

# Journal of the Senate

SECOND REGULAR SESSION

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**FORTY-THIRD DAY—WEDNESDAY, MARCH 30, 2016**

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The Senate met pursuant to adjournment.

President Kinder in the Chair.

Reverend Carl Gauck offered the following prayer:

“Those of steadfast mind You keep in peace - in peace because they trust in You.” (Isaiah 26:3)

Gracious God we are beginning to see the many challenges that are ahead of us and we ask what it is You would have us do. Help us keep our mind on You as we deal with one another and may we encourage there be peace among us as we move forward and in the actions we take during our time here. In Your Holy Name we pray. Amen.

The Pledge of Allegiance to the Flag was recited.

A quorum being established, the Senate proceeded with its business.

The Journal of the previous day was read and approved.

Senator Kehoe announced photographers from the Missouri net was given permission to take pictures in the Senate Chamber.

The following Senators were present during the day’s proceedings:

Present—Senators

Brown	Cunningham	Curls	Dixon	Emery	Hegeman	Holsman
Keaveny	Kehoe	Kraus	Libla	Munzlinger	Onder	Parson
Pearce	Richard	Riddle	Romine	Sater	Schaaf	Schaefer
Schatz	Schmitt	Schupp	Sifton	Silvey	Wallingford	Walsh
Wasson	Wieland—30					

Absent—Senators—None

Absent with leave—Senators

Chappelle-Nadal      Nasheed—2

Vacancies—2

The Lieutenant Governor was present.

**RESOLUTIONS**

Senator Parson offered Senate Resolution No. 1787, regarding the Fiftieth Wedding Anniversary of Robert and Donna Bohm, Sedalia, which was adopted.

Senator Parson offered Senate Resolution No. 1788, regarding the Fiftieth Wedding Anniversary of John and Janie Messner, Lebanon, which was adopted.

Senator Parson offered Senate Resolution No. 1789, regarding the Fiftieth Wedding Anniversary of Roy and Gloria Rhoads, Sedalia, which was adopted.

**SENATE BILLS FOR PERFECTION**

At the request of Senator Onder, **SB 772** was placed on the Informal Calendar.

Senator Hegeman moved that **SB 698**, with **SCS**, be taken up for perfection, which motion prevailed.

**SCS** for **SB 698**, entitled:

SENATE COMMITTEE SUBSTITUTE FOR  
SENATE BILL NO. 698

An Act to repeal section 473.730, RSMo, and to enact in lieu thereof one new section relating to the bonding requirements of public administrators.

Was taken up.

Senator Hegeman moved that **SCS** for **SB 698** be adopted.

Senator Hegeman offered **SS** for **SCS** for **SB 698**, entitled:

SENATE SUBSTITUTE FOR  
SENATE COMMITTEE SUBSTITUTE FOR  
SENATE BILL NO. 698

An Act to repeal sections 404.717, 456.590, 456.3-304, 456.4B-411, 456.7-706, 469.467, 473.050, and 473.730, RSMo, and to enact in lieu thereof seven new sections relating to the administration of estates.

Senator Hegeman moved that **SS** for **SCS** for **SB 698** be adopted.

Senator Onder assumed the Chair.

Senator Emery offered **SA 1**:

SENATE AMENDMENT NO. 1

Amend Senate Substitute for Senate Committee Substitute for Senate Bill No. 698, Page 10, Section 473.730, Lines 21-25, by striking all of said lines and inserting in lieu thereof the follow: “personal and business taxes. **Within six business days of filing for office, each candidate for public administrator shall provide to the election authority a copy of a signed affidavit from a surety company, indicating that the candidate is eligible to obtain a bond in an amount that meets the bond requirements for the office of public administrator under this section.**”.

Senator Emery moved that the above amendment be adopted, which motion failed.

Senator Hegeman moved that **SS** for **SCS** for **SB 698** be adopted, which motion prevailed.

On motion of Senator Hegeman, **SS** for **SCS** for **SB 698** was declared perfected and ordered printed.

Senator Kraus moved that **SB 786** be taken up for perfection, which motion prevailed.

Senator Kraus offered **SS** for **SB 786**, entitled:

SENATE SUBSTITUTE FOR  
SENATE BILL NO. 786

An Act to amend chapter 115, RSMo, by adding thereto one new section relating to the prosecution of election offenses.

Senator Kraus moved that **SS** for **SB 786** be adopted.

At the request of Senator Kraus, **SB 786**, with **SS** (pending), was placed on the Informal Calendar.

**REPORTS OF STANDING COMMITTEES**

Senator Kehoe, 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 **SS** for **SCS** for **SB 698** and **SB 844**, 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.

**MESSAGES FROM THE HOUSE**

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

Mr. President: The Speaker of the House of Representatives has appointed the following committee to act with a like committee from the Senate on **SS** for **SCS** for **HB 2203**, as amended. Representatives: Barnes, Alferman, Jones, Mitten, McCann Beatty.

On motion of Senator Kehoe, the Senate recessed until 4:00 p.m.

**RECESS**

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

**RESOLUTIONS**

Senator Riddle offered Senate Resolution No. 1790, regarding the New Florence Police Department, Montgomery County Sheriffs's Department, Montgomery City Police Department, East Central Drug Task Force, Missouri Highway Patrol, Missouri Department of Conservation, Federal Bureau of Investigation (FBI), and the Bureau of Alcohol, Tobacco, Firearms and Explosives (ATF), which was adopted.

Senator Schaefer offered Senate Resolution No. 1791, regarding Eagle Scout Joe Lawson, Columbia, which was adopted.

Senator Cunningham offered Senate Resolution No. 1792, regarding Ruth Stewart, West Plains, which was adopted.

