

# Journal of the Senate

FIRST REGULAR SESSION

FORTY-SEVENTH DAY—THURSDAY, APRIL 1, 1999

The Senate met pursuant to adjournment.

President Pro Tem Quick in the Chair.

The Reverend Carl R. Gauck offered the following prayer:

God our victor of life over death: Help us this day to see this weekend away from the Senate more than an extra day thrown in, but a time that permits us to know the gift of Your love for each of us and the life beyond life You have in store for us. Turn our thoughts to the promise of new life daily and its meaning, so that we might do more good with our life each day. 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 DePasco announced that photographers from the Associated Press had been given permission to take pictures in the Senate Chamber today.

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

Present—Senators

Banks	Bentley	Caskey	Childers
Clay	DePasco	Ehlmann	Flotron
Goode	Graves	House	Howard
Jacob	Johnson	Kenney	Kinder
Klarich	Mathewson	Maxwell	Mueller
Quick	Rohrbach	Russell	Schneider
Scott	Sims	Singleton	Staples

Steelman      Stoll      Westfall      Wiggins  
Yeckel—33

Absent with leave—Senator Bland—1

The Lieutenant Governor was present.

## RESOLUTIONS

Senator Kenney offered Senate Resolution No. 494, regarding Andrew Drumm "Andy" Burton, Independence, which was adopted.

Senator Bentley offered Senate Resolution No. 495, regarding William W. Grubbs, Springfield, which was adopted.

Senator Singleton offered Senate Resolution No. 496, regarding TapJac Do-It Best Lumber, Carthage, which was adopted.

## SENATE BILLS FOR PERFECTION

Senator Wiggins moved that **SB 506** be taken up for perfection, which motion prevailed.

Senator Flotron offered **SA 1**:

### SENATE AMENDMENT NO. 1

Amend Senate Bill No. 506, Page 2, Section A, Line 29, by inserting immediately after said line the following:

"400.2-401. Each provision of this article with regard to the rights, obligations and remedies of the seller, the buyer, purchasers or other third parties applies irrespective of title to the goods except where the provision refers to such title. Insofar as situations are not covered by the other provisions of this article and matters concerning title become material the following rules apply:

(1) Title to goods cannot pass under a contract for sale prior to their identification to the contract (section 400.2-501), and unless otherwise explicitly agreed the buyer acquires by their identification a special property as limited by this chapter. Any retention or reservation by the seller of the title (property) in goods shipped or delivered to the buyer is limited in effect to a reservation of a security interest. Subject to these provisions and to the provisions of the article on secured transactions (article 9), title **and/or ownership** to goods passes from the seller to the buyer in any manner and on any conditions explicitly agreed on by the parties.

(2) Unless otherwise explicitly agreed title passes to the buyer at the time and place at which the seller completes his performance with reference to the physical delivery of the goods, despite any reservation of a security interest and even though a document of title is to be delivered at a different time or place; and in particular and despite any reservation of a security interest by the bill of lading

(a) if the contract requires or authorizes the seller to send the goods to the buyer but does not require him to deliver them at destination, title passes to the buyer at the time and place of shipment; but

(b) if the contract requires delivery at destination, title passes on tender there.

(3) Unless otherwise explicitly agreed where delivery is to be made without moving the goods,

(a) if the seller is to deliver a document of title, title passes at the time when and the place where he delivers such documents; or

(b) if the goods are at the time of contracting already identified and no documents are to be delivered, title passes at the time and place of contracting.

(4) A rejection or other refusal by the buyer to receive or retain the goods, whether or not justified, or a justified revocation of acceptance reverts title to the goods in the seller. Such reversion occurs by operation of law and is not a "sale".

400.2-402. (1) Except as provided in subsections (2) and (3), right of unsecured creditors

of the seller with respect to goods which have been identified to a contract for sale are subject to the buyer's rights to recover the goods under this article (sections 400.2-502 and 400.2-716).

(2) A creditor of the seller may treat a sale or an identification of goods to a contract for sale as void if as against him a retention of possession by the seller is fraudulent under any rule of law of the state where the goods are situated, except that retention of possession in good faith and current course of trade by a merchant-seller for a commercially reasonable time after a sale or identification is not fraudulent.

(3) Nothing in this article shall be deemed to impair the rights of creditors of the seller

(a) under the provisions of the article on secured transactions (article 9); or

(b) where identification to the contract or delivery is made not in current course of trade but in satisfaction of or as security for a preexisting claim for money, security or the like and is made under circumstances which under any rule of law of the state where the goods are situated would apart from this article constitute the transaction a fraudulent transfer or voidable preference."; and

Further amend the title and enacting clause accordingly.

