

Journal of the Senate

SECOND REGULAR SESSION

TWENTY-THIRD DAY—TUESDAY, FEBRUARY 14, 2012

The Senate met pursuant to adjournment.

President Kinder in the Chair.

Reverend Carl Gauck offered the following prayer:

“You shall love the Lord your God with all your heart, and with all your soul, and with all your mind...You shall love your neighbor as yourself.” (Matthew 22:37, 39)

God of love, help us to express our love to those who mean so much to us, especially on this Valentine’s Day. Help us to express our love and care to those whom You have given us to love and show in a small way how our heart sings a song in their presence. And may we be neighborly to those we meet daily, especially those who want nothing from us but to be our friends and a help to us. 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

Brown	Callahan	Chappelle-Nadal	Crowell	Cunningham	Curls	Dempsey	Dixon
Engler	Goodman	Green	Justus	Keaveny	Kehoe	Kraus	Lager
Lamping	Lembke	Mayer	McKenna	Munzlinger	Nieves	Parson	Pearce
Purgason	Richard	Ridgeway	Rupp	Schaaf	Schaefer	Schmitt	Stouffer

Wasson—33

Absent—Senators—None

Absent with leave—Senator Wright-Jones—1

Vacancies—None

The Lieutenant Governor was present.

RESOLUTIONS

Senator Lager offered Senate Resolution No. 1398, regarding the Fiftieth Wedding Anniversary of Mr. and Mrs. Charles Wyant, Milan, which was adopted.

Senator Kraus offered Senate Resolution No. 1399, regarding Zachary Forrest Kirke, which was adopted.

Senator Schaaf offered Senate Resolution No. 1400, regarding Tyler Hurt, St. Joseph, which was adopted.

Senator Schaaf offered Senate Resolution No. 1401, regarding Skylar Adams, St. Joseph, which was adopted.

Senator Schaaf offered Senate Resolution No. 1402, regarding Lauren Grundberg, St. Joseph, which was adopted.

Senator Kraus offered Senate Resolution No. 1403, regarding Andrew Michael Brogan, Blue Springs, which was adopted.

Senator Schaaf offered Senate Resolution No. 1404, regarding Terrence Wayne “T.C.” Carver, III, Parkville, which was adopted.

Senator Schaaf offered Senate Resolution No. 1405, regarding Alex Michael Goforth, Parkville, which was adopted.

Senator Schaaf offered Senate Resolution No. 1406, regarding R. Michael Bidwell, Kansas City, which was adopted.

Senator Stouffer assumed the Chair.

CONCURRENT RESOLUTIONS

Senators Pearce, Engler, Green, Dempsey, Parson, Rupp, Lembke, Munzlinger, Stouffer, Goodman and Mayer offered the following concurrent resolution:

SENATE CONCURRENT RESOLUTION NO. 21

WHEREAS, the United States relies – and will continue to rely for many years – on gasoline, diesel and jet fuel as well as renewable and alternative sources of energy; and

WHEREAS, in order to fuel our economy, the United States will need more oil and natural gas while also requiring additional alternative energy sources; and

WHEREAS, the United States currently depends on foreign imports for more than half of its petroleum usage, and is the largest consumer of petroleum in the world, and U.S. dependence on overseas oil has created difficult geopolitical relationships with potentially damaging consequences for our national security; and

WHEREAS, oil deposits in the Bakken Reserves of Montana, North Dakota, and South Dakota are an increasingly important crude oil resource and contain an estimated 11 billion barrels of recoverable crude oil, and there is not enough pipeline capacity for crude oil supplies from Montana, North Dakota, South Dakota, Oklahoma and Texas to American refineries; and

WHEREAS, Canadian oil reserves contain an estimated 173 billion barrels of recoverable oil and Canada is the single largest supplier of oil to the United States at 2.62 million barrels per day and has the capacity to significantly increase that rate; and

WHEREAS, the original Keystone pipeline which spans across the northern part of Missouri supplies over 435,000 barrels of North American crude oil to American refineries in the Midwest; and the Keystone XL pipeline will, when completed, carry 700,000 barrels of North American crude oil to American refineries in the Gulf Coast region; and

WHEREAS, construction of pipelines linking North American energy to the United States will create hundreds of thousands of jobs nationwide, including tens of thousands in construction and manufacturing, creating billions of dollars in economic growth and generating millions of dollars of government receipts; and

