

Journal of the Senate

SECOND REGULAR SESSION

TWENTY-SECOND DAY—MONDAY, FEBRUARY 13, 2006

The Senate met pursuant to adjournment.

President Kinder in the Chair.

Reverend Carl Gauck offered the following prayer:

"For His loving kindness is great, and the faithfulness of the Lord endures forever." (Psalm 117)

Gracious Lord, we are thankful for You showing us Your loving kindness in watching our going out and our coming in. You bring us to this new week safely to pursue the work that is ahead of us. As we spend our time together and hear the testimony of others let us grow in wisdom so that our bills may reflect the stature You have laid before 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 for Thursday, February 9, 2006 was read and approved.

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

Present—Senators

Alter	Barnitz	Bartle	Bray
Callahan	Cauthorn	Champion	Clemens
Coleman	Crowell	Days	Dougherty
Engler	Gibbons	Goodman	Graham
Green	Griesheimer	Gross	Kennedy
Klindt	Koster	Loudon	Mayer

Nodler	Purgason	Ridgeway	Scott
Shields	Stouffer	Vogel	Wheeler
Wilson—33			

Absent—Senators—None

Absent with leave—Senators—None

Vacancies—1

The Lieutenant Governor was present.

RESOLUTIONS

Senator Vogel offered Senate Resolution No. 2008, regarding the Fiftieth Wedding Anniversary of Mr. and Mrs. Charles Pemberton, Iberia, which was adopted.

Senator Kennedy offered Senate Resolution No. 2009, regarding the One Hundredth Birthday of Mary Mikesch Hrdlicka, St. Louis, which was adopted.

Senator Stouffer offered Senate Resolution No. 2010, regarding the One Hundredth Birthday of Adolph Lohman, Concordia, which was adopted.

Senator Stouffer offered Senate Resolution No. 2011, regarding the Thirtieth Wedding Anniversary of Mr. and Mrs. Roger Bork, Macon, which was adopted.

Senator Stouffer offered Senate Resolution No. 2012, regarding the Fiftieth Wedding Anniversary of Mr. and Mrs. William Sanders, Armstrong, which was adopted.

Senator Dougherty offered Senate Resolution No. 2013, regarding the One Hundred First Birthday of Mae Overton, Saint Louis, which was adopted.

Senator Shields offered Senate Resolution No. 2014, regarding Phillip Walters, St. Joseph, which was adopted.

Senator Barnitz offered Senate Resolution No. 2015, regarding Bill Hudson, Rolla, which was adopted.

Senator Champion offered Senate Resolution No. 2016, regarding the late Eugene A. Martin, Jr., Springfield, which was adopted.

Senator Champion offered Senate Resolution No. 2017, regarding David N. Appleby, Springfield, which was adopted.

Senator Champion offered Senate Resolution No. 2018, regarding Carol D. Jones, CRS, Ozark, which was adopted.

Senator Champion offered Senate Resolution No. 2019, regarding Bill R. Foster, Springfield, which was adopted.

Senator Champion offered Senate Resolution No. 2020, regarding Kenneth E. Meyer, Springfield, which was adopted.

Senator Champion offered Senate Resolution No. 2021, regarding the late Clarence R. Wheeler, Springfield, which was adopted.

Senator Champion offered Senate Resolution No. 2022, regarding Dr. Norman K. Myers, Springfield, which was adopted.

Senator Champion offered Senate Resolution No. 2023, regarding Robert E. Roundtree, Sr., Springfield, which was adopted.

Senator Champion offered Senate Resolution No. 2024, regarding Mary Kay Meek, Springfield,

which was adopted.

Senator Champion offered Senate Resolution No. 2025, regarding James B. Anderson, Springfield, which was adopted.

Senator Champion offered Senate Resolution No. 2026, regarding Patti A. Penny, Springfield, which was adopted.

Senator Wilson offered Senate Resolution No. 2027, regarding the Black Family Technology Association of Kansas City, which was adopted.

Senator Vogel offered Senate Resolution No. 2028, regarding Mark W. Koechner, Tipton, which was adopted.

Senator Vogel offered Senate Resolution No. 2029, regarding the death of Charles Joseph Weiss, which was adopted.

Senator Purgason offered Senate Resolution No. 2030, regarding the Fiftieth Wedding Anniversary of Mr. and Mrs. Donald Clay Wood, Lebanon, which was adopted.