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

On motion of Senator Wiggins, **SB 506**, as amended, was declared perfected and ordered printed.

Senator Mueller moved that **SJR 17** be taken up for perfection, which motion prevailed.

Senator Maxwell assumed the Chair.

President Wilson assumed the Chair.

Senator Howard assumed the Chair.

Senator Mueller moved that **SJR 17** be declared perfected and ordered printed, which motion prevailed on a standing division vote.

**SB 397**, with **SCS**, was placed on the Informal Calendar.

Senator Schneider moved that **SB 316** be

taken up for perfection, which motion prevailed.

At the request of Senator Schneider, **SB 316** was placed on the Informal Calendar.

#### REPORTS OF STANDING COMMITTEES

Senator Schneider, Chairman of the Committee on Judiciary, submitted the following report:

Mr. President: Your Committee on Judiciary, to which was referred **SB 440**, begs leave to report that it has considered the same and recommends that the Senate Committee Substitute, hereto attached, do pass.

On behalf of Senator Banks, Chairman of the Committee on Public Health and Welfare, Senator Caskey submitted the following report:

Mr. President: Your Committee on Public Health and Welfare, to which was referred **SB 495**, begs leave to report that it has considered the same and recommends that the bill do pass.

Senator Scott, Chairman of the Committee on Pensions and General Laws, submitted the following report:

Mr. President: Your Committee on Pensions and General Laws, to which was referred **SB 29**, begs leave to report that it has considered the same and recommends that the bill do pass.

Senator Caskey, Chairman of the Committee on Civil and Criminal Jurisprudence, submitted the following report:

Mr. President: Your Committee on Civil and Criminal Jurisprudence, to which was referred **SB 94**, begs leave to report that it has considered the same and recommends that the Senate Committee Substitute, hereto attached, do pass.

Senator Howard, Chairman of the Committee on Aging, Families and Mental Health, submitted the following report:

Mr. President: Your Committee on Aging, Families and Mental Health, to which was referred **SB 377**, begs leave to report that it has considered the same and recommends that the Senate Committee Substitute, hereto attached, do pass.

On behalf of Senator Clay, Chairman of the Committee on Financial and Governmental

Organization, Senator DePasco submitted the following report:

Mr. President: Your Committee on Financial and Governmental Organization, to which was referred **SB 125**, begs leave to report that it has considered the same and recommends that the bill do pass, with Senate Committee Amendment No. 1.

#### SENATE COMMITTEE AMENDMENT NO. 1

Amend Senate Bill No. 125, Page 2, Section 21.184, Line 14, by inserting at the end of said line the following:

**"For members of the senate who attend the legislative academy, two weeks of the academy shall be devoted to procedural rules of the senate and other areas of particular importance to members of the senate."**

Senator Wiggins, Chairman of the Committee on Ways and Means, submitted the following report:

Mr. President: Your Committee on Ways and Means, to which was referred **SB 371**, begs leave to report that it has considered the same and recommends that the bill do pass, with Senate Committee Amendment No. 1.

#### SENATE COMMITTEE AMENDMENT NO. 1

Amend Senate Bill No. 371, Page 1, Section 513.653, Line 3, by inserting immediately after the word "audit" on said line the following: ", **subject to standards promulgated by the state auditor which shall include adequate measures to protect the confidentiality of any law enforcement activities involved in the federal seizures,**".

Senator House, Chairman of the Committee on Education, submitted the following report:

Mr. President: Your Committee on Education, to which was referred **SB 208**, begs leave to report that it has considered the same and recommends that the Senate Committee Substitute, hereto attached, do pass.

On behalf of Senator Maxwell, Chairman of the Committee on Commerce and Environment, Senator DePasco submitted the following report:

Mr. President: Your Committee on Commerce and Environment, to which was referred **SB 248**, begs leave to report that it has considered the same and recommends that the Senate Committee Substitute, hereto attached, do pass.

On behalf of Senator Jacob, Chairman of the Committee on Insurance and Housing, Senator Quick submitted the following report:

Mr. President: Your Committee on Insurance and Housing, to which were referred **SB 429**, **SB 430** and **SB 407**, begs leave to report that it has considered the same and recommends that the Senate Committee Substitute, hereto attached, do pass.

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

Mr. President: Your Committee on Rules, Joint Rules and Resolutions, to which were referred **SS No. 2** for **SB 209**; **SB 215**; and **SS** for **SB 373**, 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.

Senator Stoll assumed the Chair.

