

# Journal of the Senate

FIRST REGULAR SESSION

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**SIXTY-FIRST DAY—WEDNESDAY, APRIL 29, 2009**

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The Senate met pursuant to adjournment.

President Kinder in the Chair.

Reverend Carl Gauck offered the following prayer:

“The height of the intellect is distinguishing between the real and the impossible, and submission to what is beyond one’s power.” (Ibn Gabirol)

As the clock continues to move on and limited time to complete what is possible we turn to You for Your help, O Lord. Give us the wisdom to know what is possible and what is not and how You will help us do what must be done. And guide us to do so with contemplation and trust in You and a desire to work together. 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.

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 Purgason offered Senate Resolution No. 1006, regarding the One Hundredth Birthday of Leo Conroy, Mountain View, which was adopted.

Senator Green offered Senate Resolution No. 1007, regarding Gwendolyn Scales-Reed, Spanish Lake, which was adopted.

Senators Rupp and Dempsey offered Senate Resolution No. 1008, regarding Deborah J. Alessi, St. Charles, which was adopted.

**MESSAGES FROM THE GOVERNOR**

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

GOVERNOR OF MISSOURI

Jefferson City

65102

April 28, 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:

Charlie Jo Ledgerwood, 706 Black Jack Drive, Cassville, Barry County, Missouri 65625, as a member of the Safe Drinking Water Commission, for a term ending September 01, 2012, and until her successor is duly appointed and qualified; vice, Randall Moore, withdrawn.

Respectfully submitted,  
Jeremiah W. (Jay) Nixon  
Governor

Also,

GOVERNOR OF MISSOURI

Jefferson City

65102

April 28, 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:

Elaine Powers, Democrat, 5123 Suson Oaks Court, Saint Louis, Saint Louis County, Missouri 63128, as a member of the Missouri Community Service Commission, for a term ending December 15, 2011, and until her successor is duly appointed and qualified; vice, Claudette Scott-Rogers, withdrawn.

Respectfully submitted,  
Jeremiah W. (Jay) Nixon  
Governor

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

**PRIVILEGED MOTIONS**

Senator Dempsey moved that the Senate refuse to concur in **HCS** for **SS** for **SB 307**, as amended, and request the House to recede from its position or, failing to do so, grant the Senate a conference thereon, which motion prevailed.

Senator Dempsey moved that the Senate refuse to concur in **HA 1**, as amended, to **SB 513** and request the

House to recede from its position or, failing to do so, grant the Senate a conference thereon, which motion prevailed.

Senator Stouffer moved that the Senate refuse to recede from its position on **SS** for **SCS** for **HB 395**, as amended, and grant the House a conference thereon, and that the conferees be allowed to exceed the differences to add an implementation date of July 1, 2010, which motion prevailed.

Senator Nodler requested unanimous consent of the Senate to suspend the rules to allow the conferees on **HBs 2-13** to meet while the Senate is in session, which request was granted.

### **CONFERENCE COMMITTEE APPOINTMENTS**

President Pro Tem Shields appointed the following conference committee to act with a like committee from the House on **SCS** for **HCS** for **HB 397** and **HCS** for **HB 947**: Senators Ridgeway, Crowell, Lembke, Callahan and Wright-Jones.

### **HOUSE BILLS ON THIRD READING**

**HCS** for **HJR 10**, entitled:

Joint Resolution submitting to the qualified voters of Missouri an amendment repealing sections 25(a), 25(d), and 25(e), of article V of the Constitution of Missouri, and adopting three new sections in lieu thereof relating to the appellate judicial commission.

Was called from the Informal Calendar and taken up by Senator Lembke.

Senator Dempsey assumed the Chair.

Senator Lembke offered **SS** for **HCS** for **HJR 10**, entitled:

#### **SENATE SUBSTITUTE FOR HOUSE COMMITTEE SUBSTITUTE FOR HOUSE JOINT RESOLUTION NO. 10**

Joint Resolution submitting to the qualified voters of Missouri, an amendment repealing sections 25(a), 25(d), and 25(e), of article V of the Constitution of Missouri, and adopting three new sections in lieu thereof relating to nonpartisan judicial commissions.

At the request of Senator Lembke, **HCS** for **HJR 10**, with **SS** (pending), was placed on the Informal Calendar.

### **MESSAGES FROM THE HOUSE**

The following message was received from the House of Representatives through its Chief Clerk:

Mr. President: I am instructed by the House of Representatives to inform the Senate that the House has taken up and passed **HCS** for **HB 17**, entitled:

An Act to appropriate money for capital improvement and other purposes for the several departments of state government and the divisions and programs thereof to be expended only as provided in Article IV, Section 28 of the Constitution of Missouri, from the funds herein designated for the period beginning July 1, 2009 and ending June 30, 2011.

