

JOURNAL OF THE HOUSE

Second Regular Session, 95th GENERAL ASSEMBLY

SIXTEENTH DAY, WEDNESDAY, FEBRUARY 3, 2010

The House met pursuant to adjournment.

Speaker Richard in the Chair.

Prayer by Reverend James Earl Jackson.

Heavenly Father, it is written in Your Word, "Have you never heard? Have you never understood? The Lord is the everlasting God, the Creator of all the earth. He never grows weak or weary. No one can measure the depths of His understanding. He gives power to the weak and strength to the powerless." (*Isaiah 40:28-29*)

Help us, Lord God, as we travel a path filled with difficult decisions, successes, mistakes, joys and sorrow. May we learn from our mistakes and successes while responding to the challenges that lie ahead.

Grant us energy when tired, help us to concentrate when distracted, provide relief when weary and understanding when at a complete loss.

Surround us with those who make their hearts and ears attentive to Godly counsel and do what is right in Your sight.

Now may these words of mine, with which I have made supplication before You Lord, be near You day and night that You may maintain the cause of this people as each day may require.

In the name of Your Son, I pray. Amen.

The Pledge of Allegiance to the flag was recited.

The Journal of the fifteenth day was approved as printed.

HOUSE COURTESY RESOLUTIONS OFFERED AND ISSUED

House Resolution No. 385 through House Resolution No. 507

HOUSE CONCURRENT RESOLUTIONS

Representative Kraus, et al., offered House Concurrent Resolution No. 48 and House Concurrent Resolution No. 49.

SECOND READING OF HOUSE BILLS

HB 1904 through **HB 1958** were read the second time.

MOTION

Representative Tilley moved that Rule 114 be suspended.

Which motion was adopted by the following vote:

AYES: 157

Allen	Atkins	Aull	Biermann	Bivins
Brandom	Bringer	Brown 30	Brown 50	Brown 149
Bruns	Burlison	Burnett	Calloway	Carter
Casey	Chappelle-Nadal	Colona	Cooper	Corcoran
Cox	Cunningham	Curls	Davis	Day
Deeken	Denison	Dethrow	Dieckhaus	Diehl
Dixon	Dougherty	Dugger	Dusenberg	Emery
Englund	Ervin	Faith	Fallert	Fischer 107
Fisher 125	Flanigan	Flook	Frame	Franz
Funderburk	Gatschenberger	Grill	Grisamore	Guernsey
Guest	Harris	Hobbs	Hodges	Holsman
Hoskins 80	Hoskins 121	Hughes	Hummel	Jones 63
Jones 89	Jones 117	Kander	Keeney	Kelly
Kingery	Kirkton	Koenig	Komo	Kratky
Kraus	Kuessner	Lair	Lampe	Largent
Leara	LeBlanc	LeVota	Liese	Lipke
Loehner	Low	McClanahan	McDonald	McGhee
McNary	McNeil	Meadows	Meiners	Molendorp
Morris	Munzlinger	Nance	Nasheed	Newman
Nieves	Nolte	Norr	Oxford	Pace
Parkinson	Parson	Pollock	Pratt	Quinn
Riddle	Roorda	Rucker	Ruestman	Ruzicka
Salva	Sater	Scavuzzo	Schaaf	Schad
Scharnhorst	Schieffer	Schlottach	Schoeller	Schoemehl
Schupp	Self	Shively	Silvey	Skaggs
Smith 14	Smith 150	Spreng	Stevenson	Still
Storch	Stream	Sutherland	Swinger	Talboy
Thomson	Tilley	Todd	Tracy	Viebrock
Vogt	Wallace	Walsh	Walton Gray	Wasson
Webb	Webber	Wells	Weter	Wilson 119
Wilson 130	Witte	Wright	Yaeger	Zerr
Zimmerman	Mr Speaker			

NOES: 000

PRESENT: 000

ABSENT WITH LEAVE: 002

Icet Sander

VACANCIES: 004

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

AYES: 032

Barnitz	Bartle	Bray	Callahan	Clemens
Crowell	Cunningham	Days	Dempsey	Engler
Goodman	Green	Griesheimer	Justus	Keaveny
Lager	Lembke	Mayer	McKenna	Nodler
Pearce	Ridgeway	Rupp	Schaefer	Schmitt
Scott	Shields	Shoemyer	Stouffer	Vogel
Wilson	Wright-Jones			

NOES: 000

PRESENT: 000

ABSENT WITH LEAVE: 002

Champion	Purgason
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VACANCIES: 000

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

AYES: 147

Allen	Atkins	Aull	Biermann	Bivins
Brandom	Bringer	Brown 30	Brown 50	Brown 149
Bruns	Burlison	Burnett	Calloway	Carter
Casey	Chappelle-Nadal	Colona	Cooper	Corcoran
Cox	Cunningham	Davis	Day	Deeken
Denison	Dethrow	Dieckhaus	Diehl	Dixon
Dougherty	Dugger	Dusenberg	Emery	Englund
Ervin	Faith	Fallert	Fischer 107	Fisher 125
Flanigan	Flook	Frame	Franz	Funderburk
Gatschenberger	Grill	Grisamore	Guernsey	Guest
Harris	Hobbs	Hodges	Hoskins 80	Hoskins 121
Hughes	Hummel	Icet	Jones 89	Jones 117
Kander	Kelly	Kingery	Kirkton	Koenig
Komo	Kratky	Kraus	Lair	Lampe
Largent	Leara	LeBlanc	LeVota	Liese
Lipke	Loehner	Low	McClanahan	McDonald
McGhee	McNary	McNeil	Meadows	Meiners
Molendorp	Morris	Munzlinger	Nance	Nasheed
Newman	Nieves	Nolte	Norr	Oxford
Pace	Parkinson	Parson	Pollock	Pratt
Quinn	Riddle	Rucker	Ruestman	Ruzicka
Sater	Scavuzzo	Schaaf	Schad	Scharnhorst
Schieffer	Schoeller	Schoemehl	Schupp	Self