Senator Purgason offered Senate Resolution No. 2031, regarding the One Hundred First Birthday of Mayme Blickensderfer, Lebanon, which was adopted.

Senator Purgason offered Senate Resolution No. 2032, regarding the Fiftieth Wedding Anniversary of Mr. and Mrs. Leroy Hawkins, Lebanon, which was adopted.

Senator Purgason offered Senate Resolution No. 2033, regarding the Sixtieth Wedding Anniversary of Mr. and Mrs. Clyde Eilenstein, Lebanon, which was adopted.

Senator Nodler offered Senate Resolution No. 2034, regarding the One Hundredth Birthday of Ina May Six, Joplin, which was adopted.

Senator Engler offered Senate Resolution No. 2035, regarding the Sixtieth Wedding Anniversary of Mr. and Mrs. Clyde Coffman, Potosi, which was adopted.

Senator Engler offered Senate Resolution No.

2036, regarding the Honorable L.J. "Jim" Grillo, Linden, California, which was adopted.

Senator Engler offered Senate Resolution No. 2037, regarding James Maddox, which was adopted.

Senator Shields moved that **SR 2007** be taken up for adoption, which motion prevailed.

On motion of Senator Shields, **SR 2007** was adopted.

Senator Griesheimer assumed the Chair.

CONCURRENT RESOLUTIONS

Senators Days and Nodler offered the following concurrent resolution:

SENATE CONCURRENT RESOLUTION NO. 28

Relating to the naming of the George Washington Carver State Office Building.

WHEREAS, George Washington Carver was born into slavery near Diamond Grove, Missouri, sometime between July 1861 and January 1864. He was a sickly baby, soon orphaned when his mother was abducted by slave traders, and whose very survival beyond infancy defied the understanding and capabilities of the medical community at that time; and

WHEREAS, even absent a formal education, George Washington Carver's intellect and affinity for agriculture manifested themselves at an early age; and

WHEREAS, at the age of 11, George Washington Carver informed his caretakers that he was going to move to Neosho so he could attend the school for African-American children and that he would find a place where he could work in exchange for his board. He soon traveled to Neosho, alone, with nothing but the best of his rock collection, a clean shirt in a bundle slung over his shoulder, and a package of food under his arm; and

WHEREAS, by the end of 1876, George Washington Carver had learned everything the teacher at the school knew and everything in the books available to the school, and the teacher gave him a certificate of merit attesting to such fact; and

WHEREAS, George Washington Carver continued his education at various institutions in Kansas and Iowa, all the while taking whatever jobs allowed him to earn the money needed to continue his education, inspiring one professor to proclaim, "George Carver has come to us with a satchel full of poverty and a burning zeal to know everything"; and

WHEREAS, in 1896 Booker T. Washington pleaded with George Washington Carver to bring his intellect to Tuskegee

Institute, which was founded by Washington to provide a college education for African-Americans. Booker T. Washington had come to realize that, since 85 percent of southern African-Americans were farmers, Tuskegee's greatest need was an agriculture department. George accepted, knowing that the work would be hard and the financial reward minimal; and

WHEREAS, George Washington Carver stressed to Tuskegee's students and the region's farmers that soil conservation through diversification of crops and crop rotation was the key to reviving soil that had become unproductive due to the long-term cultivation of cotton; and

WHEREAS, George Washington Carver advocated the use of legumes to replace minerals depleted from the soil by cotton crops. He advised, "Plant peanuts. That'll keep the soil productive. And the boll weevils don't attack peanuts"; and

WHEREAS, solving the problem with unproductive soil resulted in an abundant peanut crop, which could not be marketed profitably and for which there was very little use or demand. George Washington Carver soon set about discovering nearly 300 valuable uses to which the peanut could be put. During his lifetime, peanut crops developed an annual value of \$200 million; and

WHEREAS, George Washington Carver went on to develop various paint, dyes, and medicinal treatments from peanuts, sweet potatoes, and soybeans. He even developed a synthetic rubber for Henry Ford derived from goldenrod; and

WHEREAS, George Washington Carver steadfastly refused to accept an increase in his \$125 a month salary at Tuskegee or offers of more lucrative positions, including one from Thomas Edison that reportedly paid \$100,000 a year. He also declined to patent most of his discoveries, believing that his intellect and industry were gifts from God that should be shared freely; and

WHEREAS, on July 14, 1943, a mere six months after his death, George Washington Carver's birthplace near Diamond Grove was designated as a national monument; and