Senator Schaefer offered **SR 1793**:

## SENATE RESOLUTION NO. 1793

Whereas, on July 21, 2015, the President Pro Tempore of the Senate established, pursuant to Senate Rule No. 31, the Senate Interim Committee on the Sanctity of Life composed of seven members of the Missouri Senate (later amended to include ten members of the Senate) with the following duties:

1. Conduct an in-depth analysis of the Planned Parenthood business model and the methods by which they dispose of human remains from aborted fetuses;
2. Investigate whether Planned Parenthood, and any of its affiliates or associates, is or has engaged in activity contrary to the laws of this state;
3. Determine whether any state dollars have been directly used in such activity or used in a manner to offset expenses so that Planned Parenthood and any of its affiliates and associates might engage in such alleged activities;
4. Investigate whether any person, past or present, employed by the state of Missouri had any prior knowledge of any such alleged activity or misuse of state funds; and
5. Examine and investigate any other issues the Committee deems relevant to the allegations brought forth against Planned Parenthood; and

Whereas, over the course of several months, the Committee held public hearings to receive the testimony of witnesses and develop recommendations for the Missouri Senate; and

Whereas, on November 24, 2015, the Committee, pursuant to the call issued by the President Pro Tempore of the Senate on July 21, 2015, and as part of its legislative duties to investigate whether or not an entity that is receiving state funds violated any state laws, issued a subpoena duces tecum to Mary Kogut of Planned Parenthood of the St. Louis Region and Southwest Missouri (attached as Exhibit 1). The subpoena was properly signed by President Pro Tempore of the Missouri Senate Ron Richard and attested to by the Secretary of the Missouri Senate and received by Ms. Kogut on or about November 24, 2015; and

Whereas, the subpoena duces tecum commanded Ms. Kogut to provide the records contained in Attachment A to the subpoena within fourteen days after receiving service of the subpoena; and

Whereas, on December 4, 2015, an attorney representing Planned Parenthood of the St. Louis Region and Southwest Missouri (PPSLR) sent a letter to President Pro Tempore Richard objecting to the subpoena and indicating that PPSLR would not be producing responsive documents; and

Whereas, to this day, PPSLR has failed to comply with a properly executed subpoena duces tecum issued by the Missouri Senate and has not indicated that it intends to ever comply with the subpoena duces tecum; and

Whereas, in the judgment of this body, the documents sought by the Committee were relevant and pertinent to the charge of the Committee and should have been produced by PPSLR in the time period denoted in the subpoena duces tecum; and

Whereas, the General Assembly is authorized to issue subpoenas pursuant to Senate Rule 14 as well as Section 21.400, RSMo, which states "Subpoenas for witnesses and the production of records shall be issued at the request of any member of the senate or the house of representatives, or the party accused, or any member of any committee; and all process awarded by the senate or house of representatives, and subpoenas and other process for witnesses whose attendance is required by either the senate or the house, or before any committee, shall be under the hand of the president pro tem, or the speaker and attested by the secretary or chief clerk, as the case may be, and shall be executed by the sergeant at arms of such house, or by a special messenger appointed for that purpose."; and

Whereas, the General Assembly possesses power under the Missouri Constitution to arrest and punish a person who is guilty of contemptuous behavior; specifically Article III, Section 18 of the Missouri Constitution states, in part, that "Each house [of the General Assembly] may arrest and punish by fine not exceeding three hundred dollars, or imprisonment in a county jail not exceeding ten days, or both, any person not a member, who shall be guilty of disrespect to the house by any disorderly or contemptuous behavior in its presence during its sessions..."; and

Whereas, Ms. Kogut and PPSLR have engaged in contemptuous behavior under Article III, Section 18 of the Missouri Constitution by refusing to comply with the subpoena issued under authority granted by Senate Rule 14 and section 21.400, RSMo:

Now Therefore Be It Resolved that the members of the Missouri Senate, Ninety-eighth General Assembly, Second Regular Session, hereby declare that the aforementioned failure to comply with the subpoena duces tecum issued by the Missouri Senate is an insult to this body, and intended as such by Mary Kogut and PPSLR, and constitutes and is in contempt of the power and authority of the Missouri Senate; and

Be It Further Resolved that Ms. Kogut and PPSLR had no lawful excuse for not complying with the subpoena duces tecum; that the information to be obtained by the Committee from PPSLR would be important and material for the Committee in fulfilling its legislative duties; that it was the duty of Ms. Kogut and PPSLR to have provided the requested documents; and

Be It Further Resolved that Ms. Kogut be summoned to appear at the bar of this body and show cause why she should not be punished for said contempt; and

Be It Further Resolved that the President Pro Tempore of the Senate and the Secretary of the Senate are hereby authorized to the issue the necessary process to bring Ms. Kogut to the Senate Chamber within the Missouri State Capitol on April 18, 2016, at 10:00 a.m., and the Sergeant-at-Arms, or his designee, is authorized and required to execute such process in the manner directed therein.

Exhibit 1

***SUBPOENA DUCES TECUM***

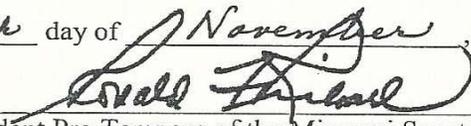
BEFORE THE SENATE INTERIM COMMITTEE ON THE SANCTITY OF LIFE  
MISSOURI SENATE  
A CHAMBER OF THE MISSOURI GENERAL ASSEMBLY

STATE OF MISSOURI     )  
  ) SS  
COUNTY OF COLE     )

THE STATE OF MISSOURI, TO     Mary M. Kogut  
  Planned Parenthood of the St. Louis Region and  
  Southwest Missouri  
  4251 Forest Park Avenue  
  St. Louis, MO 63108

YOU ARE HEREBY COMMANDED, setting aside all manner of excuse and delay, to provide the records set forth in Attachment A by the close of business on the 14th day after receiving service of this subpoena to the Senate Administrator's Office, Room 324, State Capitol Building, Jefferson City, Missouri 65101.

WITNESS my signature on this 24<sup>th</sup> day of November, 2015.

  
\_\_\_\_\_  
President Pro Tempore of the Missouri Senate

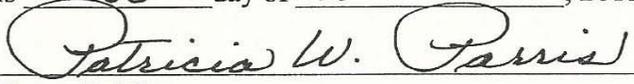
ATTEST:   
Secretary of the Senate

MESSENGER'S RETURN

I HEREBY CERTIFY that I have served this subpoena in ST. LOUIS CITY <sup>JB</sup> County, Missouri,  
 delivering a copy to ~~the person named above~~ <sup>\* CATHY WILLIAMS</sup> at 4:15 p.m. (time) on this 24<sup>th</sup> (day) of  
NOVEMBER (month), 2015, at 4251 FOREST PARK AVE.,  
ST. LOUIS, MO. 63108 (location).