Shively	Silvey	Skaggs	Smith 14	Smith 150
Spreng	Stevenson	Still	Storch	Stream
Sutherland	Swinger	Talboy	Thomson	Tilley
Todd	Tracy	Wallace	Walsh	Walton Gray
Wasson	Webb	Webber	Wells	Weter
Wilson 119	Witte	Wright	Yaeger	Zerr
Zimmerman	Mr Speaker			

NOES: 000

PRESENT: 001

Vogt

ABSENT WITH LEAVE: 011

Curls	Holsman	Jones 63	Keeney	Kuessner
Roorda	Salva	Sander	Schlottach	Viebrock
Wilson 130				

VACANCIES: 004

The Doorkeeper announced the approach of the Honorable William Ray Price, Jr., Chief Justice of the Supreme Court of Missouri. Chief Justice Price was duly escorted to the House Chamber and to the Speaker's dais where he delivered the following message to the assembly in Joint Session.

STATE OF THE JUDICIARY ADDRESS

by

Chief Justice William Ray Price, Jr.

Mr. Speaker, Mr. President, members of the General Assembly: It is my honor to deliver this 37th State of the Judiciary Address.

I am completing my 17th year as a judge of the Missouri Supreme Court. In that time I have seen governors come and go, speakers of the House, lieutenant governors, president pro tems of the Senate, representatives and senators, all come and go. They all faced challenges and all claimed success of one kind or another.

As we look at this coming year, it is helpful to place ourselves in the context of time. Modern science teaches us that the universe we know began with a "great bang" 14 billion years ago. The earth was formed four billion years ago. Human life came into existence perhaps one or two million years ago. The reigns of David and Solomon were three thousand years ago. Against this backdrop, our lives, our times of service, are but a blink of God's eye. Or in the words of the 90th Psalm: "All our days, pass away ... like a sigh."

The famous author, John Updike, who died this year, described life as a "leap out of the dark and back." In more earthy terms, my uncle, an Iowa farmer, says that "no man plows too deep a furrow." But no matter how brief our time or small our step, this is our opportunity to do what we can to make Missouri a better place.

In some years, there have been grand proposals and bold initiatives. Given the economic realities confronting us, that will not be the case this year. Instead our contribution will be to live within our means, to provide the core services of government to our people, to maintain what is essential for our future, and to focus intensely upon the cost and benefit of everything that we do in state government.

Today I will talk about three things: first, how the judiciary is doing its part to address the state's financial shortfall; second, the need to rethink our strategies to deal with nonviolent crime, including drug and alcohol abuse; and third, a brief thought about the Missouri Nonpartisan Court Plan.

The judiciary has come to this time of financial crisis already lean. We were not favored in the last few years when times were better. Nonetheless, when the extent of the state's budget crisis became evident last year, we voluntarily returned nearly \$3 million of our appropriated funds for fiscal 2009. We will return another \$3 million of appropriated funds for fiscal 2010. We expect that we will have to do the same for fiscal 2011. This was not -- and is not -- an easy thing for us to do. The effect of these cuts is magnified by similar budget cuts being made by the counties. For example, the Jackson County circuit court alone has been cut another \$3 million by the county.

We have attempted to make our cuts in areas that would not impact our immediate ability to serve the judicial needs of the people of Missouri. However, the cuts we made severely jeopardize our ability to provide those services in the future. Let me share two examples.

Our statewide computer system needed the next generation of software, a software generation ago. We also needed to add the long promised e-filing component. But we have cut nearly \$1.4 million from our technology budget.

Our programs to keep Missouri judges educated and up-to-date on the law are vitally important to the quality of our judiciary. Judges shouldn't be the lowest paid and the least educated lawyers in the courtroom. But we have cut \$443,000 from that budget. And so on.

My point is this. We recognize that as a branch of state government we must sacrifice to help balance the budget. We also recognize that we must keep the courts open to meet the needs of our people and to resolve the 800,000 lawsuits they file annually. In business terms, we will put the customers -- the people of Missouri -- first. But we have come to the point where any additional cuts will directly threaten our ability to handle Missouri's legal business now and the cuts that we have already made threaten our ability to handle Missouri's legal business in the future. When things get better -- and they will -- these cuts need to be restored as soon as possible.

Before leaving this subject, I would like to thank Senator Lembke for offering SJR 28. The resolution would link the pay of Missouri judges to 75 percent of the pay for the corresponding federal position. Interestingly, it would raise the pay of our associate circuit court judges to the same level as our circuit court judges.

There is not a single factor that more adversely impacts our ability to attract and retain quality judges as the relatively low level of judicial pay. Today we have four former Supreme Court judges, in the prime of their careers, enjoying the greener pastures of private practice and two enjoying the higher pay of the federal courts.

Missouri currently ranks 39th in the nation in pay levels for our trial court judges, who are paid approximately \$120,000 per year. We have lower pay than all the states that surround us: Iowa (\$137,000); Illinois (\$174,000); Tennessee (\$148,000); Arkansas (\$136,000); Oklahoma (\$124,000); and Nebraska (\$128,000) ... excepting only Kansas, whose trial court pay approximately equals ours (\$120,000). (I don't know if it is worse to be below Arkansas or tied with Kansas?)

Nonetheless, I cannot support this resolution. In the current financial crisis, there is no money for judges' raises. I thank you for the idea, but the time is wrong.

Now I need turn our attention to the area of criminal law. Given the difficult financial situation of the state, we must look hard at the costs and effectiveness of our current statutory schemes, especially for nonviolent offenders.

