

Journal of the Senate

FIRST REGULAR SESSION

FOURTEENTH DAY—MONDAY, JANUARY 31, 2005

The Senate met pursuant to adjournment.

President Kinder in the Chair.

Reverend Carl Gauck offered the following prayer:

Edward John Phelps in 1899 said, "The man who makes no mistakes does not usually make anything."

Gracious God, we know that we don't get through the day without making some mistakes and we know that successful people fail many times; so we turn such moments and times over to You and pray that through them we will learn to serve You and our people better and become more successful in what we hope to accomplish here. And we pray for Senator Wheeler's wife, touch her with Your healing power and let it flow to every cell of her body, bringing her strength and health throughout her body. And we ask You provide the doctors with guidance and wisdom to help her. In Your Holy Name we pray. Amen.

The Pledge of Allegiance to the Flag was recited.

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

The Journal for Thursday, January 27, 2005, was read and approved.

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

Present—Senators

| | | | |
|----------|---------|-----------|----------|
| Bartle | Bray | Callahan | Cauthorn |
| Champion | Clemens | Coleman | Crowell |
| Days | Dolan | Dougherty | Engler |

| | | | |
|----------|---------|---------|-------------|
| Gibbons | Graham | Green | Griesheimer |
| Gross | Kennedy | Klindt | Koster |
| Loudon | Mayer | Nodler | Purgason |
| Ridgeway | Scott | Shields | Stouffer |
| Taylor | Vogel | Wheeler | Wilson—32 |

Absent with leave—Senators—None

Vacancies—2

The Lieutenant Governor was present.

RESOLUTIONS

Senator Bray offered Senate Resolution No. 154, regarding Tyler Ball, Clayton, which was adopted.

Senator Bray offered Senate Resolution No. 155, regarding Vikram Chakravarthy, Clayton, which was adopted.

Senator Bray offered Senate Resolution No. 156, regarding Jessie Gillam, Richmond Heights, which was adopted.

Senator Bray offered Senate Resolution No. 157, regarding the St. Louis Season for Nonviolence Task Force, which was adopted.

Senator Bray offered Senate Resolution No. 158, regarding Barbara Gill, Brentwood, which was adopted.

Senator Bray offered Senate Resolution No.

159, regarding Ann Bergeron and Steve Wellmeier, Creve Coeur, which was adopted.

Senator Vogel offered Senate Resolution No. 160, regarding the One Hundredth Birthday of Louise Baumhoer, Jefferson City, which was adopted.

Senator Wheeler offered Senate Resolution No. 161, regarding Dr. William O. "Bill" Stevens, Kansas City, which was adopted.

Senator Stouffer offered Senate Resolution No. 162, regarding Dress Up Dreams, Kearney, which was adopted.

Senator Stouffer offered Senate Resolution No. 163, regarding Terri Godsey, Excelsior Springs, which was adopted.

Senator Klindt offered Senate Resolution No. 164, regarding the Sixtieth Wedding Anniversary of Mr. and Mrs. Ervin Gray, Trenton, which was adopted.

CONCURRENT RESOLUTIONS

Senator Shields moved that **HCR 10** be taken up for adoption, which motion prevailed.

On motion of Senator Shields, **HCR 10** was adopted by the following vote:

YEAS—Senators

| | | | |
|----------|---------|-----------|-------------|
| Bartle | Bray | Callahan | Cauthorn |
| Champion | Clemens | Coleman | Crowell |
| Days | Dolan | Dougherty | Engler |
| Gibbons | Graham | Green | Griesheimer |
| Gross | Kennedy | Klindt | Koster |
| Loudon | Mayer | Nodler | Purgason |
| Ridgeway | Scott | Shields | Stouffer |
| Taylor | Vogel | Wheeler | Wilson—32 |

NAYS—Senators—None

Absent—Senators—None

Absent with leave—Senators—None

Vacancies—2

INTRODUCTION OF BILLS

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

SB 262—By Griesheimer.

An Act to repeal section 311.070, RSMo, and to enact in lieu thereof one new section relating to Missouri wine.