WHEREAS, George Washington Carver popularized agricultural extension programs at American universities; can be acknowledged as the father of modern plant science; and is recognized as one of the greatest scientific minds in American history; and

WHEREAS, George Washington Carver overcame enormous prejudice and poverty in his struggle from being identified merely as "Carver's George" to becoming the world renowned George Washington Carver, B.S., M.S., D.Sc., Ph.D., Fellow of the Royal Society of Arts, London, and Director of Research and Experiment at Tuskegee Institute, Alabama; and

WHEREAS, George Washington Carver accomplished all of his many great deeds without a trace of bitterness, with total indifference to personal fortune, and thought only to make the world, America in particular, a better place for all mankind; and

WHEREAS, George Washington Carver, in his modesty,

once stated, "I am no great person. I am no great scientist. I have only been able to point the way in a few things. After me will come those who read and interpret the signs, the great of the world. I am only the trailblazer."

NOW THEREFORE BE IT RESOLVED that the members of the Missouri Senate, Ninety-Third General Assembly, Second Regular Session, the House of Representatives concurring therein, hereby designate that the state office building located at 1616 Missouri Boulevard, Jefferson City, Missouri, shall hereinafter be known as the "George Washington Carver State Office Building"; and

BE IT FURTHER RESOLVED that the Secretary of the Missouri Senate be instructed to prepare properly inscribed copies of this resolution for the Governor for his approval or rejection pursuant to the Missouri Constitution, and if approved, notify the Director of the Missouri Department of Agriculture.

Read 1st time.

INTRODUCTION OF BILLS

SB 1040—By Barnitz.

An Act to repeal sections 67.1401, 99.320, 99.805, 100.310, and 353.020, RSMo, and to enact in lieu thereof eight new sections relating to real estate.

SB 1041—By Gibbons.

An Act to amend chapter 570, RSMo, by adding thereto one new section relating to obtaining, receiving and selling personal health information, with penalty provisions.

SB 1042—By Kennedy.

An Act to repeal section 137.115, RSMo, and to enact in lieu thereof one new section relating to assessment of real property.

SB 1043—By Coleman.

An Act to amend chapter 443, RSMo, by adding thereto seven new sections relating to predatory lending.

SB 1044—By Alter.

An Act to amend chapter 307, RSMo, by adding thereto one new section relating to the crime of failure to lower tinted windows, with a penalty provision.

SB 1045—By Goodman.

An Act to repeal section 516.090, RSMo, and to enact in lieu thereof one new section relating to the statute of limitations for certain actions involving land held by a public utility.

SB 1046—By Days.

An Act to amend chapter 26, RSMo, by adding thereto one new section relating to the emancipation day commission.

SB 1047—By Loudon, Gibbons, Bartle, Cauthorn, Clemens, Shields, Vogel, Callahan, Dougherty, Ridgeway, Champion, Green, Alter, Engler, Nodler, Wilson, Griesheimer, Coleman, Koster, Barnitz, Purgason, Kennedy, Goodman, Wheeler and Klindt.

An Act to amend chapter 650, RSMo, by adding thereto one new section relating to a department of public safety grant program.

SB 1048—By Shields.

An Act to repeal section 301.140, RSMo, and to enact in lieu thereof one new section relating to refund of motor vehicle registration fees.

SB 1049—By Shields.

An Act to amend chapter 208, RSMo, by adding thereto one new section relating to the disabled employee's health assistance program, with an emergency clause.

REPORTS OF STANDING COMMITTEES

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

Mr. President: Your Committee on Rules, Joint Rules, Resolutions and Ethics, to which was referred **SS** for **SCS** for **SB 590**, 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.

REFERRALS

President Pro Tem Gibbons referred **SS** for **SCS** for **SB 590** to the Committee on Governmental Accountability and Fiscal Oversight.

MESSAGES FROM THE HOUSE

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

Mr. President: I am instructed by the House of Representatives to inform the Senate that the House has taken up and adopted **HCR 9**.

