

# Journal of the Senate

FIRST REGULAR SESSION

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TWELFTH DAY—WEDNESDAY, JANUARY 28, 2009

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The Senate met pursuant to adjournment.

President Kinder in the Chair.

Reverend Carl Gauck offered the following prayer:

“My soul does not find itself unless it acts.” (Thomas Merton)

Merciful Lord, we call upon You this day to help us to know we are sharing in Your actions and that they flow from our inner being where You are. May You guide our thoughts and decisions so being in touch with You and voting from our core values we may know our soul. In Your Holy Name we pray. Amen.

The Pledge of Allegiance to the Flag was recited.

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

The Journal of the previous day was read and approved.

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

Present—Senators

Barnitz	Bartle	Bray	Callahan	Champion	Clemens	Crowell	Cunningham
Days	Dempsey	Engler	Goodman	Green	Griesheimer	Justus	Lager
Lembke	Mayer	McKenna	Nodler	Pearce	Purgason	Ridgeway	Rupp
Schaefer	Schmitt	Scott	Shields	Shoemyer	Smith	Stouffer	Vogel
Wilson	Wright-Jones—34						

Absent—Senators—None

Absent with leave—Senators—None

Vacancies—None

The Lieutenant Governor was present.

**RESOLUTIONS**

Senator Engler offered the following resolution:

## SENATE RESOLUTION NO. 153

WHEREAS, the Administration Committee is required by law to establish the rates of pay each year, and

WHEREAS, such rates of pay are to be the same as those established under the policies of the Personnel Division of the Office of Administration for comparable duties after examination of the rates of pay then in effect, and

WHEREAS, the rates of pay established shall become effective with the adoption of this resolution.

NOW, THEREFORE, BE IT RESOLVED by the Committee on Administration that the number, classification and rates of pay authorized for employees of the Senate shall include one department director and eight division level directors to be compensated according to Office of Administration guidelines; and the following authorized employees at rates of pay within the ranges hereby established.

NO.	CLASSIFICATION	MONTHLY SALARY RANGE
4	Staff Attorney II	3,476 - 5,135
2	Senior Staff Attorney	3,932 - 5,829
2	Research Analyst IV	3,476 - 5,135
1	Investigator	3,225 - 4,724
4	Research Staff Secretary	2,688 - 3,832
2	Budget Research Analyst II	2,996 - 4,263
2	Budget Research Analyst III	3,476 - 5,135
1	Senior Budget Research Analyst	3,932 - 5,829
1	Budget Staff Secretary	2,688 - 3,832
3	Assistant Secretary of Senate	2,996 - 4,263
1	Enrolling & Engrossing Supervisor	2,996 - 4,263
2.5	Enrolling & Engrossing Clerk	2,383 - 3,351
1	Billroom Supervisor	2,383 - 3,351
1	Billroom Clerk	2,048 - 2,828
5	Public Information Specialist	2,383 - 3,351
1	Photographer	2,688 - 3,832
1	Administrative Assistant	3,131 - 6,425
1	Telecommunications Coordinator	2,996 - 4,263
2.5	Accounting Specialist	2,785 - 3,932
1	Human Resources Specialist	2,785 - 3,932
1	Office Assistance Supervisor	2,996 - 4,263
9	Administrative/Office Support	2,785 - 3,932
1	Messenger	1,983 - 2,679
2	Computer Info. Technology Spec. I	3,832 - 5,590
2	Computer Info. Technology Spec. II	4,441 - 6,357
1	Computer Info. Technology Spec. III	4,629 - 6,644
4	Computer Info. Technologist II	3,108 - 4,441
1	Network/Communications Specialist	3,832 - 5,590
2	Data Entry Operator III	2,232 - 3,108
1	Composing Equipment Operator III	2,232 - 3,108

0.5	Mailroom Supervisor	2,383 - 3,351
1	Printing Services Technician II	2,048 - 2,828
2	Printing Services Technician III	2,232 - 3,108
2	Printing Services Technician IV	2,508 - 3,476
1	Maintenance Supervisor	2,508 - 3,476
1	Carpenter II	2,508 - 3,476
1	Maintenance Worker	2,048 - 2,828
0.5	Sergeant at Arms (Elected)	2,508 - 3,476
0.5	Doorkeeper (Elected)	1,832 - 2,460
3.5	Assistant Doorkeeper	1,678 - 2,183
0.5	Reading Clerk	1,678 - 2,183
0.5	Chaplain	908 - 1,202
0.5	Security Guard	1,727 - 2,297

BE IT FURTHER RESOLVED that the Senate Administration Committee is authorized to establish a formula setting forth the maximum amount which may be expended by each Senator and each caucus for the employment of Administrative and Clerical Assistants. Each Senator plus the President Pro Tem and the Minority Leader on behalf of their caucus will be notified of the funds available, and shall thereafter certify to the Senate Administrator the names and addresses of Administrative and Clerical Assistants. The compensation paid to the Senators' and caucus administrative and clerical assistants shall be within the limits of the categories set forth herein above.