WHEREAS, a recent study by the U.S. Department of Energy found that increasing delivery of crude oil from Montana, North Dakota, South Dakota and Alberta, as well as Texas and Oklahoma, to American refineries has the potential to substantially reduce our country's dependency on sources outside of North America; and

WHEREAS, Canada sends more than ninety-nine percent of its oil exports to the United States, the bulk of which goes to Midwestern refineries; and oil companies are investing huge sums to expand and upgrade refineries in the Midwest and elsewhere to make gasoline and other refined products from Canadian oil derived from oil sands; and the expansion and upgrade projects will create many new construction jobs over the next five years and will add to the gross state product of Missouri; and

WHEREAS, ninety percent of the money used to buy Canadian oil will likely later be spent directly on U.S. goods and services in contrast with increasing the trade relationship with unstable regions. Supporting the continued shift towards reliable and secure sources of North American oil is of vital interest to the United States and the State of Missouri:

NOW THEREFORE BE IT RESOLVED that the members of the Missouri Senate, Ninety-sixth General Assembly, Second Regular Session, the House of Representatives concurring therein, hereby support continued and increased development and delivery of oil derived from North American oil reserves to American refineries and hereby urge Congress to: support continued and increased development and delivery of oil from Canada to the United States; enact legislation deeming the Keystone XL pipeline to be in the national interest of the United States; and ask the U.S. Secretary of State to approve the Keystone XL pipeline project to ensure America's oil independence, improve our national security, reduce the cost of gasoline, create new jobs, and strengthen ties between the United States and Canada; and

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

INTRODUCTION OF BILLS

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

SB 788—By Keaveny.

An Act to repeal section 483.015, RSMo, and to enact in lieu thereof one new section relating to the appointment of circuit clerks.

SB 789—By Kraus.

An Act to repeal sections 488.5050, 650.055, and 650.100, RSMo, and to enact in lieu thereof three new sections relating to DNA profiling, with a penalty provision.

SB 790—By Crowell.

An Act to repeal sections 135.352 and 253.550, RSMo, and to enact in lieu thereof two new sections relating to a moratorium on the redemption of certain tax credits, with an emergency clause.

SB 791—By Curls.

An Act to repeal sections 367.509, 408.500, and 408.505, RSMo, and to enact in lieu thereof four new sections relating to small loans, with existing penalty provisions.

Senator Curls requested unanimous consent of the Senate to withdraw **SB 787**, which request was granted.

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 **HCR 3**, entitled:

HOUSE COMMITTEE SUBSTITUTE FOR
HOUSE CONCURRENT RESOLUTION NO. 3

Relating to submission of a proposed federal balanced budget amendment to the United States Constitution.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF MISSOURI, AS FOLLOWS:

WHEREAS, under Article V of the Constitution of the United States:

“The Congress, whenever two-thirds of both houses shall deem it necessary, shall propose amendments to this constitution, or, on the application of the legislatures of two-thirds of the several states, shall call a convention for proposing amendments, which in either case shall be valid to all intents and purposes as part of this constitution, when ratified by the legislatures of three-fourths of the several states, or by conventions in three-fourths thereof, as the one or the other mode of ratification may be proposed by Congress”; and

WHEREAS, the following Amendment to the United States Constitution is proposed:

“Section 1. The annual expenditures of the Congress shall not exceed the annual revenue for any year, save for the use of monetary reserves, except as provided for in Sections 2 and 3.

Section 2. The Congress shall not borrow from any source, including its own funds and trusts, for any expense, except for the extraordinary costs of a declared war or armed conflict, or for a fiscal emergency declared by Congress and signed by the President of the United States.

Section 3. The Congress may issue special bonds for specific capital projects, which shall, in turn, be extinguished within twenty years of issuance. The cumulative total of all bonds issued in this manner shall never exceed twenty percent of the total private sector earned income.

Section 4. The Congress shall not impose upon a state or political subdivision of the United States any obligation or duty to make expenditures unless such expenditures shall be fully reimbursed by the United States; nor shall Congress place any condition on the expenditure or receipt of appropriated funds requiring a state or political subdivision of the United States to enact a law or regulation restricting the liberties of its citizens.

Section 5. This amendment shall take effect beginning the fifteenth fiscal year after its ratification.