  
 Designated Server

Subscribed and sworn to before me this 30<sup>th</sup> day of November, 2015.

  
 Notary Public

PATRICIA W. PARRIS  
 Notary Public - Notary Seal  
 State of Missouri  
 Commissioned for Cole County  
 My Commission Expires: February 26, 2017  
 Commission Number: 13538624

\* CATHY WILLIAMS  
 V.P. OF HUMAN RESOURCES & COMPLIANCE  
 PLANNED PARENTHOOD OF THE ST. LOUIS REGION  
 AND SOUTHWEST MISSOURI

Attachment A

For purposes of this request, the term "Document" includes but is not limited to emails, correspondence, submissions, notes, call logs, grant applications, approvals, attachments, exhibits, photographs, calendar entries, and any other written form of communication or memorialization whether electronic, paper, or other form which is in the possession of Planned Parenthood or any of its employees, agents, or contractors, and dated, composed, received, or otherwise coming into the possession of Planned Parenthood from January 1, 2010, to the date of the issuance of this subpoena.

For purposes of this request, the term "Planned Parenthood" means the entity operating as either Planned Parenthood of the St. Louis Region and Southwest Missouri, Inc. or Reproductive Health Services of Planned Parenthood of the St. Louis Region, Inc.

**Please produce:**

1. All documents relating to the sale, reimbursement or any fee for the donation or transfer of any human fetal tissue, including any contracts with entities for the disposal of fetal human tissue and medical waste in general;
2. All documents or written communications relating to the disposal of any human tissue or fetal remains, including any policies and procedures utilized by Planned Parenthood for such disposal;
3. All documents which make any reference to establishing procedures for how and where all human tissue is sent and/or disposed of;
4. All documents or written communications relating to the transfer of human tissue or fetal remains to a pathologist or pathology laboratory, including any contracts with a pathologist or pathology laboratory for the examination and/or disposal of human tissue or fetal remains;
5. All documents to or from or that make any reference to Dr. Mary Gatter;
6. All documents to or from or that make any reference to Dr. Deborah Nucatola;
7. All documents that record an incident where an emergency medical technician and/or an ambulance has been dispatched to a facility operated by Planned Parenthood;
8. All documents on policies for maintaining a safe environment in the facility and segregation and storage of pathological waste;
9. All documents relating to policies of Planned Parenthood on informed consent procedures, including any counseling or discussion provided to clients regarding the transfer or disposal of human fetal body parts or tissue;
10. All documents relating to the procedures used by a facility operated by Planned Parenthood to perform abortions;
11. Any document that encompasses the standard operating procedure or written protocol for chemical, surgical, and/or medication induced abortions;
12. Any consent form that must be signed by a patient prior to any chemical, surgical, and/or medication induced abortion; and
13. Copies of all consent forms a patient must sign prior to being administered any anesthetic drugs.

**Senator Schaefer offered SR 1794:**

## SENATE RESOLUTION NO. 1794

Whereas, on July 21, 2015, the President Pro Tempore of the Senate established, pursuant to Senate Rule No. 31, the Senate Interim Committee on the Sanctity of Life composed of seven members of the Missouri Senate (later amended to include ten members of the Senate) with the following duties:

1. Conduct an in-depth analysis of the Planned Parenthood business model and the methods by which they dispose of human remains from aborted fetuses;
  2. Investigate whether Planned Parenthood, and any of its affiliates or associates, is or has engaged in activity contrary to the laws of this state;
  3. Determine whether any state dollars have been directly used in such activity or used in a manner to offset expenses so that Planned Parenthood and any of its affiliates and associates might engage in such alleged activities;
  4. Investigate whether any person, past or present, employed by the state of Missouri had any prior knowledge of any such alleged activity or misuse of state funds; and
  5. Examine and investigate any other issues the Committee deems relevant to the allegations brought forth against Planned Parenthood;
- and

Whereas, over the course of several months, the Committee held public hearings to receive the testimony of witnesses and develop recommendations for the Missouri Senate; and

Whereas, on November 24, 2015, the Committee, pursuant to the call issued by the President Pro Tempore of the Senate on July 21, 2015, and as part of its legislative duties to investigate whether or not an entity that is receiving state funds violated any state laws, issued a subpoena duces tecum to Dr. James Miller, Pathology Services, Inc. (attached as Exhibit 1). The subpoena was properly signed by President Pro Tempore of the Missouri Senate Ron Richard and attested to by the Secretary of the Missouri Senate and received by Dr. Miller on or about November 24, 2015; and

Whereas, the subpoena duces tecum commanded Dr. Miller and Pathology Services, Inc. to designate a knowledgeable person to appear before the Committee on Wednesday, December 2, 2015, to testify before the Committee and to provide the records contained in Attachment A to the subpoena at such time; and

Whereas, on December 1, 2015, Senator Schaefer, as chairman of the Committee, sent a letter to Dr. Miller extending the deadline to appear before the Committee to December 9, 2015, and Senator Schaefer sent another letter to Dr. Miller extending the deadline to appear before the Committee to December 16, 2015; and

Whereas, on December 10, 2015, an attorney representing Dr. Miller and Pathology Services sent by fax and via USPS a document to Senator Richard entitled "Objections to the Subpoena Duces Tecum Issued to Dr. James Miller and Pathology Services Inc."; and

Whereas, to this day, Dr. Miller has failed to comply with a properly executed subpoena duces tecum issued by the Missouri Senate and has not indicated that he intends to ever comply with the subpoena duces tecum; and

Whereas, in the judgment of this body, the documents sought by the Committee were relevant and pertinent to the charge of the Committee and should have been produced by Dr. Miller in the time period denoted in the subpoena duces tecum and the letters from Senator Schaefer to Dr. Miller; and

Whereas, the General Assembly is authorized to issue subpoenas pursuant to Senate Rule 14 as well as Section 21.400, RSMo, which states "Subpoenas for witnesses and the production of records shall be issued at the request of any member of the senate or the house of representatives, or the party accused, or any member of any committee; and all process awarded by the senate or house of representatives, and subpoenas and other process for witnesses whose attendance is required by either the senate or the house, or before any committee, shall be under the hand of the president pro tem, or the speaker and attested by the secretary or chief clerk, as the case may be, and shall be executed by the sergeant at arms of such house, or by a special messenger appointed for that purpose."; and