BE IT FURTHER RESOLVED that the Senate Administrator, with the approval of the Senate Administration Committee, shall have the authority to cooperate and coordinate with the Chief Clerk of the House in the selection of employees, who shall be assigned to the garage, Joint Committee Staffs and the rotunda area, and who will be paid from the Joint House and Senate Contingent Fund, within the limits of the categories set out above.

BE IT FURTHER RESOLVED that the Committee on Administration has the authority to reduce, combine or consolidate positions and salaries where necessary to meet changed conditions or circumstances which arise, and may enter into contracts with consultants, provided such consultant's contract fee does not exceed the salary for the comparable position, and such consultant shall count as an employee of the Senate.

BE IT FURTHER RESOLVED that the Senate Administration Committee is authorized to adjust the foregoing pay ranges in July to reflect implementation of the state pay plan for FY 2010.

Senator Bray offered Senate Resolution No. 154, regarding LipoSpectrum, LLC, Ladue, which was adopted.

Senator Bray offered Senate Resolution No. 155, regarding Cervimark, LLC, Creve Coeur, which was adopted.

**CONCURRENT RESOLUTIONS**

Senator Schmitt offered the following concurrent resolution:

SENATE CONCURRENT RESOLUTION NO. 14

WHEREAS, over the past year, payroll employment in Missouri has decreased by 26,500 jobs, or 0.9 percent; and

WHEREAS, the current recession has impacted every aspect of Missouri's business market from small businesses to major multi-national corporations in every area of our economy;

WHEREAS, the economic downturn has resulted in reduced shifts, layoffs, job losses, corporate downsizing, and the collapse of various types of businesses within the state; and

WHEREAS, over the past year, the state's unemployment rate has increased to 7.3 percent; and

WHEREAS, in spite of the economic downturn experienced by the state and nation, Missouri must improve its attractiveness to new businesses while retaining and expanding upon existing industries; and

WHEREAS, in order to attract high paying jobs from businesses of the future the state must implement a comprehensive plan to increase its presence on both the national and international business markets; and

WHEREAS, such a plan should include improvements in the areas of higher education, tax policy, business regulation, environmental policy, and transportation infrastructure:

NOW THEREFORE BE IT RESOLVED that the members of the Missouri Senate, Ninety-fifth General Assembly, First Regular Session, the House of Representatives concurring therein, hereby create the “Blue Ribbon Panel on Job Retention and Economic Growth”. The panel shall meet on at least four occasions annually, including at least two occasions before the end of December of the first year the committee is fully established. The panel may hold meetings by telephone or video conference. The panel shall advise and make recommendations to the governor, general assembly, and relevant state agencies regarding matters concerning the social and economic effects of loss of major corporate presence and other businesses within the state including but not limited to loss of employment opportunities, increased reliance upon public services, decreases in charitable giving, and loss of state and local tax revenues; and

BE IT FURTHER RESOLVED that the panel shall be composed of sixteen members, consisting of the following:

(1) Eight members of the general assembly, with four members from the senate and four members from the house of representatives. The president pro tem of the senate shall appoint two members from the senate and the minority leader of the senate shall appoint two members from the senate. The speaker of the house shall appoint two members from the house of representatives and the minority leader of the house shall appoint two members from the house of representatives;

(2) The director of the department of economic development, or his or her designee;

(3) Five members to be selected from the business community;

(4) Two members who are either chief executive officers or board members of a not-for-profit agency organized under the laws of this state which are tax exempt entities under the provisions of section 501 (c) of the Internal Revenue Code; and

(5) Two experts in the field of economic development.

The members of the commission, other than the members from the general assembly and ex-officio members, shall be appointed jointly by the president pro tem of the senate and the speaker of the house of representatives. A chair of the panel shall be selected by the members of the panel; and

BE IT FURTHER RESOLVED that the members of the panel shall consist of a broad representation of Missouri businesses and not-for-profit entities which are concerned with the need for retaining existing Missouri jobs while attracting new businesses to this state; and

BE IT FURTHER RESOLVED that the panel shall make recommendations for developing a comprehensive statewide plan for job retention and economic growth. By February 1, 2010, the panel shall issue preliminary findings and recommendations to the general assembly; and

BE IT FURTHER RESOLVED that in preparing the state plan, the panel shall specifically perform the following responsibilities and report on them accordingly, in conjunction with state agencies:

(1) Conduct a case study on the social and economic impact the loss of business in various areas of the state has had on local communities and the state and report on the means for developing a comprehensive, coordinated plan to increase the attractiveness of our state to businesses in order to retain jobs and foster new business development across the state;