HOUSE CONCURRENT RESOLUTION NO. 9

Whereas, following breast cancer, cervical cancer is the second most common cancer in women worldwide after breast cancer; and

Whereas, according to United States cervical cancer statistics, the disease is the third most common gynecological cancer among American women. With approximately 12,200 new cases diagnosed annually, 4,100 of these cases result in death; and

Whereas, with regular and accurate screening, cervical cancer is highly preventable with regular and accurate screening; and

Whereas, widespread screening programs have helped reduce death rates from cervical cancer, but women are still dying even with such advanced medical techniques and evaluative procedures; and

Whereas, cervical cancer cases in the United States are generally attributed to lack of education, a reduction of access available to regular cervical cancer screening, and a lack of screening accuracy; and

Whereas, experience shows that increasing cervical cancer awareness among women, especially underserved women within our state, significantly reduces the probability of mortality; and

Whereas, cervical cancer disproportionately affects minority women and women with lower incomes because they are less likely to have access to routine screening; and

Whereas, approximately one-half of all cervical cancer cases are in women who have never been screened, and ten percent of cases are in women who have not been screened within the last five years; and

Whereas, the median age of cervical cancer patients at diagnosis is 47 years, the youngest median age for all female reproductive cancers; and

Whereas, new screening technologies, including FDA-approved testing for human papillomavirus, which is the cause of virtually all cervical cancers, offer new opportunities to finally

eliminate this potentially deadly disease through early identification of women at increased risk; and

Whereas, leading medical organizations, including the American College of Obstetricians and Gynecologists, the American Cancer Society, and the Association of Reproductive Health Professionals have recently updated their screening guidelines to include FDA-approved testing for human papillomavirus; and

Whereas, women are entitled to proper cervical cancer information so they can be empowered to make informed health care decisions, and are entitled to access to routine screening, including the most accurate methods available:

Now, therefore, be it resolved that the members of the House of Representatives of the Ninety-third General Assembly, Second Regular Session, the Senate concurring therein, hereby recognize that through education and screening women can lower their likelihood for developing cervical cancer, and that through early detection cervical cancer can be successfully treated after it develops; and

Be it further resolved that the Missouri General Assembly supported the Missouri Department of Health and Senior Services and the Missouri Cancer Consortium in taking the lead in formulating the Comprehensive Cancer Action Plan for Missouri, including the review of data regarding cervical cancer and human papillomavirus of women in Missouri, evaluating current methods used to provide women with information regarding cervical cancer, access to regular screening, and options for increasing screening accuracy; and

Be it further resolved that the Missouri General Assembly supports the Missouri Department of Health and Senior Services and the Missouri Cancer Consortium in the identification of pockets of need, priority strategies, and new technologies, including new introduced therapies and preventive vaccines which are effective in preventing and controlling cervical cancer; and

Be it further resolved that the Missouri General Assembly directs that the Comprehensive Cancer Action Plan for Missouri, which serves as a nationwide model of effective cancer control strategies, be presented annually to the Governor, Lieutenant Governor, President Pro Tem of the Senate, the Speaker of the House of Representatives, and be posted on the Missouri state web site homepage; 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 Governor Matt Blunt, Lieutenant Governor Peter Kinder, the Director of the Department of Health and Senior Services, and the Missouri Cancer Consortium.

In which the concurrence of the Senate is respectfully requested.

SECOND READING OF SENATE BILLS

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

SB 1026—Financial and Governmental Organizations and Elections.

SB 1027—Transportation.

SB 1028—Judiciary and Civil and Criminal Jurisprudence.

SB 1029—Pensions, Veterans' Affairs and General Laws.

SB 1030—Judiciary and Civil and Criminal Jurisprudence.

SB 1031—Commerce, Energy and the Environment.

SB 1032—Financial and Governmental Organizations and Elections.

SB 1033—Pensions, Veterans' Affairs and General Laws.

SB 1034—Financial and Governmental Organizations and Elections.

SB 1035—Financial and Governmental Organizations and Elections.

SB 1036—Transportation.

SB 1037—Agriculture, Conservation, Parks and Natural Resources.

SB 1038—Agriculture, Conservation, Parks and Natural Resources.

SB 1039—Transportation.

SENATE BILLS FOR PERFECTION

Senator Mayer moved that **SB 849** be taken up for perfection, which motion prevailed.

Senator Mayer offered **SS** for **SB 849**, entitled:

SENATE SUBSTITUTE FOR
SENATE BILL NO. 849
An Act to repeal sections 290.220, 290.290

and 290.305, RSMo, and to enact in lieu thereof nine new sections relating to public contracts.

Senator Mayer moved that **SS** for **SB 849** be adopted.

Senator Bartle assumed the Chair.

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

SENATE AMENDMENT NO. 1

Amend Senate Substitute for Senate Bill No. 849, Page 1, Section A, Line 4, by inserting after all of said line the following:

“34.077. 1. It is hereby declared to be the policy of the state of Missouri that no employer who employs any illegal alien shall be eligible to enter into a public works contract, as defined in section 34.058, nor shall any employer who employs any illegal alien be eligible to contract as a subcontractor on a project governed by a public works contract.