Whereas, the General Assembly possesses power under the Missouri Constitution to arrest and punish a person who is guilty of contemptuous behavior; specifically Article III, Section 18 of the Missouri Constitution states, in part, that "Each house [of the General Assembly] may arrest and punish by fine not exceeding three hundred dollars, or imprisonment in a county jail not exceeding ten days, or both, any person not a member, who shall be guilty of disrespect to the house by any disorderly or contemptuous behavior in its presence during its sessions..."; and

Whereas, Dr. Miller and Pathology Services Inc. have engaged in contemptuous behavior under Article III, Section 18 of the Missouri Constitution by refusing to comply with the subpoena issued under authority granted by Senate Rule 14 and Section 21.400, RSMo:

Now Therefore Be It Resolved that the members of the Missouri Senate, Ninety-eighth General Assembly, Second Regular Session, hereby declare that the aforementioned failure to comply with the subpoena duces tecum issued by the Missouri Senate is an insult to this body, and intended as such by Dr. James Miller and Pathology Services Inc., and constitutes and is in contempt of the power and authority of the Missouri

Senate; and

Be It Further Resolved that Dr. James Miller and Pathology Services Inc. had no lawful excuse for not complying with the subpoena duces tecum; that the information to be obtained by the Committee from Dr. Miller and Pathology Services Inc. would be important and material for the Committee in fulfilling its legislative duties; that it was the duty of Dr. James Miller and Pathology Services Inc. to have provided the requested documents; and

Be It Further Resolved that Dr. Miller be summoned to appear at the bar of this body and show cause why he should not be punished for said contempt; and

Be It Further Resolved that the President Pro Tempore of the Senate and the Secretary of the Senate are hereby authorized to the issue the necessary process to bring Dr. Miller to the Senate Chamber within the Missouri State Capitol on April 18, 2016, at 10:00 a.m., and the Sergeant-at-Arms, or his designee, is authorized and required to execute such process in the manner directed therein.

Exhibit 1

***SUBPOENA DUCES TECUM***

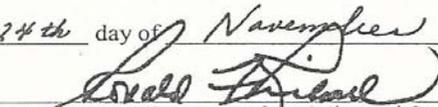
BEFORE THE SENATE INTERIM COMMITTEE ON THE SANCTITY OF LIFE  
MISSOURI SENATE  
A CHAMBER OF THE MISSOURI GENERAL ASSEMBLY

STATE OF MISSOURI     )  
  ) SS  
COUNTY OF COLE     )

THE STATE OF MISSOURI, TO     Dr. James Miller  
  Pathology Services, Inc.  
  2916 South Brentwood Blvd.  
  St. Louis, MO 63144

YOU ARE HEREBY COMMANDED, setting aside all manner of excuse and delay, to designate one or more officers, directors, or other agents who are knowledgeable about the matters referenced in Attachment A to appear in proper person before the Senate Interim Committee on the Sanctity of Life on Wednesday, December 2, 2015, at 1:00 p.m, in Senate Committee Room 2, State Capitol Building, Jefferson City, Missouri 65101, to testify then and there and speak the truth in a certain inquiry now before said Interim Committee on the Sanctity of Life of the Missouri Senate and you are further commanded to bring with you and then and there produce in evidence the records set forth in Attachment A.

WITNESS my signature on this 24<sup>th</sup> day of November, 2015.

  
\_\_\_\_\_  
President Pro Tempore of the Missouri Senate

ATTEST: Cariane D. Crouse  
Secretary of the Senate

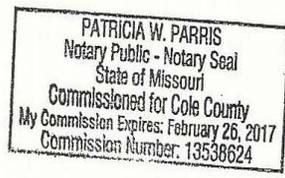
MESSENGER'S RETURN

I HEREBY CERTIFY that I have served this subpoena in ST. LOUIS County, Missouri,  
delivering a copy to ANGIE FOWLER  
JB the person named above at 3:35 p.m. (time) on this 24<sup>TH</sup> (day) of  
NOVEMBER (month), 2015, at 2916 SOUTH BRENTWOOD  
BLVD., ST. LOUIS, MO. 63144 (location).

[Signature]  
Designated Server

Subscribed and sworn to before me this 20th day of November, 2015.

Patricia W. Parris  
Notary Public



Attachment A

For purposes of this request, the term "Document" includes but is not limited to emails, correspondence, submissions, notes, call logs, grant applications, approvals, attachments, exhibits, photographs, calendar entries, and any other written form of communication or memorialization whether electronic, paper, or other form which is in the possession of Pathology Services, Inc., or any of its employees, agents, or contractors, and dated, composed, received, or otherwise coming into the possession of Pathology Services, Inc., from January 1, 2010, to the date of the issuance of this subpoena.

For purposes of this request, the term "Planned Parenthood" means the entity operating as either Planned Parenthood of the St. Louis Region and Southwest Missouri, Inc. or Reproductive Health Services of Planned Parenthood of the St. Louis Region, Inc.

**Please produce:**

1. All documents relating to all procedures for accepting and handling human tissue and fetal remains originating from Planned Parenthood;
2. All documents relating to the procedures for examining and evaluating human tissue and fetal remains;
3. All documents relating to Pathology Services' standard procedures for handling and disposing of human tissue, including waste tracking and certification of disposal;
4. All documents relating to the procedures for handling and disposing of human tissue and fetal remains originating from Planned Parenthood, including waste tracking and certification of disposal, if such procedures differ in any way from Pathology Services' standard procedures for handling and disposing of human tissue;
5. All documents which establish or relate to the creation and contents of pathology reports as required under Section 188.047, RSMo, including all documents relating to the submission of such reports to Planned Parenthood and to the Missouri Department of Health and Senior Services;
6. All documents relating to any contracts with any entity for the transfer and/or disposal of human tissue and fetal remains; and
7. All documents relating to any contracts with Planned Parenthood for the transfer, examination, and/or disposal of human tissue or fetal remains.

**SENATE BILLS FOR PERFECTION**

Senator Kraus moved that **SB 786**, with **SS** (pending), be called from the Informal Calendar and again taken up for perfection, which motion prevailed.