(2) Determine the impact business relocation out-of-state and job loss has upon charitable giving, the social well being of affected areas and the state and local economy;

(3) Study the impact current state and local tax incentives have on business decision-making and recommend the repeal, modification, or creation of additional incentives necessary to facilitate job retention, small business development, and economic growth;

(4) Assess the educational needs of existing and potential Missouri businesses and provide specific recommendations to address such needs;

(5) Examine the need for specific infrastructure improvements necessary to attract new and retain existing businesses;

(6) Develop recommendations for enhancing the attractiveness of this state to business;

(7) Assess the impact job loss has on the state and local economy and charitable giving and provide recommendations on policy changes to encourage charitable giving; and

(8) Determine the role quality of life plays in business location or relocation decision-making and provide recommendations to improve quality of life within the state to attract businesses; and

BE IT FURTHER RESOLVED that the staffs of House Research, the Joint Committee on Legislative Research, and Senate Research shall provide such legal, research, clerical, technical, and bill drafting services as the panel may require in the performance of its duties; and

BE IT FURTHER RESOLVED that the actual and necessary expenses of the panel, its members, and any staff assigned to the panel incurred by the panel shall be paid by the Joint Contingent Fund.

### **INTRODUCTION OF BILLS**

The following Bills were read the 1st time and ordered printed:

**SB 261**—By Bartle.

An Act to repeal section 575.150, RSMo, and to enact in lieu thereof one new section relating to crime, with penalty provisions.

**SB 262**—By Bartle.

An Act to repeal section 516.200, RSMo, and to enact in lieu thereof one new section relating to court procedures.

**SB 263**—By Mayer.

An Act to repeal section 44.227, RSMo, and to enact in lieu thereof one new section relating to the seismic safety commission.

**SB 264**—By Mayer.

An Act to repeal section 188.027, RSMo, and to enact in lieu thereof five new sections relating to abortion, with penalty provisions.

**SB 265**—By Mayer, Justus, Smith, Griesheimer, Vogel, Shoemyer, Goodman and Schmitt.

An Act to repeal section 476.055, RSMo, and to enact in lieu thereof one new section relating to statewide court automation, with penalty provisions.

**SB 266**—By Mayer.

An Act to amend chapter 182, RSMo, by adding thereto one new section relating to a sales tax to fund public library districts.

**SB 267**—By Mayer and Green.

An Act to repeal sections 429.005, 429.015, 429.210, and 429.230, RSMo, and to enact in lieu thereof five new sections relating to statutory liens against real estate, with an effective date for a certain section.

Senator Engler moved that the Senate recess to repair to the House of Representatives to receive the State of the Judiciary Address from the Chief Justice of the Supreme Court, the Honorable Laura Denvir Stith, which motion prevailed.

### **JOINT SESSION**

The Joint Session was called to order by President Kinder.

On roll call the following Senators were present:

## Present—Senators

Barnitz	Bartle	Bray	Callahan	Champion	Crowell	Cunningham	Days
Dempsey	Engler	Goodman	Green	Griesheimer	Justus	Lager	Lembke
Mayer	McKenna	Nodler	Pearce	Purgason	Ridgeway	Rupp	Schaefer
Schmitt	Scott	Shields	Shoemyer	Smith	Stouffer	Wilson	Wright-Jones—32

## Absent—Senators

Clemens	Vogel—2
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## Absent with leave—Senators—None

## Vacancies—None

## On roll call the following Representatives were present:

## Present—Representatives

Allen	Atkins	Aull	Biermann	Bivens	Brandom	Bringer	Brown 30
Brown 50	Brown 73	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	El-Amin	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	Icet	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	Meiners	Molendorp	Morris	Munzlinger	Nance	Nasheed
Nieves	Nolte	Norr	Oxford	Pace	Parkinson	Parson	Pollock
Pratt	Quinn	Riddle	Roorda	Ruestman	Ruzicka	Sander	Sater
Scavuzzo	Schaaf	Schad	Scharnhorst	Schieffer	Schoeller	Schoemehl	Schupp
Self	Shively	Silvey	Skaggs	Smith 14	Smith 150	Stevenson	Still
Storch	Stream	Sutherland	Talboy	Thomson	Tilley	Todd	Tracy
Viebrock	Vogt	Wallace	Walsh	Walton Gray	Webber	Wells	Weter
Wilson 119	Wilson 130	Witte	Wood	Wright	Yaeger	Yates	Zerr
Zimmerman	Mr Speaker—154						

## Absent and Absent with Leave—Representatives

Meadows	Rucker	Salva	Schlottach	Spreng	Swinger	Wasson	Webb
Wildberger—9							

The Joint Committee appointed to wait upon the Chief Justice of the Supreme Court, Laura Denvir Stith, escorted the Chief Justice to the dais where she delivered the State of the Judiciary Address to the Joint Assembly:

*2009 State of the Judiciary Address  
Chief Justice Laura Denvir Stith*

**Introduction**

President Kinder, President Pro Tem Shields, Speaker Richard, my fellow Supreme Court judges, Treasurer Zweifel, Auditor Montee, Attorney General Koster, other elected officials and my fellow citizens: I am truly honored to appear before you again to discuss the state of Missouri's judiciary.