2. Any public entity inviting bids for or letting a public works contract shall insert in such entity's criteria for eligibility for the award of such contract a signed, notarized statement by the applicant affirming that such applicant employs no illegal aliens. Any public entity entering into a public works contract shall cause to be inserted into such contract a provision that prohibits the contractor from employing any illegal alien at any time during the period covered by such contract and a provision that prohibits the contractor, or any level of subcontractor, from contracting with any subcontractor who employs any illegal alien at any time during the period covered by such contract.”; and

Further amend the title and enacting clause accordingly.

Senator Green moved that the above amendment be adopted.

Senator Gross assumed the Chair.

At the request of Senator Mayer, **SB 849** with **SS** and **SA 1** (pending), was placed on the Informal

Calendar.

Senator Shields announced that photographers from The Maneater had been given permission to take pictures in the Chamber today.

On motion of Senator Shields, the Senate recessed until 7:30 p.m.

RECESS

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

SENATE BILLS FOR PERFECTION

Senator Mayer moved that **SB 849**, with **SS** and **SA 1** (pending), be called from the Informal Calendar and again taken up for perfection, which motion prevailed.

SA 1 was again taken up.

Senator Griesheimer assumed the Chair.

Senator Gross assumed the Chair.

At the request of Senator Green, **SA 1** was withdrawn.

Senator Kennedy offered **SA 2**:

SENATE AMENDMENT NO. 2

Amend Senate Substitute for Senate Bill No. 849, Page 3, Section 34.215, Line 16, by inserting after all of said line the following:

“160.782. 1. Any person who is an employee of an entity that provides construction services under contract on the property of a public or private elementary or secondary school, public vocational school, or public or private junior college, college, university, or any land grant university shall submit to a chemical test for the purpose of determining the illegal drug content of that person's urine prior to working in such an area. The department of health and senior services shall be responsible for administering and analyzing such tests.

2. As used in this section, the following terms shall mean:

(1) “Verified positive test result”, a test result that was positive for an illegal substance on an initial Food and Drug Administration approved immunoassay test, confirmed by a gas chromatography/mass spectrometry assay, or other confirmatory tests approved by the department of health and senior services and reviewed and verified by the medical review officer;

(2) “Medical review officer”, a licensed physician responsible for receiving laboratory results who has knowledge of substance abuse disorders and appropriate medical training to interpret and evaluate all positive test results together with a tested individual's medical history and any other relevant biomedical information.

3. Any individual subject to testing under this section shall be permitted to provide urine specimens in private, in a restroom stall or similar enclosure so that the employee is not observed while providing the sample. Collection site personnel of the same gender as the individual tested, however, may observe the individual providing the urine specimen when such personnel have reason to believe the individual may alter or substitute the specimen to be provided. Collection site personnel may have reason to believe that a particular individual may alter or substitute the specimen to be provided when the individual:

(1) Previously has been found to have tested positive for an illegal drug; or

(2) Previously has tampered with a sample.

4. After an individual yields a verified positive test, a contractor shall not allow such person to work on any school project and may:

(1) Take appropriate personnel action against such employee up to and including termination; and

(2) Require such employee to satisfactorily participate in a drug abuse assistance or

rehabilitation program approved for such purposes by a federal, state, or local health, law enforcement, or other appropriate agency.

5. If an employee yields a negative test result, that result shall stand for one year, the employee shall be allowed to work on any school project for that year, and the employee shall not be subjected to another test during this one-year period.

6. The department of health and senior services shall promulgate rules to implement the provisions of this section, including but not limited to, choosing appropriate testing facilities, appropriate fees to be assessed to employers for the adequate administration of such testing, and establishing procedures for the testing and analysis of test samples. Any rule or portion of a rule, as that term is defined in section 536.010, RSMo, that is created under the authority delegated in this section shall become effective only if it complies with and is subject to all of the provisions of chapter 536, RSMo, and, if applicable, section 536.028, RSMo. This section and chapter 536, RSMo, are nonseverable and if any of the powers vested with the general assembly pursuant to chapter 536, RSMo, to review, to delay the effective date, or to disapprove and annul a rule are subsequently held unconstitutional, then the grant of rulemaking authority and any rule proposed or adopted after August 28, 2006, shall be invalid and void.”; and

Further amend the title and enacting clause accordingly.