SB 263—By Griesheimer.

An Act to repeal section 190.292, RSMo, and to enact in lieu thereof one new section relating to election of emergency services board members.

SB 264—By Stouffer.

An Act to repeal section 144.030, RSMo, and to enact in lieu thereof one new section relating to sales and use taxes.

SB 265—By Taylor.

An Act to repeal section 247.085, RSMo, and to enact in lieu thereof one new section relating to public water supply districts.

SB 266—By Gibbons.

An Act to repeal section 168.104, RSMo, and to enact in lieu thereof one new section relating to teachers.

SB 267—By Gibbons.

An Act to repeal section 137.115, RSMo, and to enact in lieu thereof one new section relating to property tax reassessment.

SB 268—By Gibbons and Coleman.

An Act to repeal section 184.357, RSMo, and to enact in lieu thereof one new section relating to museums and memorials.

RESOLUTIONS

Senator Gibbons offered the following resolution, which was read and adopted:

SENATE RESOLUTION NO. 165

WHEREAS, the members of the Missouri Senate hold in tremendous esteem those Show-Me State residents who have proven down through the years to be committed to helping state

government provide its much-needed services and programs in the efficient, effective manner mandated by the public; and

WHEREAS, Henry Thomas Herschel of Jefferson City, has attained distinction as the Director of Senate Research and since he accepted that office's diverse duties and responsibilities in 2002; and

WHEREAS, on Monday, January 31, 2005, Henry Herschel will draw his services as Director of Senate Research to a close when he begins the position of General Counsel for the Office of Administration; and

WHEREAS, Henry Herschel brings to the Office of Administration a wealth of knowledge and experience which he garnered from his positions as Director of Senate Research; Attorney for Blitz, Bardgett & Deutsch, L.C.; Chief Counsel, Consumer Protection Division and Public Protection Division, Office of Attorney General; Assistant Attorney General with the Office of Attorney General; and Personnel Director for L.E. Meyers Company, Ltd; and

WHEREAS, Henry Herschel holds both a Bachelor of Arts degree from Marquette University of Milwaukee, Wisconsin, where he was elected to Phi Beta Kappa, and a Juris Doctor from Washington University Law School of St. Louis, Missouri; and

WHEREAS, Henry Herschel is a talented artist, avid golfer, gourmet cook, trivia guru, insatiable reader, and is the self-proclaimed king of "I can dish it out but can't take it"; and

WHEREAS, Henry Herschel reached a long-sought-after milestone in his life in the summer of 2004 when, after decades of hacking his way around a golf course, he finally amazed all his friends and family by breaking 90; and

WHEREAS, is justifiably proud to be known as the beloved husband of Anne and the loving father of Michael, Carl, Leland, and Morgan:

NOW, THEREFORE, BE IT RESOLVED that we, the members of the Missouri Senate, Ninety-third General Assembly, join unanimously to applaud the contributions so generously given by Henry T. Herschel during his tenure as Director of Senate Research and to convey to him this legislative body's most heartfelt best wishes as he shifts the focus of his time and energy to his new position as General Counsel for the Office of Administration; and

BE IT FURTHER RESOLVED that the Secretary of the Senate be instructed to prepare a properly inscribed copy of this resolution for presentation to Henry T. Herschel of Jefferson City, Missouri.

INTRODUCTION OF BILLS

The following Bill and Joint Resolution were read the 1st time and ordered printed:

SB 269—By Shields and Callahan.

An Act to repeal section 143.183, RSMo, and to enact in lieu thereof one new section relating to athletes and entertainer tax.

SJR 14—By Klindt.

Joint Resolution submitting to the qualified voters of Missouri, an amendment repealing section 40(a) of article IV of the Constitution of Missouri, and adopting one new section in lieu thereof relating to the conservation commission.