The people of Missouri envisioned that the leaders of all three branches of our government would swear the same oaths to uphold Missouri's constitution and then work together as constitutional partners in serving the citizens of Missouri. Our constitution establishes distinct but interrelated roles for the judicial, legislative and executive branches. In this, my last year as chief justice, I have directed many of my efforts toward identifying more clearly the constitutional mission of the judicial branch and determining how best that mission can be accomplished. This task has taken on even greater urgency in light of the worsening economic forecast.

In evaluating the role of the judicial branch in our constitutional partnership, the place I naturally began is the people's law: our constitution, which, in article I, imposes certain requirements on the judiciary. Section 14 mandates "That the courts of justice shall be open to every person ...." Section 10 ensures that every person whose life, liberty or property is threatened receives "due process of law." Section 2 specifies that all persons are entitled to equal rights and opportunity under the law. If we do not work together to secure these rights for our citizens, then, as the constitution itself states (article I, section 2), our government "fails in its chief design." These and other overarching constitutional principles have led me to identify four strategic missions of our legal system:

- (1) Ensuring equal and affordable access to justice for all our citizens;
- (2) Providing a fair, unbiased and impartial forum for resolving disputes;
- (3) Effectively and efficiently administering our courts; and
- (4) Enhancing the public's trust and confidence in the justice system and, indeed, the whole government.

All of us in the judiciary strive each day to accomplish these missions. But we cannot do it alone. We will succeed only if we continue to collaborate with you, our constitutional partners. Together, we must encourage continued innovation as we face new and different challenges; we must learn to enhance our services while being more efficient; and we always must keep in mind that any path we choose should continue us toward the kind of open, responsive courts the constitution shows our citizens envisioned.

**Implementing a strategic vision for Missouri's courts**

Collaboration has been the foundation of our government, since the drafting of our constitution. The Missouri Constitution was not the work of just legislators – it evolved – and continues to evolve – through the collaboration of officials from all branches of government and ordinary citizens alike, with a healthy respect for tradition combined with an openness to new ideas.

Missouri's courts have adopted this same approach by reaching out to others as we seek to fulfill our constitutional duties. We know it is not enough for courts simply to do things as they always have done. Especially in the midst of these difficult economic times, we must focus not just on weathering the storm but on using our resources even more efficiently, and we cannot be afraid to ask the difficult questions that drive us toward an improved judiciary. Indeed, the challenges we face *today* make planning for *tomorrow* more essential *now* than ever before.

Some of you will remember that my colleague Mike Wolff helped initiate this process a few years ago by making Missouri the first judiciary in the nation to invite the American Bar Association to conduct a critical review of how well Missourians believe their courts are serving them. The report reassured us that the courts are doing their job very well. We were rated favorably on our professionalism, the quality and tenure of our judges, and our basic unified structure. Our ongoing plan for the use of information technology also was well received. The report also identified a few areas in which further progress must be made – such as adequately funding public defenders and streamlining case procedures.

To better address these and other challenges, the courts must recognize that we cannot simply force all modern problems to fit old judicial molds – we must look at the needs of our citizens and businesses today and ensure that the courts evolve to meet them. As a key part of that effort, I have invited those with the most contact with our legal system – lawyers, judges, court staff and others – to join me in using an open-ended "brainstorming" tool to help us identify ways in which we can make Missouri's courts even better. Their responses have been very helpful and insightful.

But I do not want to stop there. I want your input as well, for I am confident you will have additional insights, drawn from your own experience or that of your constituents, about how our courts can better serve Missouri today and in years to come. In the next few days, the Court will e-mail your office this short brainstorming tool. I know you all are busy and to say "you've got mail" is an understatement, but I ask that you take a moment to look at this tool and please share any ideas you have for us. With your ideas and those already suggested, I will

prepare a more formal strategic initiative that will outline some of the programs that, in both the short and long term, will move us toward fulfilling our four missions. We will share this strategic document with you once it is completed in the coming weeks.

In the meantime, we will deliver to you this afternoon a pocket-sized brochure with basic facts about the judiciary as well as an electronic document outlining our key legislative issues for 2009. I will spend the remainder of my remarks this morning touching on key aspects of these issues. Together, we can build on the solid foundation we already have and forge an even better justice system for the future. Our citizens deserve nothing less.

