is not posted in the manner required by this Chapter had knowledge that the business was not licensed.

3. (1) It shall be unlawful for any person to work as an employee at a sexually oriented business or as an operator at any sexually oriented business without having first obtained from the director a permit to do so, to be designated as a “sexually oriented business employee’s permit,” or a “sexually oriented business operator’s permit,” respectively, or to work as an employee or operator at such business after such person’s permit has been revoked or while such person’s permit is suspended.

(2) It shall be unlawful for any person not holding a valid sexually oriented business employee's permit issued to that person under this chapter to display, expose or depict specified anatomical areas in a sexually oriented business or premises, except while lawfully discharging urine or feces in a bathroom or restroom meeting the building code of the political subdivision in which the sexually oriented business is located.

(3) Before an application for receipt or renewal of any sexually oriented business employee's permit or any sexually oriented business operator's permit is approved, the applicant shall provide to the director in a manner determined by the director a sample for testing to ensure that the applicant does not have any sexually transmitted disease. If a sample tested indicates the presence of a sexually transmitted disease, the application shall be denied.

4. (1) The license or permit year for all fees required for a sexually oriented business license or permit shall be from each January 1 through December 31. The application for a license or permit shall be accompanied by payment in full of the fee stated in this section, by cash, certified or cashier's check or money order, and no application shall be considered complete until the fee is paid. The fee shall not be refunded under any circumstances. The fees shall not be prorated.

(2) The amounts of fees for licenses and permits shall be as follows:

(a) For each sexually oriented business, ten-thousand dollars.

(b) For each operator permit, one-thousand dollars.

(c) For each employee permit, five-hundred dollars.

5. (1) The Director shall identify each operator of sexually oriented businesses requiring a license under this section. No later than thirty (30) days after the effective date of section, the Director shall notify each such operator of the enactment of this section, and shall furnish a copy of the section to each owner or operator.

(2) Any sexually oriented business and any operator or employee of a sexually oriented business shall have obtained the license or permit required under this section within ninety days of the effective date of this section.

(3) Any sexually oriented business and any operator or employee of a sexually oriented business who has not obtained a required license or permit shall be guilty of a class D felony. Any sexually oriented business that is convicted, pleads guilty or pleads nolo contendere under this section shall pay a minimum fine of twenty-thousand dollars. Any employee or operator who is convicted, pleads guilty or pleads nolo contendere under this section shall pay a minimum fine of five-thousand dollars. No court shall suspend the imposition of minimum fines under this section.

(4) The Director shall investigate the application from any sexually oriented business, operator or employee. If the applicant has not previously been convicted, pleaded guilty or nolo contendere under this section and meets all other legal requirements, the Director may approve such application.

6. The director of the department may promulgate rules and regulations for the administration of this section.

7. No rule or portion of a rule promulgated under the authority of this chapter shall become effective until it has been approved by the joint committee on administrative rules in accordance with the procedures provided herein, and the delegation of the legislative authority to enact law by the

adoption of such rules is dependent upon the power of the joint committee on administrative rules to review and suspend rules pending ratification by the senate and the house of representatives as provided herein.”;

And further amend the title and enacting clause accordingly.

Senator Callahan moved that the above amendment be adopted.

At the request of Senator Goodman, **SB 233** and **SB 226**, with **SCS** and **SA 1** (pending), was placed on the Informal Calendar.

Senator Green moved that **SB 172** be called from the Informal Calendar and taken up for perfection, which motion prevailed.

Senator Green offered **SS** for **SB 172**, entitled:

SENATE SUBSTITUTE FOR
SENATE BILL NO. 172

An Act to amend chapter 204, RSMo, by adding thereto one new section relating to storm water management charges.

Senator Green moved that **SS** for **SB 172** be adopted, which motion prevailed.

On motion of Senator Green, **SS** for **SB 172** was declared perfected and ordered printed.

REPORTS OF STANDING COMMITTEES

Senator Engler, Chairman of the Committee on Rules, Joint Rules, Resolutions and Ethics, submitted the following report:

Mr. President: Your Committee on Rules, Joint Rules, Resolutions and Ethics, to which was referred **SS** for **SCS** for **SB 558**, begs leave to report that it has examined the same and finds that the bill has been truly perfected and that the printed copies furnished the Senators are correct.

MESSAGES FROM THE GOVERNOR

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

GOVERNOR OF MISSOURI

Jefferson City

65102

April 02, 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:

James K. Reinhard, Democrat, 118 West Locust, Paris, Monroe County, Missouri 65275, as a member of the State Board of Embalmers and Funeral Directors, for a term ending April 01, 2014, and until his successor is duly appointed and qualified; vice, reappointed to a full term.

Respectfully submitted,
Jeremiah W. (Jay) Nixon
Governor

Also,

GOVERNOR OF MISSOURI

Jefferson City

65102

April 03, 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:

Scott W. Hovis, Democrat, 1627 Paddlewheel Circle, Jefferson City, Cole County, Missouri 65109, as a member of the Tourism Commission, for a term ending January 15, 2013 and until his successor is duly appointed and qualified; vice, James Divincen, term expired.

Respectfully submitted,
Jeremiah W. (Jay) Nixon
Governor

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 622**, entitled:

An Act to repeal section 566.226, RSMo, and to enact in lieu thereof one new section relating to redaction of identifying information in court records.

