

JOURNAL OF THE HOUSE

First Regular Session, 93rd GENERAL ASSEMBLY

TWELFTH DAY, WEDNESDAY, JANUARY 26, 2005

The House met pursuant to adjournment.

Speaker Pro Tem Bearden in the Chair.

Prayer by Reverend James Earl Jackson.

Heavenly Father, the heavens declare Your glory, their vastness declare the work of Your hand.

As each day begins and ends, our hope is for the betterment of this state and its inhabitants. We humbly ask Your help in this.

Grant us discipline and wisdom to make decisions free from the love of money, pride, and self-centeredness. May we be good stewards of the manifold blessings You have bestowed upon us.

O Lord, consider our weaknesses, as we seek solutions to financial shortfalls and the major issues that confront us. Grant us strength of purpose, clarity of vision, and commitment to united efforts to get the job done.

May Your grace and peace rest and abide with us all.

In the name of Your Son we pray. Amen.

The Pledge of Allegiance to the flag was recited.

The Speaker appointed the following to act as Honorary Pages for the Day, to serve without compensation: Kelsey Karr, Mark Vogt, Paul Vogt, Laura Prather, Rachel Prather, Joshua Prather, Samuel Prather, Caleb Prather, Nathaniel Prather and Naomi Prather.

The Journal of the eleventh day was approved as printed.

HOUSE CONCURRENT RESOLUTION

Representative Baker (123) offered House Concurrent Resolution No. 15.

HOUSE COURTESY RESOLUTIONS OFFERED AND ISSUED

House Resolution No. 240	-	Representative Jetton
House Resolution No. 242	-	Representative Johnson (61)
House Resolution No. 243	-	Representative Goodman
House Resolution No. 244	-	Representative Walsh
House Resolution No. 245	-	Representative Lager

House Resolution No. 246
and
House Resolution No. 247 - Representative Hobbs
House Resolution No. 248
through
House Resolution No. 260 - Representative Pratt
House Resolution No. 261 - Representative Skaggs
House Resolution No. 262 - Representative Loehner
House Resolution No. 263 - Representative Self
House Resolution No. 264 - Representative Sutherland
House Resolution No. 265 - Representative Wilson (119)
House Resolution No. 266 - Representative Cooper (155)
House Resolution No. 267 - Representative Fisher
House Resolution No. 268
through
House Resolution No. 272 - Representative Lager
House Resolution No. 273 - Representative Munzlinger

SECOND READING OF HOUSE JOINT RESOLUTION

HJR 10 was read the second time.

SECOND READING OF HOUSE BILLS

HB 306 through **HB 323** were read the second time.

SECOND READING OF SENATE BILL

SB 176 was read the second time.

MOTION

Representative Dempsey moved that Rule 113 be suspended.

Which motion was adopted by the following vote:

AYES: 154

Aull	Baker 123	Baker 25	Barnitz	Bean
Bearden	Behnen	Bivins	Black	Bland
Bowman	Boykins	Bringer	Brooks	Brown 30
Brown 50	Bruns	Burnett	Byrd	Chappelle-Nadal
Casey	Chinn	Cooper 120	Cooper 155	Cooper 158
Corcoran	Cunningham 145	Cunningham 86	Curls	Darrough
Davis	Day	Deeken	Dempsey	Denison
Dethrow	Dixon	Donnelly	Dougherty	Dusenberg
El-Amin	Emery	Ervin	Faith	Fares
Fisher	Flook	Franz	Fraser	Goodman
Guest	Harris 110	Harris 23	Haywood	Henke

Hobbs	Hoskins	Hubbard	Hughes	Hunter
Icet	Jackson	Johnson 47	Johnson 61	Johnson 90
Jolly	Jones	Kelly	Kingery	Kratky
Kraus	Kuessner	Lager	Lampe	Lembke
LeVota	Liese	Lipke	Loehner	Low 39
Lowe 44	Marsh	May	McGhee	Meadows
Meiners	Moore	Munzlinger	Muschany	Myers
Nance	Nieves	Nolte	Oxford	Page
Parker	Parson	Pearce	Phillips	Pollock
Portwood	Pratt	Rector	Richard	Roark
Robb	Robinson	Roorda	Rucker	Ruestman
Rupp	Salva	Sander	Sater	Schaaf
Schad	Schlottach	Schneider	Schoemehl	Selby
Self	Shoemyer	Smith 118	Smith 14	Spreng
Stefanick	St. Onge	Storch	Sutherland	Swinger
Threlkeld	Tilley	Viebrock	Villa	Wagner
Wallace	Walsh	Walton	Wasson	Wells
Weter	Wildberger	Wilson 119	Wilson 130	Witte
Wood	Wright-Jones	Wright 137	Wright 159	Yaeger
Yates	Young	Zweifel	Mr Speaker	

NOES: 004

Daus	Skaggs	Vogt	Whorton
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PRESENT: 000

ABSENT WITH LEAVE: 004

Avery	George	Quinn	Stevenson
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VACANCIES: 001

ESCORT COMMITTEES

The Speaker appointed the following committee to escort Lieutenant Governor Peter Kinder and members of the Senate to the dais: Representatives Cooper (155), Davis, Day, Deeken, May, St. Onge, Casey, George, Kuessner and Selby.

The Speaker appointed the following committee to escort His Excellency Governor Matt Blunt to the dais: Representatives Phillips, Black, Myers, Wright (137), Denison, Sutherland, Boykins, Fraser, Lampe and Wagner.

MESSAGE FROM THE SENATE

Mr. Speaker: I am instructed by the Senate to inform the House of Representatives that the President Pro Tem has appointed Senator Wilson to replace Senator Wheeler, pursuant to **HCR 2**.

RECESS

On motion of Representative Dempsey, the House recessed until 6:30 p.m.

The hour of recess having expired, the House was called to order by Speaker Jetton.

JOINT SESSION

The hour of the Joint Session having arrived, the Senate in a body was admitted and Lieutenant Governor Kinder, presiding, called the Joint Assembly to order.

The Central High School Color Guard of St. Joseph, Missouri, presented the Colors and the Pledge of Allegiance to the flag was recited.