The criminal justice system is very expensive. Law enforcement, prosecutors, public defenders, courthouses, and prisons all cost a lot of money. However, one of the core functions of government is to keep people safe in their homes and safe on the streets. But just because this is one of the most important places that we spend taxpayer money, it does not mean that all of that money is well spent.

For years we have waged a "war on drugs," enacted "three strikes and you're out" sentencing laws, and "thrown away the key" to be tough on crime. What we did not do was check to see how much it costs, or whether we were

winning or losing. In fact, it has cost us billions of dollars and we have just as much crime now as we did when we started. We have created a bottleneck by arresting far more people than we can handle down through the rest of the system.

We may have been tough on crime, but we have not been smart on crime. I would like to talk about this problem from three different perspectives: public defenders, prosecutors, and nonviolent offenders. It does no good to commit resources to law enforcement and to arrest criminals if you don't know what you are going to do with them, or you cannot afford to do what you should with them, after they have been arrested. It does no good.

The first problem is how we are going to try all the people we arrest. We already have discussed the financial stress under which the court system is operating. But our public defenders and prosecutors are also stressed to the point of breaking.

Last year the public defenders came to you and told you that they were under-funded and overworked. You appropriated to them an additional \$2 million of which they received \$500,000. A number of lawsuits regarding their situation were heard and decided in our Court. Essentially we acknowledged the public defenders' crisis in funding, but we declared certain of their regulations limiting their workload to be beyond their statutory authority.

The United States Constitution requires that anyone charged with an offense that may result in jail time be provided an attorney if he or she cannot afford one. The United States Constitution also requires timely trials of criminal cases. If there aren't enough public defenders, the system cannot wait, and jail time cannot be threatened or imposed.

The solution to this problem is relatively simple: either increase the public defender's funding or tell the public defender who to defend and who not to defend within the limits of their funding. At present, you only allow the public defender to determine eligibility by indigency. That means only the poorest offenders will qualify, regardless of the severity of the crime. I would suggest that the most serious charges be targeted, and that the least serious charges be those for which jail time cannot be sought, if we cannot adequately fund the public defender's office. This is simple common sense. Spend our money where it counts. But your statutes don't read that way now.

The state's prosecutors are also underpaid and overworked. Even though they bring charges in the name of the State of Missouri, they are county officers and their pay levels and workloads are determined by the counties they serve.

In some ways prosecutors are the most powerful individuals in the criminal justice system. They decide whether charges are brought. They decide what charges are brought. They decide what plea agreements are made. If we want these decisions to be made well, we need people making them who are not underpaid and overworked. If we want these decisions made consistently across the state, there needs to be state involvement.

The inconsistency that you have read about in statewide DWI prosecution, plea bargaining, and sentencing exists in all other areas of our criminal law as well. Listen to the disparity. Prison sentences as a percentage of all criminal dispositions for fiscal 2009 ranged from 10.8 percent to 48.7 percent among our various circuits. That means that 1 out of every 10 people found guilty of a crime is sentenced to jail in our lowest sentencing circuit, while 5 out of every 10 are sentenced to jail in our highest sentencing circuit. The average length of sentences also varies greatly. The average sentence in our lowest sentencing circuits is 4.5 years and 9 years in our highest sentencing circuit. Such a great disparity from circuit to circuit cannot be what we want from a moral, financial, or any other perspective.

The Missouri Bar has appointed a committee to look into recommendations for public defenders and prosecutors. The committee is chaired by your former colleague Joe Moseley. Prior to serving as a state senator, he also served as a prosecuting attorney and as a public defender. I would expect the committee to come to you with a balanced and practical proposal. Whatever the recommendation, this problem needs careful consideration -- consideration that goes beyond merely the dollars that are appropriated.

Perhaps the biggest waste of resources in all of state government is the over-incarceration of nonviolent offenders and our mishandling of drug and alcohol offenders. It is costing us billions of dollars and it is not making a dent in crime.

Listen to these numbers. In 1994, shortly after I came to the Court, the number of nonviolent offenders in Missouri prisons was 7,461. Today it's 14,204. That's almost double. In 1994, the number of new commitments for

nonviolent offenses was 4,857. Last year, it was 7,220 -- again, almost double. At a rate of \$16,432 per offender, we currently are spending \$233.4 million a year to incarcerate nonviolent offenders ... not counting the investment in the 10 prisons it takes to hold these individuals at \$100 million per prison. In 1994, appropriations to the Department of Corrections totaled \$216,753,472. Today, it's \$670,079,452. The amount has tripled. And the recidivism rate for these individuals, who are returned to prison within just two years, is 41.6 percent.

I could quote different statistics and relationships to you all morning, but the simple fact is, we are spending unbelievable sums of money to incarcerate nonviolent offenders, and our prison population of new offenders is going up, not down -- with a recidivism rate that guarantees this cycle will continue to worsen at a faster and faster pace, eating tens of millions of dollars in the process. Missouri cannot afford to spend this much money without getting results.

The problem is not with the administrators of the prisons. I have worked closely with all of them, from Dora Schriro and Gary Kempker, to your former colleague, Larry Crawford, and now George Lombardi. These public servants were -- and are -- excellent at their work, as are their staffs. The problem is that we are following a broken strategy of cramming inmates into prisons and not providing the type of drug treatment and job training that is necessary to break their cycle of crime. Any normal business would have abandoned this failed practice years ago, and it is costing us our shirts.

Let me be clear: violent offenders need to be separated from us so they cannot hurt innocent men, women or children, regardless of the cost. I am not talking about them. I am talking about nonviolent offenders.