#### HOUSE BILLS ON SECOND READING

The following Bills were read the 2nd time and referred to the Committees indicated:

**HB 268**—Civil and Criminal Jurisprudence.

**HB 499**—Elections, Veterans' Affairs and Corrections.

**HB 789**—Elections, Veterans' Affairs and Corrections.

**HB 426**—Aging, Families and Mental Health.

**HB 550**—Aging, Families and Mental Health.

**HB 548**—Ways and Means.

**HB 846**—Financial and Governmental Organization.

**HB 266**—Civil and Criminal Jurisprudence.

**HB 847**—Local Government and Economic Development.

**HB 745**—Local Government and Economic Development.

#### 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 **HB 452**, entitled:

An Act to repeal section 302.341, RSMo Supp. 1998, relating to driver's licenses, and to enact in lieu thereof one new section relating to the same subject.

In which the concurrence of the Senate is respectfully requested.

Read 1st time.

Also,

Mr. President: I am instructed by the House of Representatives to inform the Senate that the House has taken up and passed **HB 775**, entitled:

An Act to repeal section 88.812, RSMo 1994, relating to assessments made by certain cities, and to enact in lieu thereof one new section relating to the same subject.

In which the concurrence of the Senate is respectfully requested.

Read 1st time.

Also,

Mr. President: I am instructed by the House of Representatives to inform the Senate that the House has taken up and passed **HB 542**, entitled:

An Act to repeal sections 135.550 and 135.600, RSMo Supp. 1998, relating to tax credits for contributions for certain charitable purposes, and to enact in lieu thereof two new sections relating to the same subject.

In which the concurrence of the Senate is respectfully requested.

Read 1st time.

Also,

Mr. President: I am instructed by the House of

Representatives to inform the Senate that the House has taken up and passed **HB 122**, entitled:

An Act relating to income taxation, with an effective date.

In which the concurrence of the Senate is respectfully requested.

Read 1st time.

Also,

Mr. President: I am instructed by the House of Representatives to inform the Senate that the House has taken up and passed **HB 58**, entitled:

An Act to repeal section 319.131, RSMo Supp. 1998, relating to petroleum storage tanks, and to enact in lieu thereof one new section relating to the same subject.

In which the concurrence of the Senate is respectfully requested.

Read 1st time.

Also,

Mr. President: I am instructed by the House of Representatives to inform the Senate that the House has taken up and passed **HB 903**, entitled:

An Act to repeal sections 376.431, 376.432, 376.436, 376.438 and 376.441, RSMo 1994, relating to group health insurance, and to enact in lieu thereof five new sections relating to the same subject.

In which the concurrence of the Senate is respectfully requested.

Read 1st time.

Also,

Mr. President: I am instructed by the House of Representatives to inform the Senate that the House has taken up and passed **HB 926**, entitled:

An Act to repeal section 375.1518, RSMo Supp. 1998, relating to life insurance policies, and to enact in lieu thereof one new section relating to the same subject.

In which the concurrence of the Senate is respectfully requested.

Read 1st time.

Also,

Mr. President: I am instructed by the House of Representatives to inform the Senate that the House has taken up and passed **HB 748**, entitled:

An Act to repeal section 82.380, RSMo 1994, and sections 57.550, 82.390, 82.520 and 82.599, RSMo Supp. 1998, relating to compensation of certain officers in the city of St. Louis, and to enact in lieu thereof four new sections relating to the same subject.

In which the concurrence of the Senate is respectfully requested.

Read 1st time.

Also,

Mr. President: I am instructed by the House of Representatives to inform the Senate that the House has taken up and passed **HB 415**, entitled:

An Act relating to employment and educational opportunities for selective service registrants.

In which the concurrence of the Senate is respectfully requested.

Read 1st time.

#### INTRODUCTIONS OF GUESTS

Senator Johnson introduced to the Senate, twenty-five eighth grade students from North Andrew Middle School, Rosendale.

Senator Klarich introduced to the Senate, fourth grade students from Chesterfield Elementary School, St. Louis.

Senator Klarich introduced to the Senate, Jonathan Forrest Dalton, Jr., St. Louis; and Jonathan was made an honorary page.

Senator Sims introduced to the Senate, Steve, Mary Ann and Matthew Chrun, Anne and James Kloepple and Secca Farber, Ladue; and Matthew, James and Secca were made honorary pages.

Senator Yeckel introduced to the Senate, students from Seven Holy Founders, St. Louis County.

Senator Yeckel introduced to the Senate, Virginia, Dan, Sarah and Amanda Gummels,

St. Louis County; and Sarah and Amanda were made honorary pages.

Senator Maxwell introduced to the Senate, Phyllis Florea, Susan Johnson and members of the Eugene Field Elementary School Student Council, Hannibal.

Senator Caskey introduced to the Senate, Sandy Katzer, Sharlene Bandelier-Vaughn, Susan McIntire-Davis and thirty-two fourth grade Girl Scouts from Belton.