The Secretary of the Senate called the roll, which showed a majority of the Senators present:

AYES: 031

Bartle	Bray	Callahan	Cauthorn	Champion
Clemens	Coleman	Crowell	Days	Dolan
Dougherty	Engler	Gibbons	Graham	Green
Griesheimer	Gross	Kennedy	Klindt	Koster
Loudon	Mayer	Nodler	Purgason	Ridgeway
Scott	Shields	Stouffer	Taylor	Vogel
Wilson				

NOES: 000

PRESENT: 000

ABSENT WITH LEAVE: 001

Wheeler

VACANCIES: 002

The Chief Clerk of the House called the roll, which showed a majority of the Representatives present:

AYES: 157

Aull	Baker 123	Baker 25	Barnitz	Bean
Bearden	Behnen	Bivins	Black	Bland
Bowman	Boykins	Bringer	Brooks	Brown 30
Brown 50	Bruns	Burnett	Byrd	Chappelle-Nadal
Casey	Chinn	Cooper 120	Cooper 155	Cooper 158
Corcoran	Cunningham 145	Cunningham 86	Curls	Darrrough
Daus	Davis	Day	Deeken	Dempsey
Denison	Dethrow	Donnelly	Dougherty	Dusenberg
El-Amin	Emery	Ervin	Faith	Fares
Fisher	Flook	Franz	Fraser	George
Goodman	Guest	Harris 110	Harris 23	Haywood
Henke	Hobbs	Hoskins	Hubbard	Hughes
Hunter	Ice	Jackson	Johnson 47	Johnson 61
Johnson 90	Jolly	Jones	Kelly	Kingery
Kratky	Kraus	Kuessner	Lager	Lampe
Lembke	LeVota	Liese	Lipke	Loehner
Low 39	Lowe 44	Marsh	May	McGhee
Meadows	Meiners	Moore	Munzlinger	Muschany
Myers	Nance	Nieves	Nolte	Oxford
Page	Parker	Parson	Pearce	Phillips

Pollock	Portwood	Pratt	Quinn	Rector
Richard	Roark	Robb	Robinson	Roorda
Rucker	Ruestman	Rupp	Salva	Sander
Sater	Schaaf	Schad	Schlottach	Schneider
Schoemehl	Selby	Self	Shoemyer	Skaggs
Smith 118	Smith 14	Spreng	Stefanick	St. Onge
Storch	Sutherland	Swinger	Threlkeld	Tilley
Viebrock	Villa	Wagner	Wallace	Walsh
Walton	Wasson	Wells	Weter	Wildberger
Wilson 119	Wilson 130	Witte	Wood	Wright-Jones
Wright 137	Wright 159	Yaeger	Yates	Young
Zweifel	Mr Speaker			

NOES: 000

PRESENT: 000

ABSENT WITH LEAVE: 005

Avery	Dixon	Stevenson	Vogt	Whorton
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VACANCIES: 001

The Sergeant-at-Arms announced the approach of the Honorable Matt Blunt, Governor of the State of Missouri. The Governor was duly escorted to the House Chamber and the Speaker's dais, where he delivered the following message to the Assembly in Joint Session.

STATE OF THE STATE ADDRESS BY GOVERNOR MATT BLUNT

Lieutenant Governor Kinder, Mr. Speaker, Mr. President Pro Tem, Distinguished State Officials, Judges of the Supreme Court, members of the General Assembly, Reverend Clergy, fellow Missourians:

I come before you this evening to share my vision for leading Missouri in a new direction. I am grateful for the opportunity to work with you to create a state government that respects the people and responds to their needs. It is my duty to recommend to you a budget for Fiscal Year 2006.

The past several years have been difficult for our state. Missouri's job loss crisis has hurt families in every region, reduced state revenue, and increased the demand on already strained social programs.

Missouri students and schools were caught in a political crossfire between the executive and legislative branches of government. Paralysis in the state Capitol caused local school boards to cut their budgets because they did not know how much money the state would provide.

State government's failure to reform the courts drove cherished family doctors and medical specialists from Missouri or out of practice altogether. Our current court system is unfair to doctors, but more importantly it harms every Missourian who struggles to find affordable medical care.

In spite of advances in technology and changes in the economy, state government still operates on an obsolete 1970s model. We have a typewriter government in an Internet age. Few efficient businesses and organizations are structured today the way they were 30 years ago. Missouri taxpayers are not getting full value for their hard-earned tax dollars.

My administration will focus on reversing this course and making Missouri a national leader and a model for other states.

First, so that all Missouri children can reach their full potential, we must make education our highest public policy and budget priority. Second, to spur economic growth, we must help Missouri's entrepreneurs and employers create and retain good, family-supporting jobs. Third, to enhance the quality of life, we must improve access to, and the affordability of, quality health care. Finally, to give taxpayers proper value for their hard-earned tax dollars we will build a modern and efficient state government.

That is why I already signed an Executive Order prohibiting the purchase of additional cell phones, non-emergency vehicles and office space. We have closed an unnecessary Washington, D.C. lobbying office.

It is also why I have asked Stephen Bradford and Warren Erdman to lead a commission designed to reevaluate the structure of our state government. Missourians are ready for these changes and more. I invite all of you, regardless of party, to join with me in providing a government worthy of the people of this great state.

Public education is an investment in our future. If it is to be our top public policy priority, then it must also be our highest budget priority. That is why my budget provides 170.6 million dollars in new funding for our public schools.

This is a 4.7% increase over last year. Tonight, I reaffirm my commitment that dollars approved for our classrooms will never be withheld under any circumstances whatsoever.

We must make this commitment to our school children in spite of anemic growth in the general revenue budget.

We must also make this commitment without any new job-killing taxes.

The budget that I submit to you tonight is based on the revenue that we will receive. This budget is not built upon tax increases. I do not, and will not, support increasing the tax burden on Missouri families. This means that we must make responsible and often difficult decisions in the rest of the budget.

My budget calls for significant reductions in spending for some state agencies and programs. It demands that state government live within the people's means, with no new job-destroying taxes that harm working families and diminish future economic opportunities.

We must meet our obligation to those who are truly in need of public assistance, but the current Medicaid program has grown far beyond the taxpayers' ability to pay. Rising health care costs and program expansions by previous administrations more than doubled expenditures in just six years. Without reform, Missouri will spend a larger percentage of our total budget on Medicaid than all but one other state. Without aggressive action we cannot properly fund education, or any of our other public policy priorities. With this in mind, I am proposing that we reform our state's Medicaid program. The program and eligibility changes included in this budget were not easily reached decisions, but we have put off the tough decisions for too long. Now is the time for decisive action. Missourians can no longer afford the second most expensive Medicaid program in the United States.