#### ***Ensuring equal and affordable access to justice***

The first mission of the judiciary is to ensure equal and affordable access to justice for all Missourians – no matter their color or creed or ability to pay. We can do no less if we are to fulfill the promise of Missouri’s constitution (article I, section 2) that all our citizens “are entitled to equal rights and opportunity under the law.” This is one of our most critical challenges.

Much good work already is being done to advance this mission. In Kansas City, for example, the municipal court and city prosecutors run a program through which lawyers provide free legal assistance to homeless veterans who are arrested on municipal violations. Usually the veterans are asked to perform community service in lieu of fines. Lawyers in other Missouri cities also participate each year in a law day when they provide free legal advice to those who need help; lawyers in the Springfield area do this on a monthly basis.

Programs like these have sparked people to suggest that we implement statewide “veterans courts” or dockets overseen by judges who understand the unique problems and needs presented by some former members of the military. Other suggestions involve ways we can streamline procedural requirements in complex civil cases such as major labor and business disputes. Along with business leaders throughout our state, we recognize that the prompt resolution of these cases is essential for Missouri’s economic engine to work, let alone to grow. Likewise, we must identify those litigants whose needs we can serve more efficiently in simple civil cases such as foreclosures and even traffic infractions, so that equal access is provided to all litigants, no matter the worth of their case.

I also am proud to tell you that we are seeking to make justice more affordable for all our citizens by expanding the use of teleconferencing and videoconferencing. We already use videoconferencing in some of our juvenile courts to enable parents whose children have been required to be placed far away to see their children and communicate with them on a regular basis. In addition, some courts – such as those in the St. Joseph area – use videoconferencing for criminal arraignments and juvenile dockets as well. The Court believes that expanding this technology could save the state money on staffing and transfer of judges to hear cases in areas where dockets are crowded. At the same time, it would make available to additional litigants quick, direct access to justice while eliminating much of their travel costs.

I have asked a group of knowledgeable judges and clerks to make recommendations – by the end of the current fiscal year – for the best ways to use this technology. Their leader will be a former trial judge with nearly two decades of experience representing all sorts of clients throughout northwest Missouri in all sorts of cases.

I am speaking of my newest colleague, Judge Zel Fischer, whose intelligence, experience and enthusiasm already have made Zel – as he much prefers to be called – an excellent addition to the Supreme Court. He is an extremely devoted family man, and his affable and easy-going manner is obvious to anyone who spends time with him. I am certain that you will come to like him; in fact, I don’t know anyone who has met him who *doesn’t* like him. Judge Fischer – Zel – will you please stand?

#### ***Public Defender Crisis as an Aspect of Access to Justice***

One critical challenge, however, continues to be our ability to deliver equal and affordable access to justice in criminal matters. One measure of a society’s justice system is how well it handles the worst of citizens who come before it. Well, I hope there are other measures too, because of all states with statewide public defender systems, Missouri ranks dead last in per capita funding of public defenders. This affects not just the defendant whose trial is delayed. It sometimes means that justice is delayed or denied for the victims of crime, who watch in frustration as evidence or witnesses disappear and stress increases.

There is a serious public safety aspect of the public defender crisis as well. The federal constitution guarantees defendants both speedy trials and competent legal counsel. The inadequate number of public defenders, however, puts in question the state’s ability to meet either of these requirements. In short, if not corrected, defendants potentially could be set free without going to trial. The United States Supreme Court has said that it is presumptively prejudicial for a criminal defendant in state courts to have to wait more than eight months for trial where the delay was caused by the prosecutor. But, just two weeks ago the United States Supreme Court heard an appeal suggesting that it is also the state’s fault if gross underfunding causes public defenders to ask for continuances. Victims’ advocates have expressed very understandable concern this could result in vast numbers of criminals being set free because their public defenders were unable to take them to trial soon enough. Missouri does not want to find itself in the position of other states, such as Indiana, Montana and Washington, that were faced with the possibility of releasing prisoners or lawsuits from the ACLU if they did not fix their public defender crises. It also does not want to be like

Louisiana, where the legislature had to seek a bailout from Congress for the public defender program to avoid releasing hundreds of prisoners.

Much work already is being done in Missouri to try to stave off problems like these. In the city of St. Louis, last year – for the first time in recent memory – more criminal cases were disposed of than were filed. How did they do it? Judges, private attorneys, and attorneys from the public defender’s and circuit attorney’s offices collaborated; our state courts administrator’s office offered technical assistance in expediting case handling; and a method allowing for quicker disposition of criminal cases was established.