**SS** for **SB 786** was again taken up.

Senator Kraus offered **SA 1**:

## SENATE AMENDMENT NO. 1

Amend Senate Substitute for Senate Bill No. 786, Page 1, Section 115.642, Line 7, by inserting after “offense.” the following: “**Within thirty days of receiving a complaint, the secretary of state shall notify the person filing the complaint whether or not the secretary has dismissed the complaint or will commence an investigation.**”.

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

Senator Kraus moved that **SS** for **SB 786**, as amended, be adopted, which motion prevailed.

On motion of Senator Kraus, **SS** for **SB 786**, as amended, was declared perfected and ordered printed.

Senator Libla moved that **SB 623** be taken up for perfection, which motion prevailed.

Senator Libla offered **SS** for **SB 623**, entitled:

SENATE SUBSTITUTE FOR  
SENATE BILL NO. 623

An Act to repeal section 142.803, RSMo, and to enact in lieu thereof one new section relating to motor fuel taxes, with a referendum clause.

Senator Libla moved that **SS** for **SB 623** be adopted.

Senator Pearce assumed the Chair.

Senator Brown offered **SA 1**:

## SENATE AMENDMENT NO. 1

Amend Senate Substitute for Senate Bill No. 623, Page 3, Section 142.803, Line 20, by inserting immediately after said line the following:

**“3. The provisions of sections 290.210 to 290.340 shall not apply to any project undertaken by the department of transportation that utilizes revenue earned under the provisions of subdivision (1) of subsection 1 of this section.”.**

Senator Brown moved that the above amendment be adopted, which motion failed.

Senator Libla moved that **SS** for **SB 623** be adopted, which motion prevailed.

On motion of Senator Libla, **SS** for **SB 623** was declared perfected and ordered printed.

**REPORTS OF STANDING COMMITTEES**

Senator Kehoe, 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 **SB 786**, 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.

**SENATE BILLS FOR PERFECTION**

Senator Libla moved that **SB 624** be taken up for perfection, which motion prevailed.

Senator Parson offered **SA 1**:

**SENATE AMENDMENT NO. 1**

Amend Senate Bill No. 624, Page 1, In the Title, Lines 4-5, by striking all of said lines and inserting in lieu thereof the following: “relating to stealing, with penalty provisions.”; and

Further amend said bill and page, section A, line 3, by inserting after all of said line the following:

“570.010. As used in this chapter:

(1) “Adulterated” means varying from the standard of composition or quality prescribed by statute or lawfully promulgated administrative regulations of this state lawfully filed, or if none, as set by commercial usage;

(2) “Appropriate” means to take, obtain, use, transfer, conceal or retain possession of;

(3) “Coercion” means a threat, however communicated:

(a) To commit any crime; or

(b) To inflict physical injury in the future on the person threatened or another; or

(c) To accuse any person of any crime; or

(d) To expose any person to hatred, contempt or ridicule; or

(e) To harm the credit or business repute of any person; or

(f) To take or withhold action as a public servant, or to cause a public servant to take or withhold action;  
or

(g) To inflict any other harm which would not benefit the actor. A threat of accusation, lawsuit or other invocation of official action is not coercion if the property sought to be obtained by virtue of such threat was honestly claimed as restitution or indemnification for harm done in the circumstances to which the accusation, exposure, lawsuit or other official action relates, or as compensation for property or lawful service. The defendant shall have the burden of injecting the issue of justification as to any threat;

(4) “Credit device” means a writing, number or other device purporting to evidence an undertaking to pay for property or services delivered or rendered to or upon the order of a designated person or bearer;

(5) “Dealer” means a person in the business of buying and selling goods;

(6) “Debit device” means a card, code, number or other device, other than a check, draft or similar paper instrument, by the use of which a person may initiate an electronic fund transfer, including but not limited to devices that enable electronic transfers of benefits to public assistance recipients;

(7) “Deceit” means purposely making a representation which is false and which the actor does not believe to be true and upon which the victim relies, as to a matter of fact, law, value, intention or other state of mind. The term “deceit” does not, however, include falsity as to matters having no pecuniary significance, or puffing by statements unlikely to deceive ordinary persons in the group addressed.

Deception as to the actor's intention to perform a promise shall not be inferred from the fact alone that he did not subsequently perform the promise;

(8) "Deprive" means:

(a) To withhold property from the owner permanently; or

(b) To restore property only upon payment of reward or other compensation; or

(c) To use or dispose of property in a manner that makes recovery of the property by the owner unlikely;

(9) **"Financial institution" means a bank, trust company, savings and loan association, or credit union;**

(10) "Misleading" means varying from the standard of truth or disclosure in labeling prescribed by statute or lawfully promulgated administrative regulations of this state lawfully filed, or if none, as set by commercial usage; or represented as being another person's product, though otherwise accurately labeled as to quality and quantity;

[(10)] (11) "New and unused property" means tangible personal property that has never been used since its production or manufacture and is in its original unopened package or container if such property was packaged;

[(11)] (12) "Of another" property or services is that "of another" if any natural person, corporation, partnership, association, governmental subdivision or instrumentality, other than the actor, has a possessory or proprietary interest therein, except that property shall not be deemed property of another who has only a security interest therein, even if legal title is in the creditor pursuant to a conditional sales contract or other security arrangement;

[(12)] (13) "Property" means anything of value, whether real or personal, tangible or intangible, in possession or in action, and shall include but not be limited to the evidence of a debt actually executed but not delivered or issued as a valid instrument;

[(13)] (14) "Receiving" means acquiring possession, control or title or lending on the security of the property;

[(14)] (15) "Services" includes transportation, telephone, electricity, gas, water, or other public service, accommodation in hotels, restaurants or elsewhere, admission to exhibitions and use of vehicles;

[(15)] (16) "Writing" includes printing, any other method of recording information, money, coins, negotiable instruments, tokens, stamps, seals, credit cards, badges, trademarks and any other symbols of value, right, privilege or identification.