The reformed Medicaid Program will still spend over 5.3 billion dollars. That is 26% of our total state budget. Even after restructuring, we will still dedicate a larger share of our budget to Medicaid than all but 14 states. In other words, 35 other states will spend a smaller percentage of their budget on Medicaid even after we make these much needed changes. Working together, we must create a sustainable Medicaid program that is capable of providing medical care to those who truly need assistance.

There are well documented instances of individuals defrauding the Medicaid system and costing taxpayers millions of dollars each year. I am committed to stopping this theft of taxpayer dollars and I ask you to pass legislation requiring the Department of Social Services to conduct annual eligibility reviews of every Medicaid recipient. This and other anti-fraud measures could allow us to reclaim 75 million dollars in lost revenue for Missourians who truly need public assistance.

The Medicaid eligibility and program changes outlined in this budget will save 626 million dollars in state and federal revenue.

My budget protects all children and expectant mothers covered by Medicaid. Both of these initiatives are responsible uses of taxpayer dollars. Since 1998, the State Children's Health Insurance Program has extended health care coverage to more than 87,000 young Missourians. The CHIP's program is a proactive investment in the future of Missouri's children.

Over the past several years, the state's child welfare system has failed to adequately address the needs of children in its care. Child abuse and neglect offend the basic values of our state. We have a responsibility to provide safe settings for at-risk children and facilitate permanent placement for children who cannot return home. I propose that the state commit 9.5 million dollars to strengthen subsidized adoption and guardianship programs that find permanent homes for children in foster care. I also propose that we commit 7 million dollars to fund a rate increase for providers of residential treatment services for abused and neglected children.

I believe in the sanctity of life and in protecting unborn children. I support improved conscience protections for health-related professionals. I also support funding alternatives to abortion programs. And this year, I ask the Missouri General Assembly to pass legislation that prohibits the transporting of a minor across state lines for the purpose of obtaining an abortion without parental consent.

The Parents as Teachers program helps prevent child abuse, reduces the number of children in special education programs and ensures that young Missourians are better prepared to learn and advance to the next grade when they start school. This initiative has strengthened the essential bond between parents and their children in thousands of Missouri families. My budget also includes a 5 million dollar increase in the Parents as Teachers program.

The A+ Schools Program encourages high school students to stay in school, make career plans and graduate with the skills and knowledge required for career success. This program provides two years of community college education for students who meet specific requirements. I believe in the A+ program and my budget includes a 4 million dollar increase for this initiative.

Missouri ranks last in combating youth smoking. Most adult smokers start as teens. Missouri has not spent a single penny that we have received from the tobacco settlement to help young people kick the habit or prevent others from starting. This is wrong and my budget sets aside \$875,000 as a first step to reduce smoking by our young people.

To provide relief and assistance to Missouri seniors, I have allocated funds to continue Missouri's Senior Rx program. This will give us time to analyze recently published federal rules for the Medicare prescription drug benefit. We must determine if, and then perhaps how, the state can complement the new federal prescription drug benefit.

In addition, to provide better in-home service care for seniors in their homes, I have included a \$2 per hour wage increase for home health care providers.

Under my budget, Missourians with developmental disabilities would enjoy a higher quality of life in a less restrictive environment, instead of in a state-operated institution. I support plans to expand private-sector community placements through closure of the state-operated Bellefontaine Habilitation Center. These actions will save the state 13.8 million dollars and benefit Missourians with developmental disabilities.

This budget also calls for a reduction of over 1,000 of our state's 60,000 full-time government positions. These positions are spread all across our state, but to balance the budget, additional reductions beyond those that I have specifically identified are necessary. Such reductions must be achieved through better management without harming vital state programs. I am committed to rooting out wasteful spending and I have tasked my department directors with developing budget strategies for Fiscal Year 2006. My budget is based upon a 20% reduction in discretionary spending. Reductions in Fiscal Year 2006 will be part of a smaller core budget in the following years. This action is necessary if we are to increase funding for our public schools and hold the line on taxes.

Missouri is blessed with dedicated public servants. Together we will be tested as we work to reduce costs and deliver better service. Missourians want fair pay for their employees. We should not wait until an election year to do

the right thing and I propose a 1% pay increase for all of Missouri's state employees. This does not apply to elected officials.

No new taxes are proposed in my budget. Missouri families pay enough in taxes. They want their state government to live within its means and to make difficult choices, just as they do, when times are tight.

Legislative Priorities

Now, I am pleased to present my legislative initiatives for better schools, a stronger economy, better health care and other important needs.

My number one legislative priority is public education. Few among us tonight in the State Capitol or at home believe the current school funding formula is acceptable. It fails to distribute public funds fairly and has created a system of have's and have not's.

Prior to being sworn into office, I invited teachers, administrators and legislative leaders from both sides of the aisle to an education summit. I said then, and I believe today, that working in a cooperative spirit we can craft a new school funding formula this legislative session that positively affects the lives of young Missourians.

I would like to introduce you to two Missouri students, Caroline Greenberg and Josh Wimpey. Both go to a public school. They are both loved by their families. They are equal in the eyes of God. They should be equal in the eyes of the state. However, one of their school districts spends \$13,376 per year per child and the other one spends \$5,175. That is neither right nor fair.

It is our responsibility as elected officials to fix this problem. Missourians expect and deserve no less.

We are all striving to find a formula that meets the needs of Caroline, Josh and all of our children. The consensus we reach should be based on principles that will offer fundamental change. First, we should allow some school districts to opt out of the formula. In exchange for no state assistance they will free themselves from most state regulations. This will free up resources for our neediest schools. Second, we should distribute gambling and lottery revenue to school districts on a per pupil allocation. This will allow locally elected school boards to determine how to spend these dollars. Third, we should give school districts a new local option to use either the sales or income tax instead of the property tax. Finally, we must ensure that the special education needs of Missouri students are carefully considered. Again, education is my number one priority and a new formula must be crafted to ensure every Missouri child receives a world-class education.