Senator Childers introduced to the Senate, fourteen students from Exeter School, Barry County.

Senator Stoll introduced to the Senate, his brother Mark Stoll and his nephew Thomas B. Stoll, Crystal City; and Thomas was made an honorary page.

On motion of Senator DePasco, the Senate adjourned until 4:00 p.m., Tuesday, April 6, 1999.

# Unofficial

## SENATE CALENDAR

FORTY-EIGHTH DAY—TUESDAY, APRIL 6, 1999

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### FORMAL CALENDAR

#### HOUSE BILLS ON SECOND READING

HB 452-Boatright, et al  
 HB 775-Hosmer  
 HB 542-Barry  
 HB 122-Gaskill  
 HB 58-Treadway

HB 903-Auer  
 HB 926-Liese and Ward  
 HB 748-O'Toole and May (108th)  
 HB 415-Vogel and Gratz

#### THIRD READING OF SENATE BILLS

1. SS for SCS for SB 19-Goode  
(In Budget Control)
2. SCS for SB 425-Stoll, et al  
(In Budget Control)
3. SCS for SB 233-Sims  
(In Budget Control)

4. SCS for SB 386-Clay
5. SS for SCS for SB 467-Caskey
6. SS#2 for SB 209-Goode
7. SB 215-Mathewson
8. SS for SB 373-DePasco

#### SENATE BILLS FOR PERFECTION

1. SBs 75, 381 & 204-  
Wiggins, with SCS
2. SB 97-Maxwell and  
Sims, with SCAs 1 & 2

3. SB 89-Mueller
4. SBs 328, 87, 100 & 55-  
Clay, et al, with SCS
5. SB 451-Singleton

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| 6. SB 71-Schneider                         | 15. SB 440-Schneider, with SCS             |
| 7. SBs 392, 393 & 267-<br>Goode, with SCS  | 16. SB 495-Goode                           |
| 8. SBs 387, 206 & 131-<br>Clay, with SCS   | 17. SB 29-Mueller                          |
| 9. SB 351-Johnson and<br>Russell, with SCS | 18. SB 94-Ehlmann, with SCS                |
| 10. SB 359-Mueller, et al                  | 19. SB 377-Howard, with SCS                |
| 11. SB 472-House                           | 20. SB 125-Childers, with SCA 1            |
| 12. SB 441-Schneider, with SCS             | 21. SB 371-Flotron, et al,<br>with SCA 1   |
| 13. SB 455-Stoll, et al,<br>with SCA 1     | 22. SB 208-House and<br>Ehlmann, with SCS  |
| 14. SB 30-Howard, with SCS                 | 23. SB 248-Maxwell, with SCS               |
|  | 24. SBs 429, 430 & 407-<br>Jacob, with SCS |

#### INFORMAL CALENDAR

#### SENATE BILLS FOR PERFECTION

- |   |  |
|---|--|
| SBs 1, 92, 111, 129 & 222-<br>Schneider, with SCS &<br>SA 8 (pending) | SB 336-Caskey, with SA 3<br>(pending)  |
| SB 5-Wiggins  | SB 339-Howard and Sims,<br>with SCS, SS for SCS,<br>SA 1 & SSA 1 for SA 1<br>(pending) |
| SB 70-Schneider   | SB 345-Johnson, with SS<br>(pending)   |
| SB 78-Russell, with SA 4<br>(pending)                                 | SBs 347, 40, 241 & 301-<br>House, with SCS, SS for<br>SCS & SA 4 (pending)             |
| SB 179-Goode, with SA 3 &<br>SSA 1 for SA 3 (pending)                 | SB 397-Maxwell, with SCS   |
| SB 203-Wiggins  | SB 417-Quick, with SS<br>(pending)   |
| SB 235-Stoll, with SS &<br>SA 2 (pending)                             |  |
| SB 316-Schneider and Ehlmann  |  |
| SB 318-Jacob, et al, with<br>SCS & SS for SCS (pending)               |  |

#### CONSENT CALENDAR

##### House Bills

Reported 3/31

HB 153-Leake, et al (Maxwell)

BILLS IN CONFERENCE AND BILLS  
CARRYING REQUEST MESSAGES

Requests to Recede or Grant Conference

HCS for HCRs 6 & 7 (Staples),  
with SA 1, as amended & SA 2  
(Senate refuses to recede and  
requests House grant conference)

RESOLUTIONS

SR 359-Ehlmann

SCR 9-Mueller

Reported from Committee

SCR 15-Maxwell, with SCS  
SCR 13-Stoll

SCR 18-Ehlmann  
HCR 10-Williams (121st)  
(Caskey)

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