570.030. 1. A person commits the offense of stealing if he or she:

(1) Appropriates property or services of another with the purpose to deprive him or her thereof, either without his or her consent or by means of deceit or coercion;

(2) Attempts to appropriate anhydrous ammonia or liquid nitrogen of another with the purpose to deprive him or her thereof, either without his or her consent or by means of deceit or coercion; or

(3) For the purpose of depriving the owner of a lawful interest therein, receives, retains or disposes of

property of another knowing that it has been stolen, or believing that it has been stolen.

2. The offense of stealing is a class A felony if the property appropriated consists of any of the following containing any amount of anhydrous ammonia: a tank truck, tank trailer, rail tank car, bulk storage tank, field nurse, field tank or field applicator.

3. The offense of stealing is a class B felony if:

(1) The property appropriated or attempted to be appropriated consists of any amount of anhydrous ammonia or liquid nitrogen;

(2) The property consists of any animal considered livestock as the term livestock is defined in section 144.010, or any captive wildlife held under permit issued by the conservation commission, and the value of the animal or animals appropriated exceeds three thousand dollars and that person has previously been found guilty of appropriating any animal considered livestock or captive wildlife held under permit issued by the conservation commission. Notwithstanding any provision of law to the contrary, such person shall serve a minimum prison term of not less than eighty percent of his or her sentence before he or she is eligible for probation, parole, conditional release, or other early release by the department of corrections;

(3) A person appropriates property consisting of a motor vehicle, watercraft, or aircraft, and that person has previously been found guilty of two stealing-related offenses committed on two separate occasions where such offenses occurred within ten years of the date of occurrence of the present offense; [or]

(4) The property appropriated or attempted to be appropriated consists of any animal considered livestock as the term is defined in section 144.010 if the value of the livestock exceeds ten thousand dollars;  
**or**

**(5) The property appropriated or attempted to be appropriated is owned by or in the custody of a financial institution and the property is taken or attempted to be taken physically from an individual person to deprive the owner or custodian of the property.**

4. The offense of stealing is a class C felony if the value of the property or services appropriated is twenty-five thousand dollars or more.

5. The offense of stealing is a class D felony if:

(1) The value of the property or services appropriated is seven hundred fifty dollars or more;

(2) The offender physically takes the property appropriated from the person of the victim; or

(3) The property appropriated consists of:

(a) Any motor vehicle, watercraft or aircraft;

(b) Any will or unrecorded deed affecting real property;

(c) Any credit device, debit device or letter of credit;

(d) Any firearms;

(e) Any explosive weapon as defined in section 571.010;

(f) Any United States national flag designed, intended and used for display on buildings or stationary flagstaffs in the open;

(g) Any original copy of an act, bill or resolution, introduced or acted upon by the legislature of the state of Missouri;

(h) Any pleading, notice, judgment or any other record or entry of any court of this state, any other state or of the United States;

(i) Any book of registration or list of voters required by chapter 115;

(j) Any animal considered livestock as that term is defined in section 144.010;

(k) Any live fish raised for commercial sale with a value of seventy-five dollars or more;

(l) Any captive wildlife held under permit issued by the conservation commission;

(m) Any controlled substance as defined by section 195.010;

(n) Ammonium nitrate;

(o) Any wire, electrical transformer, or metallic wire associated with transmitting telecommunications, video, internet, or voice over internet protocol service, or any other device or pipe that is associated with conducting electricity or transporting natural gas or other combustible fuels; or

(p) Any material appropriated with the intent to use such material to manufacture, compound, produce, prepare, test or analyze amphetamine or methamphetamine or any of their analogues.

6. The offense of stealing is a class E felony if:

(1) The property appropriated is an animal; or

(2) A person has previously been found guilty of three stealing-related offenses committed on three separate occasions where such offenses occurred within ten years of the date of occurrence of the present offense.

7. The offense of stealing is a class D misdemeanor if the property is not of a type listed in subsection 2, 3, 5, or 6 of this section, the property appropriated has a value of less than one hundred fifty dollars, and the person has no previous findings of guilt for a stealing-related offense.

8. The offense of stealing is a class A misdemeanor if no other penalty is specified in this section.

9. If a violation of this section is subject to enhanced punishment based on prior findings of guilt, such findings of guilt shall be pleaded and proven in the same manner as required by section 558.021.

10. The appropriation of any property or services of a type listed in subsection 2, 3, 5, or 6 of this section or of a value of seven hundred fifty dollars or more may be considered a separate felony and may be charged in separate counts.

11. The value of property or services appropriated pursuant to one scheme or course of conduct, whether from the same or several owners and whether at the same or different times, constitutes a single criminal episode and may be aggregated in determining the grade of the offense, except as set forth in subsection 10 of this section.

570.030. 1. A person commits the crime of stealing if he or she appropriates property or services of another with the purpose to deprive him or her thereof, either without his or her consent or by means of deceit or coercion.

2. Evidence of the following is admissible in any criminal prosecution pursuant to this section on the issue of the requisite knowledge or belief of the alleged stealer:

(1) That he or she failed or refused to pay for property or services of a hotel, restaurant, inn or boardinghouse;

(2) That he or she gave in payment for property or services of a hotel, restaurant, inn or boardinghouse a check or negotiable paper on which payment was refused;

(3) That he or she left the hotel, restaurant, inn or boardinghouse with the intent to not pay for property or services;

(4) That he or she surreptitiously removed or attempted to remove his or her baggage from a hotel, inn or boardinghouse;

(5) That he or she, with intent to cheat or defraud a retailer, possesses, uses, utters, transfers, makes, alters, counterfeits, or reproduces a retail sales receipt, price tag, or universal price code label, or possesses with intent to cheat or defraud, the device that manufactures fraudulent receipts or universal price code labels.

3. Notwithstanding any other provision of law, any offense in which the value of property or services is an element is a class C felony if:

(1) The value of the property or services appropriated is five hundred dollars or more but less than twenty-five thousand dollars; or

(2) The actor physically takes the property appropriated from the person of the victim; or

(3) The property appropriated consists of:

(a) Any motor vehicle, watercraft or aircraft; or

(b) Any will or unrecorded deed affecting real property; or

(c) Any credit card or letter of credit; or

(d) Any firearms; or

(e) Any explosive weapon as defined in section 571.010; or

(f) A United States national flag designed, intended and used for display on buildings or stationary flagstaffs in the open; or

(g) Any original copy of an act, bill or resolution, introduced or acted upon by the legislature of the state of Missouri; or

(h) Any pleading, notice, judgment or any other record or entry of any court of this state, any other state or of the United States; or

(i) Any book of registration or list of voters required by chapter 115; or

(j) Any animal considered livestock as that term is defined in section 144.010; or

(k) Live fish raised for commercial sale with a value of seventy-five dollars; or

- (l) Captive wildlife held under permit issued by the conservation commission; or
- (m) Any controlled substance as defined by section 195.010; or
- (n) Anhydrous ammonia;
- (o) Ammonium nitrate; or
- (p) Any document of historical significance which has fair market value of five hundred dollars or more.