Section 6. This resolution shall not be construed as an application for a constitutional convention to the United States Constitution pursuant to Article V thereof.”:

NOW THEREFORE BE IT RESOLVED that the members of the House of Representatives of the Ninety-sixth General Assembly, Second Regular Session, the Senate concurring therein, hereby submit this resolution for a federal balanced budget Amendment to the United States Constitution and, pursuant to Article V of the United States Constitution, respectfully urge the United States Congress to submit the proposed Amendment to the United States Constitution to the States for ratification and inclusion in the United States Constitution; and

BE IT RESOLVED that the Chief Clerk of the Missouri House of Representatives be instructed to prepare properly inscribed copies of this resolution for the Majority and Minority Leaders of the United States Senate and House of Representatives, and each member of the Missouri Congressional delegation.

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 adopted **HCR 13**.

HOUSE CONCURRENT RESOLUTION NO. 13

WHEREAS, the rivers and streams of the State of Missouri are a great natural resource and benefit to the citizens of Missouri and the aquatic life therein; and

WHEREAS, these rivers and streams run through the heartland and fertile bottom lands that produce our abundant food supply and provide

a large part of our agricultural income; and

WHEREAS, the farmers and landowners who have lived and farmed along these stream banks for generations have the right to protect and preserve their precious soil so as to protect and continue their way of life; and

WHEREAS, these streams need to be managed in a manner that is beneficial to the stream's aquatic life as well as the farmer's interest in protecting private property, financial interest, and ability to feed their family and yours; and

WHEREAS, the federal and state agencies in charge of regulating in-stream activities, including stream bank stabilization, gravel removal and excavation, vegetation removal, or a combination thereof, are basing their decisions and practice approval on policy developed not on scientific study but solely on their priorities determined by these agencies and their commenting groups; and

WHEREAS, the federal and state agencies as well as their commenting groups that are in charge of protecting the aquatic life and environment of these streams and rivers should base their decisions and practices on unbiased scientific studies that take into account all aspects of these streams, including flood control, soil conservation, gravel buildup, and the aquatic life, and not undertake actions to achieve policy goals; and

WHEREAS, these federal agencies as well as their commenting groups should place as much importance on our farmers' fields, private property, and precious soils as the aquatic life in these streams:

NOW THEREFORE BE IT RESOLVED that the members of the House of Representatives of the Ninety-sixth General Assembly, Second Regular Session, the Senate concurring therein, hereby encourage our Governor and our Missouri Congressional delegation to demand these agencies review all policy decisions on in-stream activity, thereby promoting the use of sound scientific research and data that is produced from unbiased studies; and

BE IT FURTHER RESOLVED that our Missouri Congressional delegation demand federal and state agencies as well as their commenting groups base past and future decisions and practices involving any stream activity inside the high banks on unbiased scientific university studies along with practices that have been proven effective over generations of landowner implementing; and

BE IT FURTHER RESOLVED that the Chief Clerk of the Missouri House of Representatives be instructed to prepare properly inscribed copies of this resolution for the United States Army Corps of Engineers, the Bureau of Land Management and the Fish and Wildlife Service within the United States Department of Interior, the United States Environmental Protection Agency, the United States Department of Agriculture, the Missouri Congressional delegation, Governor Jay Nixon, the Missouri Department of Conservation, the Missouri Department of Agriculture, and the Missouri Department of Natural Resources.

In which the concurrence of the Senate is respectfully requested.

REPORTS OF STANDING COMMITTEES

Senator Dempsey, Chairman of the Committee on Rules, Joint Rules, Resolutions and Ethics, submitted the following reports:

Mr. President: Your Committee on Rules, Joint Rules, Resolutions and Ethics, to which were referred **SB 611**; **SB 594**; **SCS for SB 485**; and **SS for SCS for SB 469**, begs leave to report that it has examined the same and finds that the bills have been truly perfected and that the printed copies furnished the Senators are correct.

SENATE BILLS FOR PERFECTION

Senator Parson moved that **SB 591**, with **SCS**, be called from the Informal Calendar and taken up for perfection, which motion prevailed.

SCS for SB 591, entitled:

SENATE COMMITTEE SUBSTITUTE FOR SENATE BILL NO. 591

An Act to repeal section 137.115, RSMo, and to enact in lieu thereof one new section relating to motor

vehicle valuations.

Was taken up.