MESSAGES FROM THE GOVERNOR

The following messages were received from the Governor, reading of which was waived:

OFFICE OF THE GOVERNOR
 State of Missouri
 Jefferson City
 65101
 January 27, 2005

TO THE SENATE OF THE 93rd GENERAL ASSEMBLY OF THE STATE OF MISSOURI:

I have the honor to transmit to you herewith for your advice and consent the following appointment:

Michelle T. Esswein, Independent, 4420 Firelight Drive, Saint Louis, Saint Louis County, Missouri 63129, as a member of the Missouri Women's Council, for a term ending December 6, 2007, and until her successor is duly appointed and qualified; vice, Michelle T. Esswein, withdrawn.

Respectfully submitted,
MATT BLUNT
 Governor

Also,

OFFICE OF THE GOVERNOR
 State of Missouri
 Jefferson City
 65101
 January 27, 2005

TO THE SENATE OF THE 93rd GENERAL ASSEMBLY OF THE STATE OF MISSOURI:

I have the honor to transmit to you herewith for your advice and consent the following appointment:

Peggy Tuter Pearl, C.H.E., 847 Pickwick, Springfield, Greene County, Missouri 65804, as a member of the Child Abuse and Neglect Review Board, for a term ending April 17, 2006, and until her successor is duly appointed and qualified; vice, Peggy Tuter Pearl, withdrawn.

Respectfully submitted,
MATT BLUNT
 Governor

Also,

OFFICE OF THE GOVERNOR

State of Missouri

Jefferson City

65101

January 27, 2005

TO THE SENATE OF THE 93rd GENERAL ASSEMBLY OF
THE STATE OF MISSOURI:

I have the honor to transmit to you herewith for your advice and consent the following appointment:

Richard H. Strecker, 2204 Julie Lane, Jefferson City, Cole County, Missouri 65109, as a member of the Missouri Planning Council on Developmental Disabilities, for a term ending June 30, 2006, and until his successor is duly appointed and qualified; vice, Richard H. Strecker, withdrawn.

Respectfully submitted,

MATT BLUNT

Governor

President Pro Tem Gibbons referred the above appointments to the Committee on gubernatorial appointments.

SECOND READING OF SENATE BILLS

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

SB 231—Education.

SB 232—Judiciary and Civil and Criminal Jurisprudence.

SB 233—Transportation.

SB 234—Pensions, Veterans' Affairs and General Laws.

SB 235—Aging, Families, Mental and Public Health.

SB 236—Commerce, Energy and the Environment.

SB 237—Commerce, Energy and the Environment.

SB 240—Governmental Accountability and Fiscal Oversight.

SB 241—Governmental Accountability and Fiscal Oversight.

SB 242—Financial and Governmental Organizations and Elections.

SB 243—Aging, Families, Mental and Public Health.

SB 244—Small Business, Insurance and Industrial Relations.

SB 245—Ways and Means.

SB 246—Financial and Governmental Organizations and Elections.

SB 247—Transportation.

SB 248—Ways and Means.

SB 250—Transportation.

SB 251—Ways and Means.

SB 252—Pensions, Veterans' Affairs and General Laws.

SB 253—Transportation.

SB 254—Judiciary and Civil and Criminal Jurisprudence.

SB 255—Pensions, Veterans' Affairs and General Laws.

SB 256—Transportation.

SB 257—Economic Development, Tourism and Local Government.

SB 258—Economic Development, Tourism and Local Government.

SB 259—Economic Development, Tourism and Local Government.

SB 260—Economic Development, Tourism and Local Government.

SB 261—Small Business, Insurance and Industrial Relations.

On motion of Senator Shields, the Senate recessed until 5:30 p.m.

RECESS

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

REPORTS OF STANDING COMMITTEES

Senator Shields, Chairman of the Committee

on Rules, Joint Rules, Resolutions and Ethics, submitted the following report:

Mr. President: Your Committee on Rules, Joint Rules, Resolutions and Ethics, to which was referred **SR 150**, begs leave to report that it has considered the same and recommends that the Senate Committee Substitute, hereto attached, do pass.