4. Notwithstanding any other provision of law, stealing of any animal considered livestock, as that term is defined in section 144.010, is a class B felony if the value of the livestock exceeds ten thousand dollars.

5. If an actor appropriates any material with a value less than five hundred dollars in violation of this section with the intent to use such material to manufacture, compound, produce, prepare, test or analyze amphetamine or methamphetamine or any of their analogues, then such violation is a class C felony. The theft of any amount of anhydrous ammonia or liquid nitrogen, or any attempt to steal any amount of anhydrous ammonia or liquid nitrogen, is a class B felony. The theft of any amount of anhydrous ammonia by appropriation of a tank truck, tank trailer, rail tank car, bulk storage tank, field (nurse) tank or field applicator is a class A felony.

**6. If the actor appropriates or attempts to appropriate property that is owned by or in the custody of a financial institution and the property is taken or attempted to be taken physically from an individual person to deprive the owner or custodian of the property, the theft is a class B felony.**

7. The theft of any item of property or services pursuant to subsection 3 of this section which exceeds five hundred dollars may be considered a separate felony and may be charged in separate counts.

[7.] **8.** Any person with a prior conviction of paragraph (j) or (l) of subdivision (3) of subsection 3 of this section and who violates the provisions of paragraph (j) or (l) of subdivision (3) of subsection 3 of this section when the value of the animal or animals stolen exceeds three thousand dollars is guilty of a class B felony. Notwithstanding any provision of law to the contrary, such person shall serve a minimum prison term of not less than eighty percent of his or her sentence before he or she is eligible for probation, parole, conditional release, or other early release by the department of corrections.

[8.] **9.** Any offense in which the value of property or services is an element is a class B felony if the value of the property or services equals or exceeds twenty-five thousand dollars.

[9.] **10.** Any violation of this section for which no other penalty is specified in this section is a class A misdemeanor.”; and

Further amend the title and enacting clause accordingly.

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

Senator Onder assumed the Chair.

On motion of Senator Libla, **SB 624**, as amended, was declared perfected and ordered printed.

## **RESOLUTIONS**

Senator Pearce offered Senate Resolution No. 1795, regarding Stanley Fiene, Alma, which was adopted.

Senator Pearce offered Senate Resolution No. 1796, regarding Janet West, Kingsville, which was adopted.

Senator Pearce offered Senate Resolution No. 1797, regarding C.L. Holdren, Warrensburg, which was adopted.

## **INTRODUCTIONS OF GUESTS**

On behalf of Senator Schaefer, Senator Kehoe introduced to the Senate, Ava Martin, Elizabeth Martin and Shelby Bryant, Columbia; Allyssa Johnson, Hartsburg; and Emilie Fitzwater, Lake Ozark, representatives of America's US Miss Scholarship Program.

Senator Romine introduced to the Senate, Larry Joseph, Desloge; and Mike Ramsey, Farmington.

Senator Cunningham introduced to the Senate, Bob and Debbie Kastning, and their daughter Ellie, Seymour; and Ellie was made an honorary page.

Senator Holsman introduced to the Senate, representatives of Leadership South Kansas City.

On behalf of Senator Nasheed and himself, Senator Keaveny introduced to the Senate, Dr. Dwaun Warmack, Harris-Stowe State University, St. Louis.

Senator Romine introduced to the Senate, Charles Statler, Brad Daugherty, Kenneth Hampton, Ron Ruess and Mark Litzinger, Festus; and Mike Lamb, DeSoto.

Senator Schaaf introduced to the Senate, Rex Howell, Jefferson City.

Senator Onder introduced to the Senate, Steve Belko, and his children Savannah and A.J., Dardenne Prairie.

Senator Cunningham introduced to the Senate, Loretta Fuge, Psy.D., Mansfield.

On behalf of Senator Kehoe and herself, Senator Schupp introduced to the Senate, Natalie Schroeder and Samuel J. Wyrick, Immaculate Conception School, Jefferson City; and Natalie and Sam were made honorary pages.

Senator Kehoe introduced to the Senate, Leslie Jeffries, Susie Schaefer-Hinds, teachers and fourth grade students from Immaculate Conception School, Jefferson City.

Senator Wasson introduced to the Senate, Coaches Steve Frank and Jesse Alsup; and Taylor Chrisman, McKinzie Maples, Alexis Combs, Zoey Mullings, Kyndall Compton, Abby Oliver, Paige Danielson, Chloe Rear, Kayla Eagleburger, Karly Soden, Logan Eden, Shayla Stark, Hayley Frank, Kayley Frank, Kaylee Larimer and Milkayla Lorenz, members of the Class 3A State Championship High School Girls Basketball Indians, Strafford.

Senator Emery introduced to the Senate, Dr. Erwin W. Lutzer, Chicago, Illinois.

Senator Emery introduced to the Senate, Richard P. Bott, II, Overland Park, Kansas.

Senator Curls introduced to the Senate, members of Alph Phi Alpha Fraternity, Inc.

On behalf of Senator Brown and himself, Senator Kehoe introduced to the Senate, the Physician of the Day, George Hubbell, M.S., M.D., Lake Ozark.

Senator Kehoe introduced to the Senate, teachers, parents and students from Thomas Jefferson Middle School, Jefferson City.

Senator Richard introduced to the Senate, Charlie Penner, Joplin; and Larry Glaze, Carthage.