Senator Kennedy moved that the above amendment be adopted, and requested a roll call vote be taken. He was joined in his request by Senators Bray, Callahan, Graham and Wheeler.

SA 2 failed of adoption by the following vote:

YEAS—Senators

Barnitz	Bray	Callahan	Coleman
Days	Dougherty	Graham	Green

Gross	Kennedy	Wheeler	Wilson—12
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NAYS—Senators

Alter	Bartle	Cauthorn	Champion
Clemens	Crowell	Engler	Gibbons
Goodman	Griesheimer	Koster	Loudon
Mayer	Nodler	Purgason	Ridgeway
Scott	Shields	Stouffer	Vogel—20

Absent—Senators—None

Absent with leave—Senator Klindt—1

Vacancies—1

Senator Green offered SA 3:

SENATE AMENDMENT NO. 3

Amend Senate Substitute for Senate Bill No. 849, Page 1, Section A, Line 4, by inserting after all of said line the following:

“34.077. 1. It is hereby declared to be the policy of the state of Missouri that any employer who employs any undocumented worker shall be prohibited from entering into a contract as, or performing work as, a contractor or subcontractor on a project governed by a public works contract.

2. No employer who employs an undocumented worker, as defined by the federal Immigration Reform and Control Act of 1986, shall be eligible to enter into a public works contract, as defined in section 34.058, nor shall any employer who employs any undocumented worker be eligible to contract as a subcontractor on a project governed by a public works contract. No employer who employs an undocumented worker shall be allowed to perform work as a contractor or subcontractor on a project governed by a public works contract.

3. Any public entity inviting bids for or letting a public works contract shall insert in such entity’s criteria for eligibility for the

award of such contract a signed, notarized statement by the applicant affirming that such applicant employs no undocumented workers. Any public entity entering into a public works contract shall cause to be inserted into such contract:

(1) A provision that prohibits the contractor from employing any undocumented worker at any time during the period covered by such contract;

(2) A provision that prohibits the contractor, or any level of subcontractor, from contracting with any subcontractor who employs any undocumented worker at any time during the period covered by such contract;

(3) A provision to the effect that compliance with the provisions of this section shall be material to the contract and any violation of any provision of this section shall constitute a material breach of the contract and shall allow the public entity to unilaterally and immediately terminate the contract with the contractor; and

(4) A provision that requires the contractor to include such provisions in their bond contract that will guarantee the faithful performance of and compliance with the requirements of this section, and that will hold the public entity harmless for any losses incurred as a direct or indirect result of the contractor's violation of this section, and for any losses incurred as a direct or indirect result of the public entity's termination of the contract pursuant to this section.

4. Any entity that is found to have knowingly or negligently employed an undocumented worker at any time during the period said entity was under contract on a project governed by a public works contract, in violation of this section, shall be ineligible to work on any project governed by a public works contract for three years following such determination. An entity may appeal such

determination with the administrative hearing commission pursuant to the provisions of chapter 621, RSMo. For purposes of this section, the word "negligent" shall have the meaning set forth in section 285.025, RSMo.

5. In addition to other provisions of law which may allow interested parties or others to take action to enforce the provisions of this section, the attorney general is authorized to take all necessary action to enforce the provisions of this section, including, but not limited to, obtaining an order for injunction from a court of competent jurisdiction:

(1) To stop a contractor from bidding on, or entering into, or performing work pursuant to, any contract or subcontract for construction of public works; and

(2) To stop a public entity from paying a contractor who has violated any provision of this section."; and

Further amend the title and enacting clause accordingly.

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

Senator Bray offered SA 4:

SENATE AMENDMENT NO. 4

Amend Senate Substitute for Senate Bill No. 849, Page 3, Section 34.215, Line 16, by inserting after all of said line the following:

"167.710. Beginning January 1, 2008, the department of elementary and secondary education shall:

(1) Adopt an indoor air quality in schools inspection and evaluation program to inspect and evaluate the indoor air quality of every school in this state a minimum of one time every three years;

(2) Establish minimum standards for indoor air quality in schools, including but not limited to radon testing and other chemical

compounds that affect indoor air quality. Such standards shall be no less than the standards promulgated by the American Society of Heating, Refrigeration, and Air Conditioning Engineers handbook (ASHRAE), the National Fire Protection Association code (NFPA), and the code of the Building Officials and Code Administration (BOCA); and

(3) Develop procedures for complaints to be filed requesting indoor air quality inspection and evaluation.