And in Springfield, the bar spearheaded a cooperative effort within the local legal community to recruit and train private attorneys to handle probation revocation cases where there are no other charges pending. Just six months after the program was born, more than 40 lawyers have volunteered, most of whom have received training and have begun taking cases. The public defender’s office says this is making a real difference in caseloads there. We are hoping to draw on Springfield’s expertise and replicate its cooperative program elsewhere in Missouri this year. Crista Hogan and Brian Hamburg, who have been intimately involved in that effort, braved the ice and snow to be here today. I ask you both to stand so we all can recognize you for your cooperation, innovation and success.

Even the most drastic of volunteer efforts, however, is not nearly enough. That is why working with you to find creative solutions to remedy the worsening situation in Missouri’s public defender system is one of our key priorities this legislative session. We believe a substantial additional state commitment of resources is necessary, but that simply is not possible without the support of those of you in this room. I am confident that together, we can find ways to ease these burdens, comply with federal law, and enhance equal – and affordable – access to justice for all.

#### ***Providing fair, unbiased and impartial forums for resolving legal issues***

Citizens in civil and criminal cases require more than just equal and affordable access to our legal system, though. They also expect – and deserve – our courts to be fair, unbiased and impartial forums, for the Missouri Constitution (article I, section 14) promises that a “certain remedy [be] afforded for every injury to person, property or character, and that right and justice shall be administered without sale, denial or delay.” Fulfilling this promise also is one of the missions of the Missouri Judiciary.

In our focus on providing an unbiased and impartial forum to resolve disputes, we have found that some types of cases simply do not fit well within a traditional court framework. These cases can be handled better by looking for innovative solutions, such as the drug courts and other specialized “problem-solving” approaches now offered in most of our counties. These specialized dockets make the processing of such cases more efficient and best utilize the expertise of those who work on them – they serve as alternatives to imprisonment for generally non-violent offenders whom the judge believes have a real chance of turning their lives around if they receive serious, court-supervised treatment, oversight and mentoring.

I talked with you last year about the success of our drug courts and of the Greene County DWI court in making positive changes in the lives of participants and their families at a fraction of the cost of prison. These programs make our communities safer, because those who graduate from these courts are far less likely to reoffend than are those who are sent to prison.

A new and effective use of the treatment court model involves reintegration dockets, which reduce recidivism by placing offenders released from prison into intensive programs where they are taught the skills they need to readjust to life in their communities. The program requires random drug tests; regular meetings with a probation officer; frequent support group and treatment sessions; and maintaining employment. A judge monitors the participants’ behavior and can send them to jail or back to prison if they fail to comply. One reintegration success story is that of Larry Goodman, who, for much of his adult life, did not think he had a drug or alcohol problem despite frequent arrests while intoxicated. In 2007, instead of being released directly into the community to make his own way, he entered Boone County’s new reintegration program under the supervision of Judge Christine Carpenter. Now, as Mr. Goodman puts it: “I am living a life like I have never lived before, a life without drugs and alcohol ... Everything is brand new.” Mr. Goodman and Judge Carpenter, would you please stand and be recognized?

These innovative approaches are not limited to the criminal field. The courts and local mental hospitals in St. Joseph and the city of St. Louis have developed programs that allow civil commitment hearings to be held by videoconference without the patient or the doctor ever leaving the hospital. This allows cases to move more quickly, saves time and money, is less stressful and more dignified for the patient, and enhances public safety by eliminating the risk of escape during transport. Ron Ditemore of Heartland Health was instrumental in setting up the program in St. Joseph – a decision driven by economic necessity but that has great long-term effects well beyond the financial benefit. Mr. Ditemore, would you please stand and be recognized for your fine work?

I hope you will have other suggestions for helping our courts fit the kinds of cases brought before them, rather than trying to force unique cases into a one-size-fits-all traditional court structure.

#### ***Efficiently administering justice***

Assuring that our citizens receive an unbiased forum to resolve their disputes dovetails with the third mission of Missouri’s judiciary: to

administer our courts efficiently and effectively. We view all our efforts to improve the efficiency within the judicial branch as part of the constitutional guarantee to our citizens of “due process of the law.”

Many who have participated in our brainstorming exercise have praised our efforts to move cases more expeditiously. Three years ago, based in part on the Commission on Children’s Justice’s recommendations, we implemented time standards for certain hearings in child abuse and neglect cases. I am proud to announce that, last fall, we honored 25 judicial circuits for conducting at least 95 percent of these hearings within the requisite time frames and another dozen circuits for doing so in *100 percent* of their hearings. You should be proud of the judges and staff in all these circuits for this wonderful progress.