SENATE COMMITTEE SUBSTITUTE FOR
SENATE RESOLUTION NO. 150

BE IT RESOLVED by the Senate of the Ninety-third General Assembly, First Regular Session, that Senate Rules 4, 6, 7, 10, 14, 19, 21, 26, 27, 45, 52, 64, 65, 66, 67, 68, 69, 70, 71, 72, 73, 74, 75, 76, 77, 78, 79, 80, 81, 82, 83, 84, 85, 86, 87, 88, 89, 90, 91, 92, 93, 94, 95, 96, 97, 98, 99, 100, 101, and 102 of the temporary rules adopted January 5, 2005, be amended to read as follows:

“Rule 4. The president shall, on each day, announce the business in order agreeable to the preceding rule and no business shall be taken up or considered until the class to which it belongs is declared in order, but communications from the governor and reports from the Committee on Rules, Joint Rules, [and] Resolutions, **and Ethics** may be received at any time.

Rule 6. Upon the written request of the sponsor or floor handler of a bill, the committee on rules, joint rules, [and] resolutions, **and ethics** may recommend that any such bill on the calendars for perfection or house bills on third reading be called up or considered out of order in which the bill appears on that calendar. A recommendation to consider bills out of order shall require approval by a majority of the committee on rules, joint rules, [and] resolutions, **and ethics** with the concurrence of two-thirds of the senate members. No floor debate shall be allowed on the motion to adopt the committee report. Except as otherwise provided for in this paragraph, only the regular appropriation bills, including the deficiency and the omnibus bills, bills providing for legislative or congressional redistricting, bills producing more than three million dollars in additional state revenue, bills implementing amendments to the Missouri Constitution which were adopted at the immediately preceding state primary or general election, and bills requiring passage in order that the state receive funds from the federal government for the institution, continuance or expansion of federal-state programs, may be called up or considered out of the order in which the bill appears on the formal calendar of the senate.

All bills reported to the senate floor by the Committee on [State Budget Control] **Governmental Accountability and Fiscal Oversight** shall be placed on the appropriate formal calendar in a position, as near as may be, to that position which the bill would have had absent referral to the Committee on [State Budget Control] **Governmental Accountability and Fiscal Oversight**.

Rule 7. Upon the call of the senate, or upon taking the yeas and nays on any question, the names of the senators shall be called alphabetically, and a senator within the chamber shall vote when his **or her** name is called. **No senator shall be allowed to cast or change his or her vote after yeas and nays have been announced by the president.** In the event a senator within the chamber refuses to cast his **or her** vote, then at the direction of the president he **or she** shall be removed from the chamber and such action noted in the journal.

Rule 10. The president pro tem shall be parliamentarian of the senate and may decide all points of order, and in his absence such points of order may be decided by the chairman of the Committee on **the Judiciary and Civil and Criminal Jurisprudence**, except in either case, the point of order may be referred by the then acting parliamentarian, to the Committee on Parliamentary Procedure for consideration and determination. All rulings on points of order shall be subject to an appeal to the senate and all questions and points of order shall be noted by the secretary with the decision thereon. (See also Rule 27.)

Rule 14. The president **pro tem** shall sign all acts, joint resolutions and addresses. All writs, warrants and subpoenas issued by order of the senate shall be under his **or her** hand attested by the secretary.

Rule 19. When a bill or joint resolution passes it shall be certified by the secretary, noting the day of its passage [at the foot thereof].

Rule 21. The secretary shall see that all amendments and substitutes are incorporated in any bill amended or substituted for when printed as perfected or truly agreed to, and shall perform such other duties as may be required by the Committee on Rules, Joint Rules, [and] Resolutions, **and Ethics**.

Rule 26. The membership of all standing committees and of all other committees and commissions, unless otherwise provided by the act or resolution creating them, shall be composed, as nearly as may be, of majority and minority party members in the same proportion as the number of majority and minority party members in the senate bears to the total membership of the senate. **The president pro tem, the majority floor leader, and the minority floor leader shall be ex-officio members of all standing and statutory committees of the senate for the purpose of a quorum and discussion but shall have no vote unless they are duly appointed members of such committee.**

Rule 27. The Committee on Parliamentary Procedure shall be composed of three members: **the president pro tem, the chairman of the Committee on the Judiciary and Civil and Criminal Jurisprudence, and the minority floor leader** [appointed by the president pro tem. Not more than two members of the committee shall be of the same political party].