A college education is increasingly a requirement for success in the workplace. Therefore, my budget maintains the current level of funding for our state's colleges and universities.

To help families with children who wish to continue their education beyond high school, I look forward to working with Treasurer Steelman to expand Missouri's 529 plan, commonly referred to as MOST. The MOST fund's overall performance is of great concern to parents investing in the program. Currently, this program is operated by one fund manager and investors have few choices. I believe that Missouri should offer parents other options and that adding this element of competition will improve the fund's overall results.

To create greater opportunity for all Missourians we must improve our entrepreneurial climate.

High workers' compensation insurance premiums are costing Missouri jobs. In 2003, premiums increased by 13.8%. These premiums detract from an employers' ability to reinvest and grow his or her business and to hire new workers. Some Missouri companies have discovered that they can realize significant workers' compensation savings by moving to a neighboring state. The same problems plague even our public schools. In 2001, the Springfield Public School District spent \$451,000 on workers' compensation insurance. In 2004, the District spent 1.4 million dollars - a nearly one million dollar increase. These are funds that District could have used to hire 24 additional teachers. Our workers' compensation system must ensure that every injured worker is fully and adequately compensated for work related injuries. But, we cannot afford a system that places us at a competitive disadvantage with other states. Missouri cannot effectively compete with other states for good, family-supporting jobs unless we address this problem.

We need to examine our regulation of telecommunications companies to take into account the changes in technology and realities of the market. The telecommunications industry is critical to the continued expansion of Missouri's economy. Telecommunications technology is changing rapidly and the marketplace is fast outpacing regulation. While making these changes, we must ensure that competitors are treated equally, that investment in infrastructure is encouraged and that consumers receive the benefits of competition.

Assisting our citizens in their efforts to preserve and improve their health is a critical mission of government. In recent years, our state has not given our family caregivers the protection they deserve from out of control medical malpractice insurance costs. This crisis hits every region of our state.

Now, I would like you to join me in welcoming Dr. Anthony Heit who is an OB-GYN. Because of the rising costs of medical malpractice insurance, he was forced to relocate his 13-physician practice to Kansas. What has happened to Dr. Heit, his partners and most importantly his patients has happened all across our state. Rural communities and entire counties lack doctors who will deliver babies. In our largest cities, hospitals and trauma centers have closed due to the loss of skilled specialists. The current litigation climate has created a healthcare crisis, and we must implement real reform now. Thank you for being here tonight Dr. Heit. I look forward to working with this legislature to make the much needed changes that will allow you, and other medical professionals, to return to our great state.

A comprehensive litigation reform bill should include limits on punitive and non-economic damages, strict venue restrictions and increased sanctions against unscrupulous attorneys who file frivolous lawsuits. I support a non-economic damage cap of \$250,000. This reasonable cap has been a part of the solution in other states that have effectively addressed this problem. This bill should also eliminate joint and several liability, a rule that runs counter to fairness and common sense. Under the current system, a party can be forced to pay 100% of a settlement even if they are only 1% liable. I encourage you to pass a comparative fault rule that makes each defendant liable only for that portion of the damages for which they are directly responsible.

The same litigation reform that will improve health care will also help Missouri's small businesses create jobs and economic opportunity.

Strong economic growth also requires a safe and modern transportation system. Keep in mind as you consider possible changes to Missouri's transportation governance that MoDOT is a total transportation agency. I propose adding two members to the Transportation Commission—one representing air and mass transit and one representing freight and river transit. This change would create a total transportation emphasis within the Commission. Let me also assure you that my administration will keep faith with Missouri voters and fully implement Amendment 3. We will ensure that every tax dollar collected for transportation will be used to improve Missouri's transportation infrastructure.

Agriculture is the foundation of Missouri's economy. It is no accident that we are the best fed and best clothed nation in the world. It is because of the hard work and dedication of farmers all across the country and particularly right here in Missouri. Missouri farm families will benefit from many of the initiatives we are discussing tonight.

I support full funding for the bio-diesel and ethanol incentive funds, which will help position Missouri as a national leader in the fast-growing renewable fuels industry. This action will create new jobs in rural Missouri and lead to improved air quality for every Missourian.

Tonight, I assure communities all across our state that my administration will fully implement the Missouri Rural Economic Stimulus Act, which allows rural communities and counties to knock down barriers and create cutting edge agricultural opportunities.

Protecting Missouri families from violent criminals and ensuring that law enforcement officials have the support they need are two of the most important responsibilities of any Governor and General Assembly.

Missouri leads the nation in the production of methamphetamine. In 2003, Missouri had more than twice as many meth incidents as any other state. Too many of our fellow citizens have suffered its ravages. Too many law enforcement officers have been killed or injured in the line of duty trying to fight this deadly epidemic.

I encourage you to pass legislation similar to a law in Oklahoma that has led to an 80% reduction in meth-related incidents. It would require that certain methamphetamine ingredients be purchased only through pharmacies and that customers' names be recorded. Such legislation will help stop methamphetamine producers. The production of methamphetamine is an environmental hazard. It creates dangers for Missouri law enforcement. That is why we must extend Heart and Lung protection to Missouri's law enforcement officers similar to that which has been provided to Missouri's firefighters.

I am honored that one of St. Louis' finest has joined us here this evening. Sgt. John McLaughlin is one of Missouri's law enforcement heroes who keep our families safe. Sgt. McLaughlin, a 13-year veteran of the force, has been directly involved in working with neighborhoods in St. Louis besieged and threatened by crime for the past four years. He is helping to form a bond with residents and ensure that police and communities work together to stamp out the dangers that force people from neighborhoods - whether it be crimes against property or the constant presence of drug dealers. This kind of personal approach creates a partnership between law enforcement and the people they are bound to protect, and makes our streets safer for everyone. Thank you for being here tonight Sgt. McLaughlin and for your service to the people of St. Louis.

Patriotism is reflected in the faces of so many Missourians. Please join me in thanking those 562,000 brave Missouri veterans and their families for their service to America. As Governor, I will never forget the sacrifices of our veterans and we will work hard to meet the needs of veterans' homes, cemeteries and veteran service programs.