Court technology is another area in which we have worked to make our system meet the needs of those we serve. Case.net, which provides public case information to anyone with an Internet connection, is only the tip of the iceberg. We recently completed our statewide case management system, allowing Missouri’s courts to work with almost every department in the state – as well as several government entities nationwide – to ensure prompt access to critical judicial information. For instance, transmitting criminal and traffic disposition information in near real time gets licenses of dangerous drivers revoked quickly and helps residential care facilities ensure their employees’ backgrounds make them appropriate to work with children or the elderly. In the coming year, we are working to send warrants and full orders of protection electronically to law enforcement, giving them this critical information as quickly as possible. As a next step, we are working with the Office of Administration to solicit bids from vendors for e-filing, which would allow litigants to submit and retrieve court documents from remote locations and after hours, reducing costs, saving time and allowing for greater access to filings.

For us to continue providing these critical services, however, we need continued legislative commitment to court technology. Most importantly, we need you to reauthorize the \$7 filing fee paid by those who file cases. Although it funds one-third of the court system’s technology needs, this fee is one of the lowest in the nation for this purpose, and it is scheduled to sunset this year. But without it, we literally would go back to pencil and paper in some places and could not sustain the kind of information sharing that public safety and efficiency require.

This also is important to the state’s bottom line, for if we could not maintain our statewide case management system, we would not be able to continue our efforts to collect monies owed to the state and her citizens. For example, in the four years since the judiciary and the legislature worked together to create the tax-offset and debt-collection programs, Missouri courts have captured for the state more than \$8.4 million. This is just a small part of the tens of millions of dollars the judiciary collects each year that is earmarked for general revenue or other funds the state administers. In fiscal 2008, this amounted to \$40.6 million. This money – which goes to schools and state and local governments – can play a small, but key, part in alleviating some of the burden these difficult financial times are placing on all our government institutions.

We look forward to working with you to maintain the positive economic impact on the state that court technology has. We also look forward to your ideas for other ways to increase the courts’ efficiency.

### ***Increasing public trust and understanding***

I began by emphasizing our roles as constitutional partners. This partnership is established by the Missouri Constitution (article II, section 1), which provides our basic compact with the people: “The powers of government shall be divided into three distinct departments – the legislative, executive and judicial ...” and that no persons in one branch “... shall exercise any power properly belonging to either of the others ....”

Over the past few years, those of us in the legal community have been collaborating to explain the checks and balances of these three co-equal yet interdependent branches of government as a part of our fourth mission: enhancing the public’s trust and confidence in their whole government. I firmly believe that as our citizens increase their understanding of the role and workings of the judiciary and the other branches of government, their already high level of confidence in the judicial system, and their level of confidence in all parts of their government, only will improve. This is an important tie that binds us all: a deep-rooted desire to serve the citizens of this great state and to see justice brought to those who need it.

As a part of expanding the public’s understanding of the judicial role, judges and lawyers are volunteering to teach in schools on Constitution Day and in government classes. Just last week, I took part in a citizenship video program that will be shown to thousands of middle- and high-school students in which I explained the concepts underlying our constitutional democracy. We also are collaborating with The Missouri Bar and others to enhance the public’s understanding of the justice system by expanding the judicial performance evaluations that Judge Mike Wolff suggested two years ago and that the Bar instituted last fall to give voters better information about judges up for retention.

### ***Conclusion***

In conclusion, I want to reiterate how important it is that we *all* continue our joint commitment to a well-run judiciary. Our justice system is one leg of the three-legged stool that represents the system of governance our constitution establishes. I never will forget the difficulties

inherent in your role, and I look forward to your input in the coming weeks and months as we in the courts continue to develop strategic initiatives for an even better and stronger justice system. And let us all – regardless of the branch of government in which we serve – be guided by a legal principle enshrined above the door of the red brick Supreme Court building – “The law: It has honored us. May we honor it.” The citizens of Missouri deserve – and expect – no less.

Thank you.

On motion of Senator Engler, the Joint Session was dissolved and the Senators returned to the Chamber where they were called to order by Senator Lembke.

On motion of Senator Engler, the Senate recessed until 3:00 p.m.

### **RECESS**

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

### **RESOLUTIONS**

Senator Nodler offered Senate Resolution No. 156, regarding Christian Life Center, Joplin, which was adopted.

Senator Stouffer offered Senate Resolution No. 157, regarding Staff Sergeant Eric Yocom, Marceline, which was adopted.

Senator Stouffer offered Senate Resolution No. 158, regarding the Fiftieth Wedding Anniversary of Mr. and Mrs. Vernon Harman, Jr., Bogard, which was adopted.

Senator Stouffer offered Senate Resolution No. 159, regarding Shauni Lawrence, Excelsior Springs, which was adopted.

Senator Stouffer offered Senate Resolution No. 160, regarding Bernard A. Orman, Jr., which was adopted.

Senator Pearce offered Senate Resolution No. 161, regarding Louis Alexander Schofield, which was adopted.

Senator Pearce offered Senate Resolution No. 162, regarding Shaffin Wegener, which was adopted.

Senator Pearce offered Senate Resolution No. 163, regarding Ryan N. Baldwin, which was adopted.