Rule 45. There shall be a senate consent calendar. The

sponsor of a senate bill shall first give notice of desire to have a bill placed upon the senate consent calendar by filing in writing, with the chairman of the committee to which the bill was referred, a notice of intent one day prior to a committee hearing. The notice of intent shall set forth the nature of the legislation, the fact that it is not a controversial bill, and a request that the senate committee recommend that the bill be placed upon the consent calendar. A bill shall not be considered as consent if it increases net expenditures of the state by more than \$100,000, reduces net revenue of the state by more than \$100,000, increases an existing civil or criminal penalty or if it creates a new civil or criminal penalty. The bill will go to the senate consent calendar if, a quorum being present, it receives a unanimous affirmative vote of do pass by all members present at the senate committee to which the bill was referred, and there is thereafter a motion made and unanimously carried by affirmative vote of all those present that it be placed upon the consent calendar. Any bill approved by committee, for consent, may be reported to the consent calendar at any time the Senate goes to the order of business of committee reports. When a bill is placed upon the consent calendar, third reading shall not commence until the fifth legislative day. During this four-day period, starting with the first day the bill appears on the consent calendar in the Journal any member or the Committee on Rules, Joint Rules, [and] Resolutions, **and Ethics** may, by filing written objection **with the Secretary of the Senate**, direct that it be returned to the senate committee from which it was reported for action in accordance with the rules of the senate. A bill placed upon the senate consent calendar shall not be subject to amendment, except for committee amendments, and after the committee amendments have been disposed of shall be third read as though it had previously been perfected. If returned to committee, the chairman may report the bill to the senate at the next time that order of business is taken up, without further action of the committee. No senate bill may be placed on the consent calendar after March fifteenth and no house bill shall be placed on the consent calendar after April fifteenth.

Rule 52. [All] **Senate** bills reported to the senate from any committee shall lie on the table one day before being perfected and ordered printed[; and bills when reported perfected shall lie over one day before a third reading]. **Senate bills reported perfected and house bills reported from committee shall lie over one day before being third read.**

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 [more than one additional pending substitute which shall be in the first degree and subject to second degree amendments] **amendment by a further floor substitute.** No further amendments or substitutes may be entertained after the senate adopts a substitute bill.

Rule 65. **The withdrawal of a pending motion by its maker**

or a motion to place a bill on the informal calendar, along with any pending amendments or substitutes, by its sponsor is a privilege that may be exercised at any time, even while another member is addressing the senate or if an amendment or substitute is pending. When the senate returns to the bill, the sponsor of the pending amendment or substitute shall be first recognized by the chair on the pending amendment or substitute.

Rule 66. 1. To effect the passage of a bill on the final reading thereof, the vote shall be taken by yeas and nays, and the names of the senators voting for and against the same shall be entered and recorded in the Journal, and if a majority of the senators elected vote in favor thereof, the bill shall be declared passed. **No senator shall be allowed to cast or change his or her vote after the senate's action on said question is announced by the president.**

2. Any member may offer an amendment or amendments for the portion of a joint resolution or bill to be submitted to the voters by the General Assembly that contains the proposed official summary statement and fiscal note summary. Such amendment may be further amended as provided by the rules of the Senate.

Rule [66.] **67.** When a bill is put upon its final passage and, failing to pass, a motion is made to reconsider the vote by which it was defeated, the presiding officer shall briefly state the nature of the bill. Thereupon the vote on the motion to reconsider shall be immediately taken, without interrogation or debate, and the subject finally disposed of without interrogation or debate before the senate proceeds to any other business.