167.712. 1. A report of the results of any inspection and evaluation conducted pursuant to section 167.710 shall be made no later than sixty days after the inspection or evaluation takes place and shall include but not be limited to a summary of the findings and recommendations in developing a reasonable plan to improve air quality conditions.

2. A report of the results of any inspection and evaluation conducted pursuant to section 167.710 shall be sent to the school's principal, school board, state board of education, the department of elementary and secondary education, and the person filing the complaint about the air quality of the school.

3. The report shall be made public and a copy provided, for a reasonable cost, to anyone requesting a report.

4. To the extent practicable, the reports and evaluations shall be published on the Internet by the department of elementary and secondary education.

167.714. If any school of this state does not meet the minimum standards established pursuant to sections 167.710 to 167.714, the school shall remedy the air quality problem not more than sixty days after the school's principal receives the report pursuant to section 167.712.”; and

Further amend the title and enacting clause accordingly.

Senator Bray moved that the above amendment be adopted.

Senator Shields raised the point of order that SA 4 goes beyond the scope of the bill.

The point of order was referred to the President Pro Tem who ruled it well taken.

Senator Green offered SA 5, which was read:

SENATE AMENDMENT NO. 5

Amend Senate Substitute for Senate Bill No. 849, Page 7, Section 290.326, Line 4, by inserting after all of said line the following:

“290.341. 1. Every contractor or other employer working on a public works project in this state shall require each newly hired independent contractor to fill out a federal 1099 form. The forms shall be compiled, distributed, and entered into the state directory of new hires in the same fashion as set forth in subsection 1 of section 285.300, RSMo.

2. No contractor or other employer working on a public works project in this state shall, in an attempt to avoid tax liability or reporting requirements for any employee, denote or treat such employee as an independent contractor, contract labor, or any other term or category implying the absence of an employment relationship.

3. Any such contractor or other employer who misclassifies an employee as an independent contractor or otherwise misclassifies the employee’s employment status shall be fined an amount equal to twice the amount of tax otherwise due on the employee’s taxable wages if it is shown that the employer’s failure to report wages is due to bad faith.

4. No such contractor or other employer shall terminate or in any manner discriminate against an employee because the employee has communicated to the employer the intent to seek reclassification as an employee instead of an independent contractor or has

communicated the intent to file an action alleging a violation of this section.”; and

Further amend the title and enacting clause accordingly.

Senator Green moved that the above amendment be adopted.

Senator Green offered **SA 1 to SA 5**, which was read:

SENATE AMENDMENT NO. 1 TO

SENATE AMENDMENT NO. 5

Amend Senate Amendment No. 5 to Senate Substitute for Senate Bill No. 849, Page 1, Section 290.341, Line 11, by inserting after the word **“employee,”** the following:

“avoid payments to the unemployment compensation fund under chapter 288, RSMo, or avoid payments to the second injury fund under chapter 287, RSMo,”;

And further amend said amendment, said page, same section, line 19 by inserting after the word **“wages”** the following:

“, payments otherwise due to the unemployment compensation fund under chapter 288, RSMo, and payments otherwise due to the second injury fund under chapter 287, RSMo,”

And further amend same amendment, same page, same section, line 26 by inserting after the words **“this section.”** the following:

“5. The director of revenue is authorized to take all necessary action to enforce the provisions of this section, including, but not limited to, taking all actions necessary to collect the fines and taxes due pursuant to this section. The director of revenue shall direct to the unemployment compensation fund and to the second injury fund amounts that are collected for payments due to those funds.”.

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

SA 5, as amended, was again taken up.

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

Senator Days offered **SA 6**:

SENATE AMENDMENT NO. 6

Amend Senate Substitute for Senate Bill No. 849, Page 1, Section A, Line 4, by inserting after all of said line the following:

“34.078. 1. It is hereby declared to be the policy of the state of Missouri that minority business enterprises located within this state, as defined in section 33.750, RSMo, shall have a reasonable and fair opportunity to compete for and enter into any public works contract, as defined in section 34.058.