We also want to recognize the current sacrifice and commitment of Missouri's citizen soldiers and their families. Missourians stand in defense of freedom around the globe. Two of Missouri's heroes are here with us tonight. Please join me in thanking Lt. Colonel A.J. Probst and Sgt. Cindy Smart. Lt. Colonel Probst was part of the team that helped liberate Afghanistan and create an independent army to defend its war-torn borders. Lt. Colonel Probst was also able to watch as the first female ran for President of Afghanistan, a country that only a few years ago would not allow a woman to speak without the approval of her husband. Thank you Lt. Colonel Probst.

Even as daily mortar attacks struck her base camp in Tikrit, not far from where Saddam Hussein was flushed from his hole in the ground, Sgt. Cindy Smart of the 235th Engineer Detachment supported our fighting troops. Thank you for being here tonight Sgt. Smart and for your steadfast service to our country.

We must continue to be mindful of the sacrifices being made by Missouri's guard and reserve members and their families. Let us never forget and honor always the ultimate sacrifices of the 29 Missourians who have given their lives in defense of our freedoms since March of 2003.

As we all know, there are many challenges before us, but where there are challenges there are also opportunities. The decisions reflected in my budget are not the easy decisions, but they are the right ones for our state. I will not lead you down a path of denial. We can no longer hide from our problems. My duty is to lead our state towards our full potential. I will not shirk this responsibility. I ask all of you to rise above partisanship and join in this great effort. Working together, we can provide every Missouri child with a world class education, improve access to affordable health care, provide a climate that helps entrepreneurs create good, family-supporting jobs, reevaluate and retool the structure of our government and hold the line on job-killing taxes.

The people expect us to work together, as partners, to bring positive change to Missouri. As Thomas Jefferson reminds us, not every difference of opinion is a difference of principle. I invite each of you to join with me in a partnership for progress that will benefit all the people of Missouri.

Thank you for allowing me to address you this evening. May God continue to bless each one of you and may God bless the Great State of Missouri.

The Joint Session was dissolved by Senator Shields.

Speaker Jetton resumed the Chair.

REFERRAL OF SENATE BILL

The following Senate Bill was referred to the Committee indicated:

SB 176 - Elections

INTRODUCTION OF HOUSE JOINT RESOLUTION

The following House Joint Resolution was read the first time and copies ordered printed:

HJR 11, introduced by Representatives Lembke, Cooper (158), Bean, Bivins, Roark, Emery, Denison, Threlkeld, Wright (159), Icet, Myers, Brown (30) and Cunningham (86), relating to the judicial department.

INTRODUCTION OF HOUSE BILLS

The following House Bills were read the first time and copies ordered printed:

HB 324, introduced by Representatives Parson and Wilson (119), relating to trespass on school property.

HB 325, introduced by Representatives Jolly, Roorda, Bringer, Harris (23), Kuessner, Zweifel, Schoemehl, Curls, Harris (110), Page and Darrough, relating to the crime of driving while intoxicated.

HB 326, introduced by Representatives Hobbs, Yates, Byrd, Witte, Day, Richard, Myers, Meadows, Harris (110), Lampe, Baker (25), Munzlinger, Ervin, Darrough, Wells, Sutherland and Wilson (130), relating to state purchasing and printing.

HB 327, introduced by Representatives Smith (118), Sander, Sater, Hobbs, Sutherland and Deeken, relating to state employee deferred compensation.

HB 328, introduced by Representatives Baker (123), Wilson (130), Ervin, Nance, Fisher, Bivins, Brown (30), Stevenson, Sander, Moore, Pollock, Kingery, Robb and Day, relating to discrimination policies.

HB 329, introduced by Representatives Baker (123), Dusenberg, Dougherty, Sater, Sutherland, Bivins and Brown (30), relating to compulsory school attendance.

HB 330, introduced by Representatives Baker (123), Ervin, Dethrow, Dusenberg, Nance, Fisher, Sater, Sutherland, Davis, Bivins, Brown (30), Day, Cooper (158), Stevenson, Sander, Goodman, Pollock and Kingery, relating to public funds.

HB 331, introduced by Representatives Baker (123), Ervin, Nance, Fisher, Brown (30), Stevenson, Sander, Kingery and Robb, relating to intoxicating liquor.

HB 332, introduced by Representatives Baker (123), Ervin, Dusenberg, Nance, Fisher, Brown (30), Stevenson, Sander, Pollock, Kingery and Robb, relating to possession or control of a controlled substance.

HB 333, introduced by Representatives Smith (118), Rupp, Portwood, Yaeger, Sander, Oxford, Sater, Hobbs and Deeken, relating to public retirement systems.

HB 334, introduced by Representatives Smith (118), Franz and Deeken, relating to state employee retirement.

HB 335, introduced by Representatives Tilley and Byrd, relating to prescription medication at school.

HB 336, introduced by Representative Pollock, relating to fire protection districts.

HB 337, introduced by Representative Wildberger, relating to local government employee retirement.

HB 338, introduced by Representatives Rector, Johnson (61), Emery, Fisher, Wilson (130), Schlottach, Schad, Wright (137), Wright (159), LeVota, Kraus, Byrd, Quinn, Myers, Hobbs, Skaggs and Bearden, relating to telecommunications service.

HB 339, introduced by Representatives St. Onge, Bivins, Fraser, Schoemehl, Skaggs, Threlkeld, Page, Lowe (44), Parker, Schaaf, Schneider, Smith (14), Faith, Rupp, Bland, Hubbard, Kingery, Byrd, Meadows, Pearce and Cooper (155), relating to seat belts.

HB 340, introduced by Representatives Skaggs and Brown (30), relating to assault of a law enforcement officer, security officer, or emergency personnel.

HB 341, introduced by Representatives Schneider, Hubbard, Johnson (47) and Cunningham (86), relating to A+ school reimbursements.

HB 342, introduced by Representative Baker (123), relating to board of election commissioners.

HB 343, introduced by Representative Baker (123), relating to county officials.

HB 344, introduced by Representative Baker (123), relating to county health centers.

HB 345, introduced by Representative Baker (123), relating to county planning boards.

HB 346, introduced by Representatives Pratt, Munzlinger, Parker, Smith (118), Dougherty and Meiners, relating to right-of-way at intersections.