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

## SENATE CALENDAR

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FORTY-FOURTH DAY—THURSDAY, MARCH 31, 2016

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## FORMAL CALENDAR

### VETOED BILLS

SCR 46-Schmitt

## HOUSE BILLS ON SECOND READING

HCS for HB 2190

HB 1643-Hicks

HCS for HB 2180

HB 1422-Walker

HCS for HB 1451

HCS for HB 1583

HB 1698-Rowden

HB 1421-Walker

HB 1546-Lauer

HB 2058-Haahr

HB 1556-Love

HB 1530-Brown (57)

HB 1709-Lair

HB 2186-Ross

HB 1388-Roeber

HB 1538-Vescovo

HB 1539-Vescovo

HB 1559-McCann Beatty

HB 1602-Ruth

HB 1610-Swan

HB 1622-Kelley

HB 1710-Lair

HB 2195-Hoskins

HB 1851-Alferman

HB 1777-Cierpiot

HB 2183-Roeber

HB 2335-Houghton

HB 2369-Bahr

HB 1958-Basye

HCS for HB 2014

HB 1370-Miller

HCS for HBs 1400 & 1425

HB 2230-Ross

HB 1606-Kelley

HB 1531-Brown

HCS for HB 1386

HCS for HBs 2188, 1533, 1393, 2114 & 2113

HB 1716-Lichtenegger

HB 2429-Dohrman  
HCS for HB 1675  
HCS for HB 1598  
HCS for HB 2397  
HB 2355-Lant  
HB 2337-Parkinson  
HCS for HB 1618  
HB 2101-Fitzpatrick  
HB 1678-Solon  
HB 2238-Gannon  
HCS for HB 1912

HCS for HB 1776  
HCS for HB 2108  
HCS for HB 2029  
HCS for HB 2402  
HCS for HB 2453  
HCS for HB 1976  
HCS for HB 1788  
HB 1936-Wilson  
HB 1620-Kelley  
HCS for HB 2194  
HB 2591-Richardson

### THIRD READING OF SENATE BILLS

SB 783-Onder (In Fiscal Oversight)  
SCS for SB 855-Pearce  
(In Fiscal Oversight)  
SB 997-Pearce (In Fiscal Oversight)  
SCS for SB 800-Sater, et al  
(In Fiscal Oversight)

SCS for SB 861-Wieland  
(In Fiscal Oversight)  
SS for SCS for SB 698-Hegeman  
SB 844-Parson  
SS for SB 786-Kraus

### SENATE BILLS FOR PERFECTION

1. SB 590-Dixon, with SCS
2. SBs 661, 726 & 741-Dixon, with SCS
3. SBs 588, 603 & 942-Dixon and Curls,  
with SCS
4. SB 618-Wallingford, with SCS
5. SB 681-Cunningham
6. SB 702-Munzlinger
7. SB 1025-Kraus
8. SB 856-Silvey, with SCS
9. SB 988-Kraus
10. SB 973-Wasson, with SCS
11. SB 921-Riddle, with SCS
12. SB 801-Sater, with SCS
13. SB 964-Wallingford, with SCS
14. SB 986-Brown, with SCS
15. SB 1002-Hegeman
16. SB 898-Cunningham

17. SBs 789 & 595-Wasson, with SCS
18. SB 659-Wasson
19. SB 575-Schaefer, with SCS
20. SB 827-Sifton
21. SB 638-Riddle and Silvey, with SCS
22. SB 805-Onder, with SCS
23. SB 894-Munzlinger
24. SB 985-Wasson
25. SB 932-Cunningham
26. SB 576-Keaveny
27. SB 577-Keaveny
28. SB 663-Dixon, with SCS
29. SB 947-Parson
30. SB 858-Romine, with SCS
31. SB 899-Parson
32. SB 806-Onder, with SCS

### HOUSE BILLS ON THIRD READING

HB 1631-Alferman, with SCS (Kraus)  
(In Fiscal Oversight)

HJR 53-Dugger (Kraus)  
(In Fiscal Oversight)

HCS for HB 1418 (Kraus)

HCS for HB 2140, with SCS (Wasson)

## INFORMAL CALENDAR

## SENATE BILLS FOR PERFECTION

SB 580-Schaaf, with SCS &amp; SA 2 (pending)

SB 612-Cunningham

SB 619-Wallingford

SB 644-Onder, with SCS

SB 680-Emery

SB 706-Dixon

SB 772-Onder, with SCS

SB 785-Schaefer, with SCS, SS for SCS,

SA 1, SSA 1 for SA 1, SA 1 to SSA 1  
for SA 1 & point of order (pending)

SB 802-Sater

SB 816-Wieland, et al

SB 825-Munzlinger, with SA 1 (pending)

SB 916-Schaefer

SB 980-Keaveny, with SCS, SS for SCS, SA 1  
& SA 3 to SA 1 (pending)

## HOUSE BILLS ON THIRD READING

HB 1452-Hoskins, with SCS (Pearce)

HB 1575-Rowden, with SCA 1 (Onder)

HB 2166-Alferman, with SCS & SS for SCS  
(pending) (Onder)

HB 2226-Barnes (Silvey)

## CONSENT CALENDAR

## Senate Bills

## Reported 2/4

SB 650-Pearce, with SCS

SB 627-Nasheed

SB 646-Schupp, with SCS

SB 831-Wasson

SB 833-Nasheed

SB 864-Sater

SB 738-Parson

## Reported 2/25

SB 994-Munzlinger

SB 836-Wasson, with SCS

SB 735-Dixon

SB 897-Hegeman

SB 888-Walsh

SBs 905 &amp; 992-Sifton, with SCS

SB 781-Schatz, with SCS

SB 1009-Riddle, with SCS

SB 909-Sater

SB 852-Brown

SB 625-Walsh

Reported 3/3

SB 915-Schaefer

**BILLS IN CONFERENCE AND BILLS  
CARRYING REQUEST MESSAGES**

In Conference

HB 1979-Rowden, with SS for SCS, as  
amended (Onder)

HB 2203-Barnes, with SS for SCS, as  
amended (Kehoe)

**RESOLUTIONS**

To be Referred

SR 1793-Schaefer

SR 1794-Schaefer

**MISCELLANEOUS**

CCS for SCS for HCS for HB 2 (Schaefer)  
(Section 2.030/Appropriation 9235)

CCS for SCS for HCS for HB 10 (Schaefer)  
(Section 10.710/Appropriation 9859)

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