Nonviolent offenders need to learn their lesson. I'm not against punishment. Most often, though, they need to be treated for drug and alcohol addiction and given job training. Putting them in a very expensive concrete box with very expensive guards, feeding them, providing them with expensive medical care, surrounding them with hardened criminals for long periods of time, and separating them from their families who need them and could otherwise help them does not work. Proof is in the numbers: 41.6 percent are back within two years.

Although this is a horrible Missouri problem, it is not just a Missouri problem. Republicans and Democrats across the country are waking up. State Senator Stewart Greenleaf, a Republican from Pennsylvania, said:

"What we have done with the laws we passed over the last 20 years is thrown our net out there too widely and picked up too many little fish. We filled our prisons with nonviolent, first time offenders, and with no noticeable increase in public safety." (NCSL Roundtable, Sept.26, 2008).

United States Senator Jim Webb, a Democrat from Virginia, said:

"Focus must be placed on locking up the most dangerous people instead of diverting time and money to incarcerate the wrong people." (<http://webb.senate.gov>).

Newt Gingrich said: "We have to fundamentally rethink prisons." (American Enterprise Institute forum, March 27, 2008).

There is a better way. We need to move from anger-based sentencing that ignores cost and effectiveness to evidence-based sentencing that focuses on results -- sentencing that assesses each offender's risk and then fits that offender with the cheapest and most effective rehabilitation that he or she needs. We know how to do this. States across the nation are moving in this direction because they cannot afford such a great waste of resources. Missouri must move in this direction, too.

Of course, we must be careful and deliberate. This effort will require statewide coordination and revision of a number of our statutes. It will require diverting some offenders from prison and removing others from prison more quickly -- after they have learned their lesson, but before they are ruined by worse offenders and before they lose their ability to return to their communities, their families, and hopefully, jobs.

One thing we should do immediately is increase our investment in drug courts and expand that effort to DWI courts. Illegal drug use drives crime. Depending upon the study, 60 to 80 percent of crime involves drug use. We also

know that simple incarceration, no matter how expensive, does not cure addiction. Treatment combined with strict judicial oversight does.

We know drug courts work. We have more than 8,500 graduates. And we know the tremendous savings that result from drug courts in Missouri. Many of you have visited our drug courts. Just two weeks ago, Speaker Richard brought two drug court graduates, Richard Rainey and Andrea Berin, to speak to you so you could see their success. Thank you for doing that, Mr. Speaker.

At one-fourth to one-fifth the cost of incarceration, more than one-half of drug court participants graduate, and recidivism is only in the 10 percent range. The last five meta studies on drug courts, from all across the United States, have shown that drug courts reduce crime from 8 to 26 percent.

Five years ago I made a mistake. Senator Lager, then House Budget Committee chairman, offered \$10 million to take drug courts to full capacity. I was afraid that we could not handle that much money that quickly and asked instead for \$2 million a year for the next five years. We got the first million that year, but not the rest. So, for the last four years, our drug court program has been operating at half capacity and you have been wasting tens of millions of dollars a year in unnecessary and counterproductive incarceration costs. There is no excuse.

We need to expand our drug courts now -- \$2 million more a year -- until we reach capacity. We will save you many times more than that, and you will save lives and families. You saw it right here.

I thank all of you who have supported drug courts over the years, but we are a long way from where we need to be.

I know you will also be looking at ways to improve our DWI laws this session. When you do, I suggest that you focus on your goals. Do you just want to punish offenders, or do you want to make our streets and highways safer places to drive? Long jail sentences and 10 year license revocations certainly punish people. We have those already, and look at the number of repeat offenders – more than 4,500 a year. The proof of the misfocus of our anger is in the numbers.

What we need, again, are evidence-based strategies tailored to produce results. A person with a blood alcohol content over .20, arrested for the second time in one year, is different than a person with a blood alcohol content of .081 arrested for the second time in 10 years. One size doesn't fit all. Consistency between jurisdictions is a good goal; consistency among all offenders, despite their individual risks and needs, is not. Some of these people need jail time. For others, significantly increased monetary fines will work. Many need treatment for alcoholism.

We have had tremendous success with DWI courts. They operate on the same model as our drug courts. Commissioner Peggy Davis in Springfield runs a nationally recognized DWI court and trains judges across the country. We should have her training judges across this state. Our goal should not be to spend \$16,000 a year to keep these offenders in jail as long as we can. Our goal should be to spend \$3,000 a year to treat their alcoholism, and to return them to our state as productive tax-paying members of society who drive with licenses, with insurance, and who are sober.

Don't kid yourselves. The 10-year, no exception, license revocation that we have now sounds good, but it doesn't work. You cannot live and work in Missouri, especially suburban and rural Missouri, without a driver's license. All the 10-year revocation guarantees is that the offender is driving without a license, without insurance, and probably drunk. What we need is a sober driver who has a restored license and insurance. Expansion of DWI courts statewide, and the return of licenses to sober DWI court graduates, will do more for the safety of our roads and highways than any other single change in the law you can make.

I will not comment on the proposed initiative petitions to replace the Missouri Nonpartisan Plan of selecting judges. There is pending litigation regarding these initiatives. That litigation is entitled to full and fair consideration on the merits of the issues raised by all parties. But you, again, have legislative proposals before you, so I will address this topic in a more general way.

There is a difference in our respective jobs that you should consider. You all run for office in general partisan elections. To do so you need to raise money, perhaps to hire special consultants, and to make promises to the voters about what policies you will support or oppose if elected. Once elected, you are expected to hold true to those promises.

To some extent this is and has always been tolerated because the policies you campaign on are general in nature. The laws you pass apply to all. You seek to serve the will of the majority. No individual is singled out.

Our job is not that way. Though an equal branch of government, we have a more limited role. We resolve individual disputes. We have no power until litigants come to us with a real controversy, in which they have a real interest. When they do, we are not free to choose any resolution we want. We are first bound to honor our national and state constitutions. In fact, we are sworn to uphold the Bill of Rights that guarantees the rights of the individual, even against the will of the majority that you serve. We then follow the laws that you enact.