Senator Parson moved that **SCS** for **SB 591** be adopted.

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

SENATE AMENDMENT NO. 1

Amend Senate Committee Substitute for Senate Bill No. 591, Page 5, Section 137.115, Line 129, by striking the following “value guide”; and inserting in lieu thereof the following: “**single**”.

Senator Dempsey moved that the above amendment be adopted.

At the request of Senator Parson, **SB 591**, with **SCS** and **SA 1** (pending), was placed on the Informal Calendar.

Senator Dempsey moved that **SB 572**, with **SCS**, be called from the Informal Calendar and taken up for perfection, which motion prevailed.

SCS for **SB 572**, entitled:

SENATE COMMITTEE SUBSTITUTE FOR
SENATE BILL NO. 572

An Act to repeal sections 287.120, 287.140, 287.141, 287.143, 287.149, 287.150, 287.160, 287.210, 287.220, 287.690, and 287.715, RSMo, and to enact in lieu thereof twelve new sections relating to workers’ compensation, with an emergency clause for certain sections, with existing penalty provisions.

Was taken up.

Senator Dempsey moved that **SCS** for **SB 572** be adopted.

Senator Dempsey offered **SS** for **SCS** for **SB 572**, entitled:

SENATE SUBSTITUTE FOR
SENATE COMMITTEE SUBSTITUTE FOR
SENATE BILL NO. 572

An Act to repeal sections 287.067, 287.120, 287.150, and 287.240, RSMo, and to enact in lieu thereof four new sections relating to workers’ compensation, with an emergency clause.

Senator Dempsey moved that **SS** for **SCS** for **SB 572** be adopted.

Senator Callahan offered **SA 1**:

SENATE AMENDMENT NO. 1

Amend Senate Substitute for Senate Committee Substitute for Senate Bill No. 572, Page 11, Section 287.150, Line 9 by inserting immediately after all of said line the following

“287.230. 1. The death of the injured employee shall not affect the liability of the employer to furnish compensation as in this chapter provided, so far as the liability has accrued and become payable at the time of the death, and any accrued and unpaid compensation due the employee shall be paid to his dependents without administration, or if there are no dependents, to his personal representative or other persons entitled thereto, but the death shall be deemed to be the termination of the disability.

2. Where an employee is entitled to compensation under this chapter, exclusive of compensation as provided for in section 287.200, for an injury received and death ensues for any cause not resulting from the injury for which the employee was entitled to compensation, payments of the unpaid unaccrued compensation under section 287.190 and no other compensation for the injury shall be paid to the surviving dependents at the time of death.

3. Any other provision of law notwithstanding, where there is an occupational disease by toxic exposure of an employee, such employee may claim permanent total disability benefits. Upon the death of such an employee that is caused by toxic exposure, the dependents, personal representative or other persons entitled to may also pursue a claim for benefits under this section. Where toxic exposure is found to be the prevailing factor in the death of an employee, an employer shall pay to the dependents, personal representatives or other persons entitled to bring such action an amount equal to the burial benefit provided in section 287.240 plus one-hundred-fifty-six weeks of compensation paid at a rate of two-hundred-ten percent of the state average weekly wage.

[3.] **4.** In applying the provisions of this chapter, it is the intent of the legislature to reject and abrogate the holding in *Schoemehl v. Treasurer of the State of Missouri*, 217 S.W.3d 900 (Mo. 2007), and all cases citing, interpreting, applying, or following this case.”

And further amend the title and enacting clause accordingly.

Senator Callahan moved that the above amendment be adopted.

At the request of Senator Dempsey, **SB 572**, with **SCS**, **SS** for **SCS** and **SA 1** (pending), was placed on the Informal Calendar.

COMMUNICATIONS

President Pro Tem Mayer submitted the following:

February 9, 2012

Mrs. Terry Spieler
Secretary of the Senate
State Capitol, Room 324
Jefferson City, MO 65101

RE: Special Committee on Social Service Program Savings

Dear Mrs. Spieler:

I write to inform you that I am hereby forming a Special Senate Committee on Social Service Program Savings.

The committee is charged with the task of conducting hearings for the purpose of exploring past and anticipated changes in the participation and cost of each social service program offered in Missouri. The committee is further charged with studying possible structural changes of each program, including program elimination, changes to federal funding, eligibility, new programs coordinated with the federal government and any other program changes designed to reduce cost.