Rule [67.] **68.** No bill shall become a law until after it has been signed by the presiding officer of the senate, in open session. Before the presiding officer affixes his **or her** signature to any bill he **or she** shall suspend all other business, declare that the bill will now be read, and that if no objection be made he **or she** will sign it to the end that it may become a law. The bill shall then be read [at length] and if no objection is made, he **or she** shall, in the presence of the senate, in open session, and before any other business is entertained affix his **or her** signature, which fact shall be noted in the Journal, and the bill immediately sent to the other house. If any senator objects that any substitution, omission or insertion has occurred, so that the bill proposed to be signed is not the same in substance and form as when considered and passed by the senate or house, or that any particular clause of Article III of the Constitution has been violated in its passage, such objection shall be passed upon by the senate, and if sustained, the presiding officer shall withhold his **or her** signature; but if the objection is not sustained, then any five members may embody it over their signature, in a written protest, under oath, against the signing of the bill. The protest, when offered in the senate, shall be noted upon the Journal, and the original shall be annexed to the bill, to be considered by the governor in connection therewith; and if the bill is one that has not been first signed by the presiding officer of the house, it shall

immediately be sent to the house after it has been so read and signed in the senate, for such action thereon in the house as is prescribed by the constitution. (Constitution, Art. III, Sec. 30.)

Rule [68.] **69.** When any bill passed by both houses has been signed as provided for in the preceding rule, it is the duty of the secretary of the senate, if the bill originated in the senate, to present it in person, on the same day on which it was signed, as aforesaid, to the governor, take his **or her** receipt therefor and enter the fact of such delivery and the time thereof upon the Journal. Every bill presented to the governor and returned within fifteen days to the house in which it originated, with the approval of the governor shall become a law unless it is in violation of some provision of the constitution.

Rule [69.] **70.** Bills vetoed by the governor and returned to the senate by the governor or by the house shall stand as reconsidered and such action shall be taken thereon as prescribed by the constitution and by the Joint Rules of the Senate and House of Representatives. (Constitution, Art. III, Sec. 32.)

Rule [70.] **71.** All resolutions proposing amendments to the constitution shall be treated, in all respects, in the introduction and form of proceedings on them in the senate, in the same manner as bills. All other orders and resolutions (except courtesy resolutions) shall be referred to a committee unless the senate otherwise expressly allows by a majority vote of senators elected. Courtesy resolutions will be read only upon request of the senator offering the resolution. Courtesy resolutions shall be printed in the Journal only upon the request of the senator offering the resolution. A senator who wishes to offer a courtesy resolution which is not to be read or printed may file the resolution with the secretary of senate who will show the resolution in the Journal as having been adopted by the senate.

Rule [71.] **72.** A motion to adjourn and a motion to fix the day to which the senate shall adjourn is in order, unless a senator is speaking, or the yeas and nays are being taken, or a call is being made, and shall be decided without debate; and no senator shall leave his **or her** seat until the result is declared.

Rule [72.] **73.** When a question is under debate, no motion shall be received but to adjourn, to lay on the table, for the previous question, to postpone to a day certain, to commit or amend, to postpone indefinitely, which several motions shall have precedence in the order in which they are arranged. Pending the motion to lay on the table, the merits of the question shall not be discussed, and no motion to postpone to a certain day, to commit or postpone indefinitely, being decided, shall again be allowed on the same day, at the same stage of the bill or proposition.

Rule [73.] **74.** When a question is postponed indefinitely it shall not be acted on during the session.

Rule [74.] **75.** When a question is laid on the table, it may not thereafter be considered except by vote of two-thirds of the senators

elected, except that all measures, other than bills which stand as reconsidered having been returned by the governor with his **or her** objections, not finally acted upon on adjournment of the senate in odd-numbered years shall lie on the table and the subject matter of such measures may be taken from the table only by reintroduction of a measure at a subsequent session of the senate.