When the people of Missouri walk into our courtrooms, they expect and deserve to have their individual case heard on its facts and on the law, without fear that a rich man or a powerful interest has already bought the promise of the judge to rule the other way. Justice is rendering to each litigant what he or she is entitled to, not using his or her case as a stepping stone for fundraising or as a stepping stone for the advancement of a particular ideological or political goal, or as payback to a contributor.

Remember *Avery v. State Farm*, the case from Illinois in which an Illinois Supreme Court justice cast the deciding vote in a \$450 million case in favor of an insurance company ... after receiving more than \$1 million in campaign contributions from those connected to the company. Remember *Caperton v. Massey*, the case from West Virginia in which a new West Virginia Supreme Court justice cast the deciding vote in a \$50 million case after the CEO of that company spent approximately \$3 million to defeat the new judge's opponent.

Justice is a sacred but fragile concept. It depends upon the eye of the beholder, the trust and confidence of our people. It cannot be for sale to the richest bidder, the most powerful special interest group, or to the cleverest consultant.

The Supreme Court of Missouri has just voted to change the rules to release the names of all those interviewed for appointment under the Missouri Nonpartisan Plan. This step to transparency will allow the people of our state to judge the panels of three chosen for submission to the governor against all of those who are considered. It is a significant and good change.

Any change that moves the Missouri plan closer to politics, special interests, or money is a change in the wrong direction.

I would like to end my speech with this thought. In my time on the Court, I have seen how hard your life is here in the legislature. I understand the pressures you bear to keep your base, the pressures from special interest groups, the pressures to raise thousands of dollars to fund your campaigns, or to move up in leadership.

I know what I have spoken about today is too complicated for 10 second sound bites, and I don't have hundreds of thousands of dollars to donate to your campaign committees. But let me tell you this. I did not come here to waste your time or mine. I did not come here to give a meaningless speech. From time to time I run into old senators and representatives. They like to visit about what they did in office. They never talk about the money they raised or when they buckled to political pressures. What they talk about are the good things that they did; the things they were proud of.

There will be a day when your time of service comes to an end, too. When it does and you go home, you all will want to be proud of what you have done.

Savings millions of dollars, saving lives, saving families, and making Missouri a safer and better place, is something you can go home and be proud of.

The Joint Session was dissolved by Senator Engler.

Speaker Richard resumed the Chair.

PERFECTION OF HOUSE BILL

Speaker Pro Tem Pratt assumed the Chair.

HCS HB 1377, with House Amendment No. 1, pending, relating to benefits for needy families, was taken up by Representative Brandom.

Representative Stevenson offered **House Amendment No. 3 to House Amendment No. 1.**

*House Amendment No. 3
to
House Amendment No. 1*

AMEND House Amendment No. 1 to House Committee Substitute for House Bill No. 1377, Page 1, Lines 18 to 20, by deleting all of said lines and inserting in lieu thereof the following:

“official has taken a controlled substance without legal authorization. An official who refuses to submit to a drug test under this section shall be subject to any sanction authorized by law or rule covering the respective official.”; and

Further amend said amendment, Page 2, Line 3, by deleting the word, **“of”** and inserting in lieu thereof the word, **“covering”**; and

Further amend said bill by amending the title, enacting clause, and intersectional references accordingly.

Representative Funderburk assumed the Chair.

On motion of Representative Stevenson, **House Amendment No. 3 to House Amendment No. 1** was adopted.

On motion of Representative Silvey, **House Amendment No. 1, as amended**, was adopted by the following vote:

AYES: 144

Allen	Atkins	Aull	Biermann	Bivins
Brandom	Bringer	Brown 30	Brown 50	Brown 149
Bruns	Burlison	Calloway	Carter	Casey
Chappelle-Nadal	Cooper	Corcoran	Cox	Cunningham
Curls	Day	Deeken	Denison	Dethrow
Dieckhaus	Diehl	Dixon	Dougherty	Dugger
Dusenberg	Emery	Englund	Ervin	Faith
Fallert	Fischer 107	Fisher 125	Flanigan	Frame
Franz	Funderburk	Gatschenberger	Grill	Grisamore
Guernsey	Guest	Harris	Hobbs	Hodges
Holsman	Hoskins 80	Hoskins 121	Hummel	Icet
Jones 63	Jones 89	Jones 117	Keeney	Kingery
Kirkton	Koenig	Komo	Kratky	Kraus
Kuessner	Lair	Lampe	Largent	Leara
LeBlanc	LeVota	Liese	Lipke	Loehner
Low	McClanahan	McDonald	McGhee	McNary
McNeil	Meadows	Meiners	Molendorp	Morris
Munzlinger	Nance	Nasheed	Newman	Nieves

Nolte	Norr	Oxford	Pace	Parkinson
Parson	Pollock	Pratt	Quinn	Riddle
Roorda	Rucker	Ruestman	Ruzicka	Salva
Scavuzzo	Schaaf	Schad	Scharnhorst	Schieffer
Schoeller	Schoemehl	Schupp	Self	Shively
Silvey	Skaggs	Smith 14	Smith 150	Stevenson
Still	Stream	Sutherland	Swinger	Talboy
Thomson	Tilley	Todd	Tracy	Viebrock
Walsh	Wasson	Webb	Webber	Wells
Weter	Wilson 119	Wilson 130	Witte	Wright
Yaeger	Zerr	Zimmerman	Mr Speaker	

NOES: 008

Burnett	Colona	Davis	Hughes	Sater
Spreng	Wallace	Walton Gray		

PRESENT: 000

ABSENT WITH LEAVE: 007

Flook	Kander	Kelly	Sander	Schlottach
Storch	Vogt			

VACANCIES: 004

HCS HB 1377, as amended, was laid over.