The committee will begin conducting weekly hearings as quickly as possible not to conflict with members' current hearing schedules and within the confines of established weekly sessions in order to, if possible, issue to the Senate a report of preliminary findings and proposed recommendation of actions to address this issue prior to March 1, 2012, the last date to introduce new bills. The committee shall continue beyond March 1, 2012, under the direction of the chair until such time as a final report of findings be completed and submitted to the Senate. The committee shall expire upon the filing of a final report of findings.

I am appointing the following senators to serve on the Special Committee on Social Service Program Savings:

- Rob Schaaf, Chairman
- Kevin Engler

- Brad Lager
- Joe Keaveny
- Shalonn “Kiki” Curls

Please contact my office if you have any questions regarding this matter. Thank you.

Sincerely,
/s/ Robert N. Mayer
Robert N. Mayer
President Pro Tem

INTRODUCTIONS OF GUESTS

Senator Pearce introduced to the Senate, Mayor Ernie Jungmeyer, Alderman Holly Stark and Brad Ratliff, Peculiar.

Senator Schaefer introduced to the Senate, the University of Missouri’s Women’s Open NIRSA National Soccer Champions.

Senator Richard introduced to the Senate, Doug Osborne and students, Mason Wilkes, Josh Souder, Chance Smith, Jack Redd and Josh Griner, Seneca High School.

Senator Munzlinger introduced to the Senate, President Cody James, Hurdland; State Vice President Corey Hudson, Middleton; and members of the State FFA Leadership team.

Senator Munzlinger introduced to the Senate, representatives of “Fall in Love With Northeast Missouri.”

Senator Cunningham introduced to the Senate, the Physician of the Day, Tom Stamos, M.D., St. Louis.

Senator Kraus introduced to the Senate, Councilman Jeff Quibell and his wife Wanda, Blue Springs.

Senator Brown introduced to the Senate, John and Carolyn Taylor, Crawford County.

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

SENATE CALENDAR

TWENTY-FOURTH DAY—WEDNESDAY, FEBRUARY 15, 2012

FORMAL CALENDAR

SECOND READING OF SENATE BILLS

SB 774-Rupp
SB 775-Munzlinger
SB 776-Kraus

SB 777-Richard
SB 778-Richard
SB 779-Munzlinger

SB 780-Wasson	SB 786-Keaveny
SB 781-Goodman	SB 788-Keaveny
SB 782-Curls	SB 789-Kraus
SB 783-Curls	SB 790-Crowell
SB 784-Curls	SB 791-Curls
SB 785-Parson	SJR 50-Curls

HOUSE BILLS ON SECOND READING

HCS for HJR 43	HB 1100-Fitzwater, et al
HB 1135-Smith (150), et al	HB 1105-Day
HCS for HB 1140	HCS for HB 1311
HB 1036-Dugger	HCS for HB 1329
HB 1039-Leara	HB 1219-Elmer, et al
HB 1099-Fitzwater, et al	HB 1104-Schoeller and Smith (150)

THIRD READING OF SENATE BILLS

SB 455-Pearce (In Fiscal Oversight)	SB 594-Kraus
SCS for SB 498-Munzlinger and Justus	SCS for SB 485-Cunningham
SB 611-Lembke	SS for SCS for SB 469-Dixon

SENATE BILLS FOR PERFECTION

SBs 484, 477 & 606-Rupp, with SCS	SB 450-Rupp
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INFORMAL CALENDAR

SENATE BILLS FOR PERFECTION

SB 438-Mayer	SB 547-Purgason
SB 439-Mayer, with SCS	SBs 553 & 435-Brown, with SCS, SS for SCS & SA 1 (pending)
SB 442-Stouffer, with SCS	SB 572-Dempsey, with SCS, SS for SCS & SA 1 (pending)
SB 465-Schaaf	SB 589-Kraus, with SCS (pending)
SB 470-Dixon, with SCS	SB 591-Parson, with SCS & SA 1 (pending)
SB 479-Crowell	
SB 492-Crowell	

SB 596-Brown, with SCS

SJR 29-Lamping, with SS & SA 1 (pending)

RESOLUTIONS

Reported from Committee

SCR 15-Dempsey

SCR 16-Stouffer

To be Referred

SCR 21-Pearce, et al
HCS for HCR 3

HCR 13-Loehner, et al

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