Rule [75.] **76.** When a senator is about to speak, he **or she** should rise respectfully and address himself **or herself** to the chair, standing at his **or her** seat, and wait until his **or her** name or designation is announced, when he **or she** shall proceed, addressing himself **or herself** always to the chair. **If a senator is unable to stand due to a permanent physical disability, he or she, after seeking recognition from the chair, shall be recognized in lieu of standing. If a senator is unable to stand due to a temporary physical disability, he or she shall send a letter to the secretary of the senate, which shall be printed in the journal and subsequently shall be recognized from the chair in lieu of standing. In order to maintain the recognition of the chair, the senator must be engaged in debate or in discourse. When a senator is engaged in debate or discussion and seeks to have the senate stand at ease, the senator must seek unanimous consent of the body.**

Rule [76.] **77.** If two or more senators rise at once, the chair shall name the senator who is to speak first, the other rising having the preference next to speak. **However, nothing in this rule shall be interpreted to prevent any senator not chosen to speak first from immediately making any motion that is in order under the rules.**

Rule [77.] **78.** The chair shall preserve decorum, and if any senator transgresses the rules of the senate, the chair shall, or any senator may, call him **or her** to order, in which case the senator called to order shall immediately sit down, unless permitted to explain; and the senate, if appealed to, shall decide on the case. If there is no appeal, the decision of the chair shall prevail. If the decision of the chair is in favor of the senator called to order, he **or she** shall be at liberty to proceed.

Rule [78.] **79.** If a senator is called to order for words spoken in debate, the senator calling him **or her** to order shall repeat the words excepted to, and they shall be taken down in writing on the secretary's table, and no senator shall be held to answer, or be subject to the censure of the senate for words spoken in debate, if any other senator has spoken or business has intervened after the words spoken and before exception to them has been taken.

Rule [79.] **80.** No senator shall speak more than once on the same question without leave of the senate, unless he **or she** is the mover, proposer or introducer of the matter pending, in which case he **or she** shall be permitted to speak or reply, but not until every senator choosing to speak has spoken. After a senator has been recognized to close, no other senator is permitted to speak on the pending matter, except that in the case of a proposed amendment to

a bill or resolution, the proponent of the amendment and the author of the bill or resolution to be amended may be interrogated, but, in the case of a bill or resolution, only the author of the bill or resolution may be interrogated.

Rule [80.] **81.** In proceedings and debate of the senate, the senators shall not be spoken of or addressed by their individual names.

Rule [81.] **82.** If the question in debate contains several points, any senator may have it divided if it comprehends propositions in substance so distinct that by one being taken away a substantive proposition remains for the decision of the senate. On motion to strike out and insert, it shall not be in order to move for a division of the question, but a rejection of the motion to strike out and insert a different proposition shall not prevent a subsequent motion simply to strike out, nor shall the rejection of a motion simply to strike out prevent a subsequent motion to strike out and insert.

Rule [82.] **83.** On the discussion of any business which may, in the opinion of a senator require secrecy, the president shall order the gallery to be cleared, and during the discussion the doors shall remain closed unless otherwise directed by the senate. When nominations are made in writing by the governor of the state to the senate for confirmation, the confirmation shall, without debate, be sent to the senate for confirmation, the confirmation shall, without debate, be referred to the appropriate committee for investigation, and their report shall be made to the senate as soon as practicable.

Rule [83.] **84.** The previous question shall be in this form: "Shall the main question be now put?". It shall only be admitted on written demand of five senators, and sustained by a vote of a majority of the senators elected, and in effect shall be put without debate, and bring the senate to direct vote upon a motion to commit, if such motion shall have been made; and if this motion does not prevail, then upon amendments, and then upon the main question. On demand for the previous question, a call of the senate shall be in order, but after a majority of the senators elected have sustained such a motion, no call shall be in order prior to the decision on the main question.

Rule [84.] **85.** On motion of the previous question, no debate shall be allowed and all incidental questions of order arising after the motion is made for the previous question, and pending such motion, shall be decided on appeal or otherwise without debate; if, on a vote for the previous question, the motion is not sustained by a majority of the senators elected, then the further consideration of the subject matter shall be in order.

Rule [85.] **86.** Every motion, except motion to recess or adjourn, shall be reduced to writing if two or more senators request it.

Rule [86.] **87.** When a motion is made it shall be stated by the chair, or being in writing, it shall be handed to and read aloud by the

secretary before debate.