Speaker Pro Tem Pratt resumed the Chair.

REFERRAL OF HOUSE CONCURRENT RESOLUTIONS

The following House Concurrent Resolutions were referred to the Committee indicated:

HCR 13 - Elementary and Secondary Education
HCR 16 - State Parks and Waterways
HCR 36 - Tourism
HCR 37 - Tourism

REFERRAL OF HOUSE JOINT RESOLUTIONS

The following House Joint Resolutions were referred to the Committee indicated:

HJR 45 - Special Standing Committee on General Laws
HJR 69 - Special Standing Committee on General Laws
HJR 70 - Special Standing Committee on General Laws
HJR 71 - Ways and Means
HJR 72 - Special Standing Committee on General Laws
HJR 81 - Job Creation and Economic Development
HJR 86 - Agriculture Policy

REFERRAL OF HOUSE BILLS

The following House Bills were referred to the Committee indicated:

- HB 1205** - Public Safety
- HB 1209** - Judiciary
- HB 1220** - Veterans
- HB 1221** - Veterans
- HB 1222** - Ways and Means
- HB 1223** - Public Safety
- HB 1224** - Veterans
- HB 1240** - Tax Reform
- HB 1242** - Public Safety
- HB 1243** - Energy and Environment
- HB 1265** - Real ID and Personal Privacy
- HB 1268** - Tourism
- HB 1270** - Health Care Policy
- HB 1279** - Judiciary
- HB 1289** - Healthcare Transformation
- HB 1302** - Senior Citizen Advocacy
- HB 1318** - Judiciary
- HB 1321** - Ways and Means
- HB 1365** - Special Standing Committee on Children and Families
- HB 1368** - Veterans
- HB 1388** - Local Government
- HB 1404** - Special Standing Committee on Emerging Issues in Animal Agriculture
- HB 1405** - Judiciary
- HB 1410** - Job Creation and Economic Development
- HB 1420** - Ways and Means
- HB 1424** - Ways and Means
- HB 1436** - Special Standing Committee on Infrastructure and Transportation Funding
- HB 1437** - Special Standing Committee on Infrastructure and Transportation Funding
- HB 1438** - Special Standing Committee on Infrastructure and Transportation Funding
- HB 1444** - Special Standing Committee on General Laws
- HB 1445** - Special Standing Committee on General Laws
- HB 1446** - Special Standing Committee on General Laws
- HB 1452** - Crime Prevention
- HB 1457** - Job Creation and Economic Development
- HB 1466** - Corrections and Public Institutions
- HB 1472** - Public Safety
- HB 1496** - Agriculture Policy
- HB 1502** - Rural Community Development
- HB 1504** - Higher Education
- HB 1516** - Special Standing Committee on General Laws
- HB 1523** - Healthcare Transformation
- HB 1546** - Special Standing Committee on Children and Families
- HB 1551** - Crime Prevention

- HB 1564** - Local Government
- HB 1567** - Local Government
- HB 1568** - Local Government
- HB 1571** - Administration and Accounts
- HB 1580** - Veterans
- HB 1581** - Transportation
- HB 1584** - Financial Institutions
- HB 1589** - Local Government
- HB 1592** - Local Government
- HB 1593** - Local Government
- HB 1594** - Local Government
- HB 1628** - Elementary and Secondary Education
- HB 1629** - Elementary and Secondary Education
- HB 1631** - Senior Citizen Advocacy
- HB 1636** - Special Standing Committee on Infrastructure and Transportation Funding
- HB 1640** - Judiciary
- HB 1645** - Administration and Accounts
- HB 1654** - Judiciary
- HB 1668** - Transportation
- HB 1672** - Transportation
- HB 1677** - Tourism
- HB 1709** - Financial Institutions
- HB 1726** - Crime Prevention
- HB 1747** - Agriculture Policy
- HB 1767** - Ways and Means
- HB 1768** - Ways and Means
- HB 1777** - Tourism
- HB 1778** - Tourism
- HB 1782** - Homeland Security
- HB 1800** - Tax Reform
- HB 1803** - Elementary and Secondary Education
- HB 1806** - Local Government
- HB 1824** - Special Standing Committee on Professional Registration and Licensing
- HB 1831** - Elementary and Secondary Education
- HB 1832** - Special Standing Committee on Professional Registration and Licensing
- HB 1851** - Utilities
- HB 1858** - Conservation and Natural Resources
- HB 1868** - Special Standing Committee on General Laws
- HB 1869** - Crime Prevention

COMMITTEE REPORTS

Committee on Crime Prevention, Chairman Lipke reporting:

Mr. Speaker: Your Committee on Crime Prevention, to which was referred **HB 1540**, begs leave to report it has examined the same and recommends that it **Do Pass with House Committee Substitute**, and pursuant to Rule 25(32)(f) be referred to the Committee on Rules.

Committee on Elementary and Secondary Education, Chairman Wallace reporting:

Mr. Speaker: Your Committee on Elementary and Secondary Education, to which was referred **HB 1543**, begs leave to report it has examined the same and recommends that it **Do Pass with House Committee Substitute**, and pursuant to Rule 25(32)(f) be referred to the Committee on Rules.

Special Standing Committee on Health Insurance, Chairman Wilson (130) reporting:

Mr. Speaker: Your Special Standing Committee on Health Insurance, to which was referred **HB 1311** and **HB 1341**, begs leave to report it has examined the same and recommends that it **Do Pass with House Committee Substitute**, and pursuant to Rule 25(32)(f) be referred to the Committee on Rules.