HB 347, introduced by Representatives Pratt, Schneider, Roark, Wilson (130), Black, Ruestman, Dusenberg, Yates, Dougherty, Wasson, Hobbs, Pearce, Baker (123), Cooper (120), Deeken, Kingery, Wood, Hubbard, Ervin, Rector, Bruns, Brown (30), Emery, Dixon, Richard, Skaggs, LeVota and Wagner, relating to actions against contractors.

HB 348, introduced by Representatives Pearce, Day, McGhee, Sater, Richard, Wells, Fisher, Weter, Sander, Hubbard, Smith (118), Smith (14), Munzlinger, Ruestman, Darrough, Cooper (158), Moore, Bivins, Wilson (119), Dusenberg, Self and Cooper (120), relating to the protection of military facilities and personnel.

HB 349, introduced by Representatives Sutherland, Wilson (119), Smith (118), Johnson (47) and Schlottach, relating to geographical information systems.

HB 350, introduced by Representative Selby, relating to campaign contribution taxes for education.

HB 351, introduced by Representative Selby, relating to driving while intoxicated.

HB 352, introduced by Representatives Lipke, Brown (30) and Nieves, relating to prosecuting and circuit attorneys' power to dismiss charges.

HB 353, introduced by Representatives Lipke, Page, Brown (30) and Nieves, relating to probation.

HB 354, introduced by Representatives Lipke, Page, Wilson (119), Wildberger, Dusenberg, Brown (30) and Nieves, relating to unlawful use of weapons.

HB 355, introduced by Representative Dempsey, relating to health care liens.

HB 356, introduced by Representatives Lipke, Cunningham (86), Fraser, Brown (30) and Nieves, relating to juvenile court jurisdiction.

HB 357, introduced by Representatives Lipke, Jolly, Dusenberg, Hubbard and Flook, relating to the crime victims' compensation fund.

HB 358, introduced by Representatives Lipke and Wilson (119), relating to the role of the court and jury in sentencing.

HB 359, introduced by Representatives Lipke, Page, Dusenberg and Brown (30), relating to failure to provide identity.

HB 360, introduced by Representatives Lipke, Page, Wilson (119), Dusenberg, Jolly, Brown (30) and Nieves, relating to resisting or interfering with arrest.

HB 361, introduced by Representatives Lipke, Yates, Nieves, Jolly, Dusenberg, Hubbard and Flook, relating to the surcharge for DNA profiling analysis.

HB 362, introduced by Representatives Lipke, Yates, Dusenberg and Hubbard, relating to expungement.

HB 363, introduced by Representatives Lipke, Dethrow, Yates, Bivins, Brown (30), Nieves, Jolly, Dusenberg and Hubbard, relating to probation and parole.

COMMITTEE REPORT

Committee on Ethics, Chairman Dempsey reporting:

Mr. Speaker: Your Committee on Ethics, begs leave to report that pursuant to Rule 36 of the House Rules it has adopted Rules of Procedure and hereby submits said Rules of Procedure in the form of a House Resolution and recommends that it has examined the same and recommends that **House Resolution No. 241 be adopted.**

HOUSE RESOLUTION NO. 241

ETHICS COMMITTEE RULES OF PROCEDURE

RULE 1. Scope and Authority

These Rules of Procedure govern the conduct of the investigation of complaints of ethical misconduct by a member of the House and are adopted pursuant to House Rule 36.

RULE 2. Definitions

As used in these Rules, unless the context requires otherwise, the following words and terms shall have the following meanings, and the use of masculine gender shall include the feminine.

(1) Censure - A sanction which recognizes the respondent's conduct constituted a legal or moral wrong, and which shall include punishment in the form of denying privileges of office, which recommendation is included as part of the committee's report and requires the presence of the respondent in the chamber during consideration and vote by the entire House on such resolution.

(2) Letter of Reproval - A sanction which expresses disapproval of conduct based on the appropriateness of such conduct by a legislator, regardless of whether the conduct constitutes a legal or moral wrong and is included as part of the committee's report.

(3) Reprimand - A sanction which recognizes the respondent's conduct constituted a legal or moral wrong and which may include punishment in the form of denying privileges of the office, which recommendation is included as part of the committee's report, is issued by the Speaker and the recommendation for reprimand is made a public record.

RULE 3. Quorum

A quorum exists when a majority of the members of the Committee are present.

RULE 4. Form of Complaints

A. All complaints filed with the Speaker against a member of the House shall be made by a member. The complaints shall be confidential and shall be referred to the Committee on Ethics within ten (10) days and shall be in writing and under oath, setting forth in simple, concise and direct statements:

(1) The name and legal address of the member or members acting as complainant;

(2) The name of the member of the House alleged to have engaged in the commission of a crime, misconduct, willful neglect of duty, corruption in office or other acts constituting ethical misconduct. "Misconduct" means:

- (a) Any conduct constituting a legal or moral wrong which materially impairs the member's ability to perform the duties of his office or substantially impairs public confidence in the General Assembly;
 - (b) Any conduct constituting a conflict of interest under Chapter 105, RSMo;
 - (c) The intentional filing of a false complaint or the filing of a complaint in reckless disregard of the truth.
- (3) The nature of the alleged crime, misconduct, neglect, corruption or other unethical act, including when applicable, the specific law, rule, regulation or ethical standard violated;
- (4) The facts alleged to have given rise to the violation; and
- (5) Where the facts are alleged upon the information and belief of the complainant, the complaint shall so state and set forth the basis for such information and belief.

B. All documents in the possession of the complainant that are relevant to and in support of the allegations shall be appended to the complaint.

RULE 5. Initial Examination of the Complaint by the Committee

A. Within thirty (30) days of the assignment of the complaint by the Speaker, the Committee shall determine if it is in compliance with Rule 4 of these Rules, and whether on the face of the complaint, the allegations contained therein are within the jurisdiction of the Committee, and if so, whether the allegations merit proceeding to a preliminary hearing. The complainant shall not act as a member of the Committee at a hearing in which the complainant is likely to be called as a necessary witness. A respondent shall not act as a member of the Committee for purposes of his complaint.

B. Complaints determined not to be in compliance with Rule 4 of these Rules shall be returned to the complainant with a general statement that it is not in compliance with the Rules of Procedure. The complaint may be resubmitted in the proper form.