2. A minimum of twenty-five percent, by value, of each public works contract, or of the aggregate of all public works contracts on a single project, entered into by any public entity shall be entered into with minority business enterprises. If there are not a sufficient number of qualified minority business enterprises in the locality, as defined in section 290.210, RSMo, to meet the twenty-five percent goal established in this section, then the public entity awarding the contract shall cause to be inserted into the contract:

(1) A stipulation requiring the contract recipient to make a good faith effort to solicit and use subcontracts with Missouri minority business enterprises located within reasonable proximity to the geographic area in order to meet the twenty-five percent goal established in this section; and

(2) A stipulation requiring all the contractor’s bonds on the project to include such provisions as will guarantee the faithful performance of the good faith effort required by the contract pursuant to subdivision (1) of this subsection.”; and

Further amend the title and enacting clause accordingly.

Senator Days moved that the above amendment be adopted.

A quorum was established by the following vote:

Present—Senators

Alter	Barnitz	Bartle	Bray
Callahan	Cauthorn	Champion	Clemens
Coleman	Crowell	Days	Engler
Gibbons	Goodman	Griesheimer	Gross
Kennedy	Koster	Loudon	Mayer
Nodler	Purgason	Ridgeway	Scott
Shields	Stouffer	Vogel	Wilson—28

Absent—Senators

Dougherty	Graham	Green	Wheeler—4
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Absent with leave—Senator Klindt—1

Vacancies—1

Senator Scott assumed the Chair.

At the request of Senator Mayer, **SB 849**, with **SS** and **SA 6** (pending), was placed on the Informal Calendar.

RESOLUTIONS

Senator Green offered Senate Resolution No. 2038, regarding C. Allen Benton, which was adopted.

INTRODUCTIONS OF GUESTS

Senator Kennedy introduced to the Senate, former State Senator Anita Yeckel, St. Louis County.

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

SENATE CALENDAR

TWENTY-THIRD DAY—TUESDAY, FEBRUARY 14, 2006

FORMAL CALENDAR

SECOND READING OF SENATE BILLS

SB 1040-Barnitz	SB 1045-Goodman
SB 1041-Gibbons	SB 1046-Days
SB 1042-Kennedy	SB 1047-Loudon, et al
SB 1043-Coleman	SB 1048-Shields
SB 1044-Alter	SB 1049-Shields

THIRD READING OF SENATE BILLS

SS for SCS for SB 590-Nodler (In Fiscal Oversight)

SENATE BILLS FOR PERFECTION

- | | |
|---|--------------------------------|
| 1. SB 583-Griesheimer and Alter, with SCS | 7. SB 584-Champion |
| 2. SB 820-Koster, with SCS | 8. SB 596-Days |
| 3. SB 614-Stouffer & Goodman, with SCS | 9. SB 644-Shields |
| 4. SB 832-Griesheimer, with SCS | 10. SB 666-Engler,
with SCS |
| 5. SBs 575 & 714-Scott, et al, with SCS | 11. SB 629-Gross |
| 6. SBs 588, 557, 579, 563, 869, 619,
570, 753, 764, 782, 783 & 890-Bartle
and Scott, with SCS | |

Unofficial

INFORMAL CALENDAR

SENATE BILLS FOR PERFECTION

- | | |
|---------------------------------------|---|
| SB 689-Scott | SB 849-Mayer, et al, with SS & SA 6 (pending) |
| SB 690-Champion, with SCS | SJR 26-Ridgeway and Graham |
| SB 773-Cauthorn and Barnitz, with SCS | |

CONSENT CALENDAR

Senate Bills

Reported 2/2

- | | |
|-------------------------|--------------------------|
| SB 749-Engler, with SCS | SB 630-Gross, with SCS |
| SB 747-Klindt, with SCS | SB 805-Gross |
| SB 641-Scott | SB 612-Engler |
| SB 818-Scott | SB 712-Scott |
| SB 819-Scott | SB 802-Shields, with SCS |
| SB 828-Scott | SB 648-Champion |
| SB 678-Gross | SB 677-Gross |

Reported 2/9

- | | |
|----------------|--------------------------------|
| SB 559-Gibbons | SB 746-Klindt, with SCS |
| SB 558-Gibbons | SB 825-Koster, et al, with SCS |

SB 881-Engler
SB 900-Shields
SB 765-Dougherty, with SCS
SB 618-Koster
SB 580-Shields, with SCS
SB 650-Champion, with SCS

SB 656-Nodler
SB 679-Gross
SB 840-Stouffer
SB 908-Stouffer
SB 909-Stouffer

RESOLUTIONS

Reported from Committee

SCR 25-Cauthorn, with SCS

SCR 24-Scott, with SCS

To be Referred

SCR 28-Days and Nodler

HCR 9-Ruestman, et al

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