INTRODUCTION OF HOUSE BILLS

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

HB 1959, introduced by Representative Schoeller, relating to records requests.

HB 1960, introduced by Representatives Ruestman, Munzlinger, Cunningham, Schad, Lair, Fisher (125), Day, Cox, Thomson, Weter, Sater, Wallace, Koenig and Wilson (130), relating to wages for work done on behalf of a school.

HB 1961, introduced by Representatives Newman, Talboy, McNeil, Webb, Jones (63), Oxford, Still, LeVota, Kelly, Walton Gray, Kirkton, Webber, Storch, Pace, Morris, Zimmerman, Carter, Schupp, Low, Kander, Colona, Nasheed, Calloway and Komo, relating to the duty of a pharmacy to fill prescriptions.

HB 1962, introduced by Representatives Newman, Low, Jones (63), McClanahan, Komo, Webb, Oxford, LeVota, Hodges, Kelly, Walton Gray, Schoemehl, Englund, Kirkton, Webber, Storch, Morris, Pace, Corcoran, Schieffer, Carter, McNeil, Schupp, McGhee, Hummel, Skaggs, Chappelle-Nadal, Lampe, Yaeger, Colona, Nasheed and Calloway, relating to equal employment practices.

HB 1963, introduced by Representative Spreng, relating to storm water management.

HB 1964, introduced by Representative Ervin, relating to the Missouri high risk health insurance pool.

HB 1965, introduced by Representatives McNary, Smith (14), Flanigan, Tracy, Riddle, Allen, Deeken, Nance, Leara, Guest, Dieckhaus, Sutherland, Wright, Lair, Schoeller, Fisher (125), Zerr, Weter, Ruzicka, Molendorp, Pollock, Stevenson, Silvey, Nieves, Dusenberg, Jones (89), Hobbs, Funderburk, Parson, Bivins, Tilley, Atkins, Wells, Koenig, Pratt, Bruns, Loehner, Scharnhorst, Schaaf, Komo, Kelly, Day, Cox and Wallace, for the sole purposes of repealing expired, sunset, terminated, ineffective, or obsolete statutes.

HB 1966, introduced by Representative Diehl, relating to elections.

HB 1967, introduced by Representatives Oxford, Carter, Storch, Lampe, Morris, Walton Gray, Yaeger, Atkins, Hoskins (80), Webber, Schieffer, Scavuzzo, Nasheed, Spreng, Walsh, Curls, Hodges, Pace, Still, Meiners, Jones (63), Brown (50), Fallert and Chappelle-Nadal, relating to school class size.

HB 1968, introduced by Representatives Biermann, Spreng, Yaeger, Walton Gray, Pace, Atkins, Meadows and Schieffer, relating to anatomical gifts.

HB 1969, introduced by Representatives Bivins, Fischer (107), Grisamore and Schad, relating to department of mental health protection measures.

HB 1970, introduced by Representatives Bivins, Atkins, Kratky, Smith (14), Roorda, Funderburk and Englund, relating to the designation of a memorial highway.

HB 1971, introduced by Representatives Bivins, Grisamore, Roorda and Schad, relating to the payment of health insurance claims.

HB 1972, introduced by Representatives Bivins, Fisher (125), Oxford, Munzlinger, Grisamore and Smith (150), relating to the prescription drug repository program.

HB 1973, introduced by Representatives Bivins and Grisamore, relating to commissioners appointed in condemnation proceedings.

HB 1974, introduced by Representatives Bivins, Munzlinger and Schad, relating to environmental audits.

HB 1975, introduced by Representatives Bivins, Kirkton and Grisamore, relating to the taxation of property.

HB 1976, introduced by Representatives Bivins, Allen and Funderburk, relating to taxes to fund emergency services.

HB 1977, introduced by Representatives Wasson and Shively, relating to emergency medical technicians.

HB 1978, introduced by Representative Talboy, relating to midwifery services.

HB 1979, introduced by Representatives Pace, Jones (117), Walton Gray, Chappelle-Nadal, Carter, Atkins, Casey, Morris, Low, Hummel, Jones (63), Oxford, Roorda, Brown (50), Kirkton, LeBlanc, Hughes, Lair, Nasheed, Schupp, Still, Hoskins (80) and Dusenbergh, relating to notification to media of jail or detention facility escapes.

HB 1980, introduced by Representatives Kratky, Colona, Komo, Biermann, Hodges, McDonald, Walsh, Vogt, Corcoran, Meadows, Shively and Carter, relating to a tax credit for renovation of rental property.

HB 1981, introduced by Representatives Kratky, Spreng, Colona, Komo, Biermann, Hodges, McDonald, Walsh, Vogt, Meadows, Shively, Carter and Quinn, relating to a tax credit for certain small businesses.

HB 1982, introduced by Representatives Kratky, Colona, Komo, Biermann, Hodges, McDonald, Walsh, Vogt, Corcoran, Meadows, Shively, Carter and Quinn, relating to vacancies in the general assembly.

HB 1983, introduced by Representatives Stevenson, Lipke, Jones (89) and Burnett, relating to private nuisance actions where the amount in controversy exceeds one million dollars.

HB 1984, introduced by Representatives Stevenson and Burnett, relating to identifying information in court records.

HB 1985, introduced by Representative Stevenson, relating to comprehensive psychiatric services.

HB 1986, introduced by Representatives Holsman, Roorda, Aull, Dougherty, Spreng, LeBlanc, Rucker, Jones (63), Funderburk and Atkins, relating to broadcasting of professional sporting events in publicly funded stadiums.

HB 1987, introduced by Representative Schoeller, relating to employment security.

HB 1988, introduced by Representative Wasson, relating to disciplinary actions against licensed professionals.

HB 1989, introduced by Representative Wasson, relating to disciplinary actions against health care professionals.