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 **HB 922**, entitled:

An Act to amend chapter 167, RSMo, by adding thereto one new section relating to allergy prevention and response in schools.

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 **HB 652**, entitled:

An Act to repeal section 1.020, RSMo, and to enact in lieu thereof one new section relating to the definition of certified mail.

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 481**, entitled:

An Act to repeal section 537.610, RSMo, and to enact in lieu thereof one new section relating to the exclusion of punitive and exemplary damages in certain claims against public entities or their officers or employees in certain circumstances.

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 681**, entitled:

An Act to repeal sections 28.190, 29.280, 30.060, 30.070, 30.080, 105.030, 105.040, and 105.050, RSMo, and to enact in lieu thereof nine new sections relating to vacancies in certain statewide offices.

In which the concurrence of the Senate is respectfully requested.

Read 1st time.

RESOLUTIONS

Senator Schmitt offered Senate Resolution No. 762, regarding Dale M. Weppner, St. Louis, which was adopted.

COMMUNICATIONS

President Pro Tem Shields submitted the following:

April 6, 2009

The Honorable Charlie Shields
President Pro-Tem-Missouri Senate
State Capitol
Jefferson City, MO 65101

Dear Sen. Shields,

I hereby tender my resignation from the Southern States Energy Board effective as of April 6, 2009.

I believe Sen. Kurt Schaefer would be a good candidate to fill this position.

Thank you.

Sincerely,
/s/ Kevin Engler
Kevin Engler

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

SENATE CALENDAR

 FORTY-EIGHTH DAY—TUESDAY, APRIL 7, 2009

FORMAL CALENDAR

HOUSE BILLS ON SECOND READING

| | |
|----------------|--------------------------|
| HCS for HB 205 | HB 922-Smith (14), et al |
| HB 116-Hoskins | HB 652-Pratt |
| HCS for HB 381 | HCS for HB 481 |
| HCS for HB 622 | HCS for HB 681 |

THIRD READING OF SENATE BILLS

| | |
|---|-------------------------------|
| SS for SCS for SB 167-Rupp (In Fiscal Oversight) | SS for SCS for SB 306-Dempsey |
| SCS for SBs 207 & 245-Rupp (In Fiscal Oversight) | SS for SCS for SB 558-Mayer |

SENATE BILLS FOR PERFECTION

- | | |
|----------------------------------|---|
| 1. SB 555-Lager, with SCS | 8. SB 542-Pearce, with SCS |
| 2. SB 228-Scott, et al, with SCS | 9. SB 254-Barnitz and Shoemyer |
| 3. SB 572-Dempsey and Justus | 10. SB 383-Dempsey, with SCS |
| 4. SB 123-Griesheimer, with SCS | 11. SBs 453 & 24-Mayer, with SCS |
| 5. SB 549-Schmitt, with SCS | 12. SB 495-Griesheimer, with SCS |
| 6. SB 538-Champion, with SCS | 13. SB 376-Lager and Callahan, with SCS |
| 7. SB 71-Stouffer, with SCS | 14. SB 299-Griesheimer, with SCS |

HOUSE BILLS ON THIRD READING

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

INFORMAL CALENDAR

THIRD READING OF SENATE BILLS

SS#2 for SCS for SB 5-Griesheimer

SENATE BILLS FOR PERFECTION

| | |
|--|--|
| SB 7-Griesheimer, with SS (pending) | SB 236-Lembke |
| SB 18-Bray, et al, with SCS & SS for SCS (pending) | SBs 261, 159, 180 & 181-Bartle and Goodman, with SCS & SS#3 for SCS (pending) |
| SB 29-Stouffer | SB 264-Mayer |
| SBs 45, 212, 136, 278, 279, 285 & 288-Pearce and Smith, with SCS & SS#3 for SCS (pending) | SB 267-Mayer and Green, with SA 1 (pending) |
| SB 57-Stouffer, with SCS & SA 1 (pending) | SB 284-Lembke, et al |
| SB 72-Stouffer, with SCS | SB 321-Days, et al, with SCS (pending) |
| SB 94-Justus, et al, with SCS & SS for SCS (pending) | SBs 335 & 16-Rupp, with SCS |
| SB 174-Griesheimer and Goodman, with SCS, SS#2 for SCS & SA 2 (pending) | SB 363-Griesheimer, with SCS, SS for SCS and SA 2 (pending) |
| SCS for SB 189-Shields | SB 364-Clemens and Schaefer |
| SBs 223 & 226-Goodman and Nodler, with SCS & SA 1 (pending) | SB 409-Stouffer, with SCS (pending) |
| | SB 477-Wright-Jones, with SS (pending) |
| | SB 527-Nodler and Bray |
| | SJR 12-Scott, with SCS (pending) |

RESOLUTIONS

Reported from Committee

| | |
|---|------------------------|
| SR 141-Engler, with point of order (pending) | SCR 14-Schmitt |
| SCR 7-Pearce | SCR 21-Clemens |
| SR 207-Lembke and Smith, with SCS & SS for SCS (pending) | SCR 10-Rupp |
| SCR 11-Bartle, et al | SCR 18-Bartle and Rupp |
| | SCR 23-Schmitt |

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