In which the concurrence of the Senate is respectfully requested.

Read 1st time.

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

### RECESS

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

### RESOLUTIONS

Senator Crowell offered Senate Resolution No. 1009, regarding Jack L. Sterrett, Cape Girardeau, which was adopted.

Senator Crowell offered Senate Resolution No. 1010, regarding the Fiftieth Wedding Anniversary of Mr. and Mrs. Burl Ragsdale, Millersville, which was adopted.

Senator Crowell offered Senate Resolution No. 1011, regarding the Fiftieth Wedding Anniversary of Mr. and Mrs. Kenneth L. Siebert, Jackson, which was adopted.

### HOUSE BILLS ON THIRD READING

**HCS** for **HB 205**, with **SCS**, was placed on the Informal Calendar.

**HCS** for **HB 740**, entitled:

An Act to repeal sections 208.437, 208.480, 338.535, 338.550, and 633.401, RSMo, and to enact in lieu thereof five new sections relating to federal reimbursement allowances, with an emergency clause.

Was taken up by Senator Nodler.

Senator Nodler offered **SS** for **HCS** for **HB 740**, entitled:

#### SENATE SUBSTITUTE FOR HOUSE COMMITTEE SUBSTITUTE FOR HOUSE BILL NO. 740

An Act to repeal sections 208.437, 208.480, 338.535, 338.550, and 633.401, RSMo, and to enact in lieu thereof fourteen new sections relating to federal reimbursement allowances, with an emergency clause and an expiration date for certain sections.

Senator Nodler moved that **SS** for **HCS** for **HB 740** be adopted, which motion prevailed.

On motion of Senator Nodler, **SS** for **HCS** for **HB 740** was read the 3rd time and passed by the following vote:

#### YEAS—Senators

Barnitz	Bray	Callahan	Champion	Clemens	Crowell	Cunningham	Dempsey
Engler	Green	Griesheimer	Justus	Lager	Lembke	Mayer	Nodler
Pearce	Ridgeway	Rupp	Schaefer	Schmitt	Shields	Shoemyer	Smith
Stouffer	Vogel	Wilson	Wright-Jones—28				

NAYS—Senators—None

Absent—Senators

Days Goodman Purgason Scott—4

Absent with leave—Senators

Bartle McKenna—2

Vacancies—None

The President declared the bill passed.

The emergency clause was adopted by the following vote:

YEAS—Senators

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

NAYS—Senators—None

Absent—Senator Scott—1

Absent with leave—Senators

Bartle McKenna—2

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 Lembke moved that **HCS for HJR 10**, with **SS** (pending), be called from the Informal Calendar and again taken up for 3rd reading and final passage, which motion prevailed.

**SS for HCS for HJR 10** was again taken up.

Senator Stouffer assumed the Chair.

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

SENATE AMENDMENT NO. 1

Amend Senate Substitute for House Committee Substitute for House Joint Resolution No. 10, Page 3, Section 25 (d), Line 13, by striking the word “seven” and inserting in lieu thereof the following: “**eight**”; and further amend line 20 by striking all of said line and inserting in lieu thereof the following: “**additional two citizens, not members of the bar, nor the spouses of a**”.

Senator Lager moved that the above amendment be adopted, which motion prevailed on a standing division vote.

At the request of Senator Lembke, **HCS for HJR 10**, with **SS**, as amended (pending), was placed on the Informal Calendar.

**INTRODUCTIONS OF GUESTS**

Senator Nodler introduced to the Senate, Diana Willard and her father Doctor Gaskin, Joplin.

Senator Shoemyer introduced to the Senate, Alexis Dodge, Rachel Duzan, Caleigh Remley, Olivia Harris and Tristan Hilpert, sixth grade students from Scotland County Elementary School.

Senator Clemens introduced to the Senate, teachers and twenty-five students from Marshfield Elementary, Junior and Senior High Schools.

Senator Crowell introduced to the Senate, students from Franklin Elementary School, Cape Girardeau.

Senator Bartle introduced to the Senate, coaches, Bill Shalley and Robert Shurman, diving instructors, Missy Jackson and Jennifer Marker and members of the 2008 State Champion Blue Springs High School swim and dive team.

Senator Griesheimer introduced to the Senate, Don Northington, Washington; and Lena Jacob and Frederick Braun, Germany.

Senator Schaefer introduced to the Senate, the Physician of the Day, Dr. Randall Mueller, M.D., Columbia.

Senator Smith introduced to the Senate, students from the Wyman Center, St. Louis.

Senator Mayer introduced to the Senate, Shanna Oudwig and Gayle Johnson, Parma; Susan Forshee and Quinton Tillman, Malden; Tammy Morgan, Dexter; and Clifton Hux, Poplar Bluff.