COMMITTEE APPOINTMENT

February 3, 2010

Mr. Adam Crumbliss
Chief Clerk
Missouri House of Representatives
State Capitol, Room 306
Jefferson City, MO 65101

Dear Mr. Crumbliss:

I hereby appoint Representative Stacey Newman to serve as a member of the Administration and Accounts Committee and a member of the Appropriations - General Administration Committee.

If you have any questions, please feel free to contact my office.

Sincerely,

/s/ Ron Richard
Speaker

COMMUNICATION

February 2, 2010

Mr. D. Adam Crumbliss
Missouri House of Representatives
State Capitol
Jefferson City, MO 65101

Re: Possible Personal Interest in Legislation

Dear Mr. Crumbliss:

Pursuant to Section 105.461, RSMo, I am hereby filing a written report of a possible personal interest in legislation on which the House of Representatives may vote during the legislative session. My wife, Linda Witte, is a member of the Public School Retirement System (PSRS).

In compliance with Section 105.461, RSMo, please publish this letter in the Journal of the House.

I thank you for your attention to this matter.

Sincerely yours,

/s/ Terry L. Witte
State Representative
District 10

ADJOURNMENT

On motion of Representative Tilley, the House adjourned until 10:00 a.m., Thursday, February 4, 2010.

COMMITTEE MEETINGS

APPROPRIATIONS - HEALTH, MENTAL HEALTH AND SOCIAL SERVICES
Thursday, February 4, 2010, 8:00 a.m. Hearing Room 5.
Continuation of FY 2011 departmental budget presentation.

APPROPRIATIONS - HEALTH, MENTAL HEALTH AND SOCIAL SERVICES
Monday, February 8, 2010, 1:00 p.m. Hearing Room 5.
Departmental FY 2011 budget presentation

APPROPRIATIONS - HEALTH, MENTAL HEALTH AND SOCIAL SERVICES
Tuesday, February 9, 2010, 2:00 p.m. Hearing Room 5.
Departmental FY 2011 budget presentation

APPROPRIATIONS - HEALTH, MENTAL HEALTH AND SOCIAL SERVICES
Wednesday, February 10, 2010, 2:00 p.m. Hearing Room 5.
Departmental FY 2011 budget presentation

APPROPRIATIONS - HEALTH, MENTAL HEALTH AND SOCIAL SERVICES

Thursday, February 11, 2010, 8:00 a.m. Hearing Room 5.

Departmental FY 2011 budget presentation

APPROPRIATIONS - TRANSPORTATION AND ECONOMIC DEVELOPMENT

Monday, February 8, 2010, Hearing Room 3 upon afternoon adjournment.

Department of Economic Development budget presentation continued.

APPROPRIATIONS - TRANSPORTATION AND ECONOMIC DEVELOPMENT

Tuesday, February 9, 2010, 8:00 a.m. Hearing Room 3.

Department of Transportation budget presentation.

CONSERVATION AND NATURAL RESOURCES

Thursday, February 4, 2010, 8:30 a.m. Hearing Room 6.

Joint informational meeting with House State Parks and Waterways and Senate Agriculture, Food Production and Outdoor Resources Committees. Presentation State Parks Association.

ELECTIONS

Thursday, February 4, 2010, 8:00 a.m. Hearing Room 7.

Executive session.

HEALTHCARE TRANSFORMATION

Tuesday, February 9, 2010, 5:00 p.m. Hearing Room 6.

Executive session may follow

Public hearing to be held on: HB 1548

HIGHER EDUCATION

Tuesday, February 9, 2010, 8:00 a.m. Hearing Room 6.

Executive session may follow.

Public hearing to be held on: HB 1473

INTERNATIONAL TRADE AND IMMIGRATION

Thursday, February 4, 2010, 12:15 p.m. House Chamber south gallery.

Executive session.

JOINT COMMITTEE ON LEGISLATIVE RESEARCH

Monday, February 8, 2010, 2:00 p.m. Hearing Room 1.

Quarterly business meeting.

Some portions of the meeting may be closed pursuant to Section 610.021

SPECIAL STANDING COMMITTEE ON CHILDREN AND FAMILIES

Thursday, February 4, 2010, 9:30 a.m. Hearing Room 7.

Executive session may follow.

Public hearing to be held on: HB 1682

SPECIAL STANDING COMMITTEE ON GOVERNMENTAL ACCOUNTABILITY AND ETHICS REFORM

Thursday, February 4, 2010, 8:00 a.m. Hearing Room 1. AMENDED

Public hearing to be held on: HB 1838, HB 1846, HB 1872

STATE PARKS AND WATERWAYS

Thursday, February 4, 2010, 8:30 a.m. Hearing Room 6.

Joint informational meeting with the Senate Agriculture, Food Production and Outdoor Resources Committee. Presentation given by the State Park Association.

TOURISM

Thursday, February 11, 2010, 8:00 a.m. Hearing Room 7.

Executive session may follow.

Public hearing to be held on: HB 1336, HB 1271

WAYS AND MEANS

Thursday, February 4, 2010, 8:30 a.m. Hearing Room 3.

Possible Executive session.

Public hearing to be held on: HB 1244, HB 1507, HB 1582

HOUSE CALENDAR

SEVENTEENTH DAY, THURSDAY, FEBRUARY 4, 2010

HOUSE BILLS FOR SECOND READING

HB 1959 through HB 1989

HOUSE BILLS FOR PERFECTION

1 HB 1542 - Deeken

2 HCS HB 1377, as amended - Brandom

HOUSE CONCURRENT RESOLUTIONS FOR THIRD READING

HCS HCRs 34 & 35, (1-27-10, Page 167) - Icet

HOUSE CONCURRENT RESOLUTIONS

HCR 38, (1-27-10, Page 168) - Icet