C. Once a determination has been made that the complaint complies with Rule 4 of these Rules, a majority of the Committee appointed shall vote by roll call to either:

- (1) Defer action pending completion of any other administrative, disciplinary, commission, or judicial proceeding;
- (2) Proceed to a preliminary hearing;
- (3) Dismiss the complaint.

D. In determining whether or not to proceed the Committee shall consider the following:

- (1) The credible evidence contained in the complaint or appended thereto of the commission of a crime, misconduct, willful neglect of duty, corruption in office, or other acts violating applicable ethical standards;
- (2) Other administrative or disciplinary action by other interested bodies;
- (3) Criminal investigation, Missouri Ethics Commission proceeding, or judicial proceedings, either civil or criminal; and
- (4) Other relevant circumstances that would justify expediting, declining or deferring action by the Committee.

E. Complaints determined to be in compliance with Rule 4 of these Rules and accepted for a preliminary hearing shall be transmitted to the respondent with a copy of the Rules of Procedure and notice in writing that the respondent has twenty-one (21) calendar days to respond to the complaint either by way of answer or motion pursuant to Rule 6 of these Rules. The complainant shall also be notified, in writing, of the action of the Committee. Examination of the complaint and the determination of Rule 5.C. shall be conducted in a closed meeting.

RULE 6. Answers and Motions

A. If the Committee determines that the complaint merits proceeding to a preliminary hearing, the respondent shall have twenty-one (21) calendar days in which to respond to the complaint by way of answer or motion, unless this time period is waived by the respondent. Any answer or motion shall be in writing, signed by the respondent and his counsel, if he has one, and shall be limited to the following:

(1) An admission or denial under oath, of the allegations set forth in the complaint, including negative and affirmative defenses, and any other relevant information, including supporting evidence which the respondent may desire to submit;

(2) An objection to the jurisdiction of the Committee to investigate the complaint; or

(3) An objection to the participation of any member of the Committee in an investigation of the complaint on the grounds that the member cannot render an impartial and unbiased decision in the case. The majority of the members present shall rule on the objection to the participation of any member of the Committee. A temporary replacement shall be made to serve on the Committee on Ethics for all actions concerning a particular complaint for any member of the Committee who is prevented from acting on a complaint under these rules.

B. Any motion submitted pursuant to this rule is not in lieu of an answer and shall be accompanied by a memorandum of points and authorities. Answers or motions not submitted within the twenty-one (21) calendar-day period shall not be considered by the Committee.

C. The Chairman of the Committee shall pass upon such motions as soon as practicable and notice of the decision shall be furnished to the respondent and the complainant. A motion to quash a subpoena shall be decided by the Chairman of the Committee.

D. Time limitations imposed by this Rule may be extended when, in the discretion of the Chairman, such extension would facilitate a fair and complete inquiry and may be shortened when the Chairman determines that there are special circumstances compelling expedition, and upon twenty-four (24) hours notice of said action to the respondent and the claimant.

E. In the event that a special counsel is retained by the Committee, the attorney-client privilege is applicable to the Committee and not to the House.

RULE 7. Preliminary Hearings

A. A preliminary hearing may be held to hear arguments based on the pleadings submitted in the case. The preliminary hearing shall be an open meeting. The committee shall provide the complainant and the respondent or counsel for the complainant and respondent an opportunity to present, orally or in writing, a statement, which shall be under oath or affirmation, regarding the allegations and any other relevant questions arising out of the pleadings. A Complainant or respondent who is represented by counsel shall not be questioned in the absence of counsel unless an explicit waiver is obtained.

B. The committee shall require that testimony be given under oath or affirmation. The form of the oath or affirmation shall be: "Do you solemnly swear (or affirm) that the testimony you will give before this Committee in the matter now under consideration will be the truth, the whole truth, and nothing but the truth (so help you God)?" The oath or affirmation shall be administered by the Chairman or Committee member designated by him to administer oaths. Members of the committee shall be given an opportunity to question the complainant and respondent or counsel for the complainant or respondent following the opening statements.

C. At the conclusion of the preliminary hearing, a majority of the Committee shall vote by roll call to either:

(1) Dismiss the complaint, or

(2) Proceed by

- (a) undertaking an investigative hearing; or
- (b) deciding the case based upon the preliminary hearing.

A decision based upon a preliminary hearing shall require the consent of the respondent.

D. If the committee decides to make a summary decision of the case and the respondent accepts this disposition the Committee may, by a majority vote, recommend one of the following sanctions:

- (1) Letter of reproval;
- (2) Reprimand; or
- (3) Censure.

RULE 8. Investigative Hearings

A. An investigative hearing may be held on the record to receive evidence upon which to base findings, conclusions, and recommendations, if any, to the House. The Committee may require, by subpoena or otherwise, or by subpoena duces tecum, the attendance and testimony of such witnesses and the production of such books, records, correspondence, memorandums, papers and documents as it deems necessary. The Committee may obtain a court-issued subpoena in the event that any person refuses to obey the subpoena issued by the Committee.

B. Prior to setting a hearing date and issuing subpoenas for witnesses, the Committee shall resolve the scope and purpose of the hearings. A copy of this statement of scope and purpose shall be furnished to all witnesses. During the course of the hearings the Committee may expand or contract the scope in light of evidence received.

C. The order of the investigative hearing shall be as follows:

(1) The Chairman shall open the hearing by stating the Committee's authority to conduct the investigation, the purpose of the investigation and its scope.

(2) The complainant and the respondent or counsel for the complainant and respondent shall be permitted to make opening statements. Such opening statements shall not exceed fifteen minutes.

(3) Testimony from witnesses and other evidence pertinent to the matter under investigation shall be received in the following order:

- (a) Witnesses and other evidence offered by the complainant;
- (b) Witnesses and other evidence offered by the respondent;
- (c) Witnesses and other evidence offered by the Committee staff; and
- (d) Rebuttal witnesses.

(4) The Chairman or his designee shall examine each witness. The Committee members may then question the witness. The respondent or his counsel may then cross-examine the witness. Redirect or recross examination may be permitted in the Chairman's discretion. With respect to witnesses offered by the respondent, a witness shall be examined first by the respondent or his counsel, if he has one, and then may be cross-examined by the complainant or his counsel, if he has one, and then may be cross-examined by the Chairman or his designee. Committee members may then question the witness. Redirect and recross examination may be permitted in the Chairman's discretion.