Senator Shields introduced to the Senate, Brad Moffat, Chris Turpin, Anita Jolly, Megan Carter and Steve Holdenreid, members of St. Joseph Youth Alliance.

Senator Scott introduced to the Senate, Kim Graver, Jake Smith, Heather Owen, Janeth Gonzalez, Katrina Justice, Amber Holloman, Kami Marquess and Nicole Cole, students from Whittier Alternative School, Sedalia.

Senator Scott introduced to the Senate, Wade Norton, Jill and Sage Peterson, McKenna Woolery, Baylee Siegel and Josh Goalder, students from Heber Hunt Elementary School, Sedalia.

Senator Scott introduced to the Senate, Betty Glasgow and Cara Gooch, Claudia Baer, Ally Francka, Bridgette Ayala and Sommer Edwards, members of Bolivar High School FCCLA.

Senator Champion introduced to the Senate, Dr. Jason Anderson, his wife, Rachelle, and their daughters, Cali, Cayden, Camryn and Carsyn; and Resha Paul, Springfield.

Senator Shoemyer introduced to the Senate, representatives of Monroe County Cattlemen's Association.

Senator Goodman introduced to the Senate, Erika Pluff, Zach Taillon, Don Haberman and Connie McGriff, Blue Eye.

Senator Stouffer introduced to the Senate, fourth grade students from Macon Elementary School.

Senator Shields introduced to the Senate, Bill Freund, Mary Ann Templeton, Melissa Springer and sixty eighth grade students from St. Therese School, Parkville; and Jill Kallenberger, Hayden Dickman and Taylor Keen were made honorary pages.

Senator Shields introduced to the Senate, Dan and Stephanie Batliner and their son, Bryce, Agency; and Bryce was made an honorary page.

On behalf of Senator Dempsey, the President introduced to the Senate, fourth grade students from Academy of the Sacred Heart, St. Charles.

Senator Green introduced to the Senate, Rose Sigears, adults and thirty-five eighth grade students from St. Rose Philippine Duchesne, Florissant; and Lexi Belisle, Cody Engelmeyer, Mandi Keilholz and Anthony Okpagu were made honorary pages.

Senator Schmitt introduced to the Senate, adults and forty fourth grade students from Crestwood Elementary School.

Senator Pearce introduced to the Senate, members of Warrensburg Magic Me.

Senator Shields introduced to the Senate, Tracey Verduzco, Kris Larson, Joey Austin, Dave Bowlander and twenty fourth grade students from St. Joseph Christian School.

Senator Purgason introduced to the Senate, Ms. Jackson and fourth grade students from Willow Springs Elementary School.

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

SENATE CALENDAR

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SIXTY-SECOND DAY—THURSDAY, APRIL 30, 2009

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FORMAL CALENDAR

HOUSE BILLS ON SECOND READING

HCS for HB 17

THIRD READING OF SENATE BILLS

SS for SCS for SB 558-Mayer  
(In Fiscal Oversight)

SENATE BILLS FOR PERFECTION

SB 569-Lembke, with SCS

HOUSE BILLS ON THIRD READING

HB 65-Wilson (119), et al (Pearce)  
(In Fiscal Oversight)

HCS for HB 82, with SCS (Pearce)  
(In Fiscal Oversight)

## INFORMAL CALENDAR

## SENATE BILLS FOR PERFECTION

SB 7-Griesheimer, with SS (pending)	SB 236-Lembke
SB 18-Bray, et al, with SCS & SS for SCS (pending)	SB 254-Barnitz, with SS (pending)
SB 29-Stouffer	SBs 261, 159, 180 & 181-Bartle and Goodman, with SCS & SS#3 for SCS (pending)
SBs 45, 212, 136, 278, 279, 285 & 288-Pearce and Smith, with SCS & SS#3 for SCS (pending)	SB 264-Mayer
SB 57-Stouffer, with SCS & SA 1 (pending)	SB 267-Mayer and Green, with SA 1 (pending)
SB 72-Stouffer, with SCS	SB 284-Lembke, et al, with SA 1 (pending)
SB 94-Justus, et al, with SCS & SS for SCS (pending)	SB 299-Griesheimer, with SCS & SS for SCS (pending)
SB 174-Griesheimer and Goodman, with SCS, SS#2 for SCS & SA 2 (pending)	SB 321-Days, et al, with SCS (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 228-Scott, with SCS, SS for SCS, SA 12, SSA 1 for SA 12 & SA 1 to SSA 1 for SA 12 (pending)	SB 477-Wright-Jones, with SS (pending)
	SB 527-Nodler and Bray
	SB 555-Lager, with SCS, SS for SCS & SA 2 (pending)
	SB 572-Dempsey and Justus
	SJR 12-Scott, with SCS (pending)