Senator Pearce offered Senate Resolution No. 164, regarding Michael Lewis Hodson, Jr., which was adopted.

Senator Pearce offered Senate Resolution No. 165, regarding Jacob Patrick Conner, which was adopted.

Senator Pearce offered Senate Resolution No. 166, regarding Sky D. Roberson, which was adopted.

Senator Pearce offered Senate Resolution No. 167, regarding Kipper Cordell Banner, which was adopted.

Senator Pearce offered Senate Resolution No. 168, regarding Alex James Rickard, which was adopted.

Senator Pearce offered Senate Resolution No. 169, regarding Ryan Logan Rickard, which was adopted.

Senator Pearce offered Senate Resolution No. 170, regarding Brett Mason, which was adopted.

Senator Pearce offered Senate Resolution No. 171, regarding James W. Heller, which was adopted.

Senator Pearce offered Senate Resolution No. 172, regarding Sean Eric Reed, which was adopted.

Senator Pearce offered Senate Resolution No. 173, regarding Jacob Alan Shuster, which was adopted.

Senator Pearce offered Senate Resolution No. 174, regarding Joshua Stockwell, which was adopted.

Senator Pearce offered Senate Resolution No. 175, regarding William Alan Henson, which was adopted.

Senator Pearce offered Senate Resolution No. 176, regarding Matthew James Simmons, which was adopted.

Senator Champion offered the following resolution:

SENATE RESOLUTION NO. 177  
NOTICE OF PROPOSED RULE CHANGE

Notice is hereby given by the Senator from Greene County of the one day notice required by rule of intent to put a motion to adopt the following rule change:

BE IT RESOLVED by the Senate of the Ninety-fifth General Assembly, First Regular Session, that Senate Rule 64 be amended to read as follows:

“Rule 64. A substitute for the text of a bill is not in order until all pending amendments thereto have been disposed of. A substitute bill for an original bill or for a committee substitute shall take the form of an original bill and be subject to floor amendments, except that it shall not be subject to amendment by a further floor substitute. **Any floor substitute offered shall be accompanied by a brief summary of the changes from the previous version of the bill.** No further amendments or substitutes may be entertained after the senate adopts a substitute bill.”.

**REPORTS OF STANDING COMMITTEES**

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

Mr. President: Your Committee on Rules, Joint Rules, Resolutions and Ethics, to which was referred **SR 141**, begs leave to report that it has considered the same and recommends that the resolution do pass.

Also,

Mr. President: Your Committee on Rules, Joint Rules, Resolutions and Ethics, to which was referred **HCR 5**, begs leave to report that it has considered the same and recommends that the concurrent resolution do pass.

**COMMUNICATIONS**

President Pro Tem Shields submitted the following:

January 26, 2009

Senator Charles Shields  
President Pro-Tem  
State Capitol Building, Room 326  
Jefferson City, MO 65101

Dear Senator Shields:

Please except this letter as my resignation from the Missouri Consolidated Health Care Plan Board.

Sincerely,  
/s/ Ryan McKenna  
Ryan McKenna  
District 22

**INTRODUCTIONS OF GUESTS**

Senator Schaefer introduced to the Senate, Dr. Rebecca Johnson, PhD, Jim Beckley, Jim Ries, Allen Mavel and Anandhi Upendran, recipients of the 2009 Business Development Program Rising Star for Innovation and Entrepreneurship Award.

Senator Clemens introduced to the Senate, Brett Sheets, Pleasant Hope.

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

**SENATE CALENDAR**

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THIRTEENTH DAY—THURSDAY, JANUARY 29, 2009

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**FORMAL CALENDAR**

**SECOND READING OF SENATE BILLS**

SB 238-Callahan	SB 253-Justus
SB 239-Bartle and Justus	SB 254-Barnitz and Shoemyer
SB 240-Bray	SB 255-Pearce
SB 241-Bray	SB 256-Schaefer
SB 242-Pearce	SB 257-Schaefer
SB 243-Pearce	SB 258-Schaefer
SB 244-Dempsey	SB 259-Wright-Jones
SB 245-Schaefer	SB 260-Wright-Jones
SB 246-Schaefer	SB 261-Bartle
SB 247-Schaefer	SB 262-Bartle
SB 248-Schaefer	SB 263-Mayer
SB 249-Schaefer	SB 264-Mayer
SB 250-Smith	SB 265-Mayer, et al
SB 251-Smith	SB 266-Mayer
SB 252-Smith, et al	SB 267-Mayer and Green

**INFORMAL CALENDAR**

**RESOLUTIONS**

SR 139-Engler	SR 177-Champion
SR 153-Engler	

Reported from Committee

SR 141-Engler

HCR 5-McGhee (Lembke)

To be Referred

SCR 14-Schmitt