D. Testimony of all witnesses shall be taken under oath. The form of the oath shall be: "Do you solemnly swear or affirm that the testimony you will give before this Committee in the matter now under consideration will be the truth, the whole truth, and nothing but the truth, so help you God?" The oath shall be administered by the Chairman or Committee member designated by him to administer oaths.

RULE 9. Admissibility of Evidence

A. The object of the hearings shall be to ascertain the truth. Any evidence that is relevant and probative shall be admissible, unless privileged or unless the Constitution otherwise requires its exclusion. Objections going only to the weight that should be given to evidence will not justify its exclusion.

B. The Chairman or other member presiding shall rule upon any question of admissibility of testimony or evidence presented to the Committee. The Chairman or other member presiding may limit the presentation of repetitious evidence. Rulings shall be final unless reversed or modified by a majority vote of the Committee members present.

C. At an investigative hearing, the burden of proof is on the complainant with respect to each count to establish the facts alleged therein clearly and convincingly by the evidence that he introduces.

RULE 10. Witnesses

A. A subpoena to a witness shall be served sufficiently in advance of his scheduled appearance to allow him a reasonable period of time, as determined by the Committee, to prepare for the hearing and to employ counsel should he so desire.

B. Except as otherwise specifically authorized by the Chairman, no member of the Committee or staff shall make public the name of any witness subpoenaed by the Committee before his scheduled appearance.

C. Witnesses at investigative hearings may be accompanied by their counsel for the purpose of advising them concerning their constitutional rights and to raise objections to procedures or to the admissibility of testimony and evidence. Counsel for a witness other than the respondent shall not be permitted to engage in oral argument with the Committee. After a witness has testified, his counsel may submit to the Committee, in writing, any questions he wishes propounded to his client and any request for additional witnesses or other evidence. Such request may be granted in the discretion of the Committee.

D. The respondent may apply to the Committee for the issuance of subpoenas for the appearance of witnesses or the production of documents on his behalf. The application shall be granted upon good cause shown by the respondent that the proposed testimony or evidence is relevant and not otherwise available. The application shall be denied if not made at a reasonable time or if the testimony or evidence would be merely cumulative.

E. The respondent is entitled to present witnesses in his behalf. However, the Chairman may limit such testimony when, in his discretion, he finds the testimony is repetitious or cumulative.

F. Each witness subpoenaed by the Committee shall be reimbursed for those reasonable expenses approved by the Committee.

G. Each witness shall be furnished a printed copy of the Rules of Procedure and the pertinent provisions of the Rules of the House applicable to the rights of witnesses.

H. Within ten (10) calendar days before the scheduled investigative hearing, the Chairman shall notify the respondent, in writing, of the witnesses that are to appear before the Committee. Within five (5) calendar days before the scheduled investigative hearing, the respondent shall notify the Committee, in writing, of the witnesses that are to appear in his behalf. Additional witnesses may be brought before the Committee, in the discretion of the Chairman or other member presiding and upon good cause, if their whereabouts or existence were unknown to the respondent at the time for submission of the witness list to Committee.

RULE 11. Findings, Conclusions and Recommendations

A. At the completion of the preliminary hearing or investigative hearings, the Committee, by a majority vote of its members, shall, within forty-five (45) days, adopt a report stating its findings and conclusions on the complaint. The report shall be filed with the Chief Clerk of the House and shall be printed in the House Journal. In the event the Committee finds that the complaint is not well-founded, the report shall so state, and shall include a copy of a Letter of Reproval if the Committee authorized such sanction. In the event the Committee finds that the complaint is well-founded, the report shall state the Committee's recommendation in a resolution appended thereto.

B. The resolution shall state the Committee's findings and conclusions on each allegation in the complaint with the recommendation that the House:

- (1) Expel the member as provided in Article III, Section 18 of the Missouri Constitution;
- (2) Punish the member as provided in Article III, Section 18 of the Missouri Constitution, by reprimand on the adoption of the resolution, or by censure by the Speaker in open session; or
- (3) Take no further action, stating the reasons therefor.

RULE 12. Matters Not Covered in These Rules of Procedure

The Rules of Procedure of the United States House of Representatives Committee on Standards of Official Conduct of the 109th Congress shall be taken as guidelines in deciding questions, issues, and other matters not otherwise provided for in these Rules of Procedure, except that the Rules of the Missouri House of Representatives governing the party representation on committees shall apply to this Committee.

WITHDRAWAL OF HOUSE BILL

January 26, 2005

Dear Clerk Davis:

I would like to withdraw **House Bill No. 318** to be resubmitted at a later date.

Very truly yours,

/s/ Representative Rob Schaaf

ADJOURNMENT

On motion of Representative Dempsey, the House adjourned until 10:00 a.m., Thursday, January 27, 2005.

COMMITTEE MEETINGS

APPROPRIATIONS - AGRICULTURE AND NATURAL RESOURCES

Tuesday, February 1, 2005, 8:00 a.m. Hearing Room 4.

Overviews Department of Conservation and Department of Agriculture.

APPROPRIATIONS - GENERAL ADMINISTRATION

Tuesday, February 1, 2005, 8:00 a.m. Hearing Room 7.

Organizational meeting as well as reviewing proposed budgets from office of Governor and Lt. Governor.

APPROPRIATIONS - TRANSPORTATION AND ECONOMIC DEVELOPMENT

Tuesday, February 1, 2005, 8:00 a.m. Hearing Room 5.

Department overviews will begin promptly at 8:00 a.m.

ELECTIONS

Thursday, January 27, 2005, 10:15 a.m. Hearing Room 7.

Time as indicated or upon morning adjournment, whichever is later.

Executive session to follow.

Public hearing to be held on: SB 176

LOCAL GOVERNMENT

Thursday, January 27, 2005, 8:00 a.m. Hearing Room 6.

Organizational meeting.

Public hearings to be held on: HB 47, HB 40

HOUSE CALENDAR

THIRTEENTH DAY, THURSDAY, JANUARY 27, 2005

HOUSE JOINT RESOLUTION FOR SECOND READING

HJR 11

HOUSE BILLS FOR SECOND READING

HB 324 through HB 363

HOUSE RESOLUTION

HR 241, (1-26-05) - Dempsey (18)