## HOUSE BILLS ON THIRD READING

HCS for HBs 128 & 340, with SA 1 (pending) (Scott)	HCS for HB 481 (Lembke)
SS for HCS for HB 154 (Shields) (In Fiscal Oversight)	HB 488-Schad, et al, with SCS (pending) (Pearce)
HCS for HB 191, with SCS & SS for SCS (pending) (Griesheimer)	HCS for HB 495, with SCS, SS for SCS, SA 1, SSA 2 for SA 1 & SA 1 to SSA 2 for SA 1 (pending) (Griesheimer)
HCS for HB 205, with SCS (Goodman)	HB 659-Dusenberg, et al, with SCS (Bartle)
HB 229-Ervin, with SCS, SS for SCS, SA 8, SSA 1 for SA 8 & SA 1 to SSA 1 for SA 8 (pending) (Dempsey)	HB 683-Schieffer, et al, with SCS (Stouffer)
HB 287-Day, et al, with SS (pending) (Mayer)	HB 709-Dusenberg, et al (Bartle)
SS for SCS for HB 376-Hobbs, et al (Griesheimer) (In Fiscal Oversight)	HCS for HJR 10, with SS (pending) (Lembke)



CONSENT CALENDAR

House Bills

Reported 4/9

HCS for HB 251 (Clemens)  
HB 210-Deeken (Crowell)  
HB 400-Nasheed, et al (Pearce)

HB 593-Viebrock (Crowell)  
HB 678-Wasson (Goodman)  
HB 537-Dixon, et al (Wright-Jones)

Reported 4/14

HB 83-Wood, with SCS (Goodman)  
HCS for HB 124 (McKenna)  
HB 282-Stevenson, et al (Nodler)  
HB 652-Pratt (Bartle)

HB 698-Zimmerman, et al (Schmitt)  
HCS for HB 895 (Stouffer)  
HB 918-Kelly (Schaefer)  
HB 919-Ruestman, et al (Goodman)

Reported 4/15

HCS for HB 525 (Schmitt)  
HCS for HB 231 (Rupp)  
HB 826-Brown (149), et al (Lembke)  
HCS for HB 685 (Goodman)  
HB 811-Wasson (Scott)  
HCS for HB 273 (Scott)  
HCS for HB 485 (Mayer)

HB 859-Dieckhaus, et al (Griesheimer)  
HB 283-Wood, with SCS (Goodman)  
HCS for HBs 234 & 493 (Shoemyer)  
HB 289-Wallace (Mayer)  
HB 373-Wallace, with SCS (Mayer)  
HB 490-Schad, et al (Pearce)  
HB 682-Swinger, et al (Mayer)

SENATE BILLS WITH HOUSE AMENDMENTS

SB 526-Clemens, with HA 1, HA 2, HA 3 &  
HA 4

BILLS IN CONFERENCE AND BILLS  
CARRYING REQUEST MESSAGES

In Conference

HCS for HB 2, with SS for SCS (Nodler)

HCS for HB 3, with SS for SCS (Nodler)

HCS for HB 4, with SCS (Nodler)	HB 91-Pollock, with SCS (Purgason)
HCS for HB 5, with SCS (Nodler)	HCS for HB 148, with SCS#2 (Griesheimer)
HCS for HB 6, with SCS (Nodler)	HCS for HB 265, with SCS (Crowell)
HCS for HB 7, with SCS (Nodler)	HB 269-Parson, et al, with SCS, as
HCS for HB 8, with SCS (Nodler)	amended (Scott)
HCS for HB 9, with SCS (Nodler)	HB 395-Nance, et al, with SS for SCS, as
HCS for HB 10, with SCS (Nodler)	amended (Stouffer)
HCS for HB 11, with SCS (Nodler)	HCS for HB 397 & HCS for HB 947, with
HCS for HB 12, with SCS (Nodler)	SCS (Ridgeway)
HB 13-Icet, with SCS (Nodler)	

#### Requests to Recede or Grant Conference

SCS for SB 242-Pearce, with HCS, as amended (Senate requests House recede or grant conference)	SB 513-Dempsey, with HA 1, as amended (Senate requests House recede or grant conference)
SS for SB 307-Dempsey, with HCS, as amended (Senate requests House recede or grant conference)	

#### RESOLUTIONS

##### Reported from Committee

SR 141-Engler, with point of order (pending)	SCR 10-Rupp
SCR 7-Pearce	SCR 18-Bartle and Rupp
SR 207-Lembke and Smith, with SCS & SS for SCS (pending)	SCR 23-Schmitt
SCR 11-Bartle, et al	HCS for HCR 16
SCR 14-Schmitt	SCR 13-Pearce
SCR 21-Clemens	SCR 27-Rupp

##### To be Referred

SCR 28-Stouffer

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