Rule [87.] **88.** After a motion is stated by the chair, it is deemed to be in possession of the senate, but may be withdrawn at any time before a decision or amendment, but afterwards only with the consent of the senate.

Rule [88.] **89.** All questions, whether in committee or senate, shall be first stated in the order in which they are moved, but voted upon in reverse order, except privileged questions, which shall be propounded as stated in Rule 73; and in filling up blanks, the largest sum and longest time shall be put first.

Rule [89.] **90.** The yeas and nays shall not be ordered on any question after a vote has been taken thereon and declared by the chair.

Rule [90.] **91.** Every senator who is within the bar of the senate when a question is put shall assume his **or her** seat, and shall vote when his **or her** name is called unless the senate, for special reasons, excuses him **or her**. All motions to excuse a senator from voting shall be made before the senate divides, or before the call for yeas and nays is commenced. In taking the yeas and nays, each senator shall declare distinctly his **or her** vote yea or nay. In the event a senator within the chamber refuses to cast his **or her** vote, then, at the direction of the president, he **or she** shall be removed from the chamber and such action noted in the Journal.

Rule [91.] **92.** When a question has once been decided by a vote of the senate, any senator voting on that side which prevails may move for a reconsideration of the vote at any time within three legislative days, excluding legislative days wherein the roll is not called, after the day on which the vote was had, except votes ordering bills printed as perfected, which may be reconsidered at any time before third reading of such bills. When a motion is made to reconsider the vote by which a bill failed of perfection, the presiding officer shall briefly state the nature of the bill and, thereupon, the vote on the motion to reconsider shall be immediately taken without interrogation or debate. All motions to reconsider shall be decided by a majority vote of the senators elected. Only one motion to reconsider shall be allowed on any question.

Rule [92.] **93.** Any senator voting in the minority on any subject, and protesting against the vote of the senate, may have his **or her** protest entered on the Journal, if the tenor and language of the protest would have been admissible in the discussion of the subject.

Rule [93.] **94.** No person except members of the house of representatives, former members of the senate, the governor, the secretary of state, the state auditor, the state treasurer, judges of the supreme court, courts of appeals or circuit courts, attorney general and the congress, shall be admitted within the senate chamber during the sitting of the senate, unless invited by the senate; except that the seats at the north and south ends of the senate chamber may

be reserved for spouses and families of members of the senate, and other persons may be admitted to the senate chamber on special request of any senator when the senate is in session. Access to the third floor rear gallery shall be limited to senators during the hours in which the senate is engaged in floor session. Any use of the gallery when the senate is not in session must be approved by the Chairman of the Committee on Administration.

Rule [94.] **95.** No senator shall absent himself **or herself** from the session of the senate unless he **or she** has leave or is sick or unable to attend. A member who is absent from the chamber for attendance at a standing committee meeting, or a conference committee meeting shall be shown as absent with leave (committee). It shall be the responsibility of the member to advise the secretary of the senate of his or her attendance at such committee meeting.

Rule [95.] **96.** 1. [Notetaking and writing in the Senate Gallery is permissible, but no person shall enter the Senate Gallery with any typewriter or recording device.] Laptop computers may be used by the press at the press table **and by the research staff at the research table** in the Senate Chamber **as long as their use does not violate Rule 78 or is otherwise disruptive to the business of the Senate.** No person shall take any photograph in the Senate Gallery. Persons with cameras, flash cameras, lights, or other paraphernalia may be allowed to use such devices at committee meetings with the permission of the Chairman as long as they [don't] **do not** prove disruptive to the decorum of the committee. Smoking is not permissible in the Senate Chamber or Gallery, committee rooms, lounge, the hallways, restrooms or elevators.

2. For the purpose of compliance with the Americans with Disabilities Act, the President Pro Tem may designate a portion of the Senate Chamber as handicap accessible and such areas shall not be considered a part of the floor of the Senate for the purposes of section 21.420, RSMo. Persons using such area shall not lobby members of the Senate while going to and from or while using the designated area.

Rule [96.] **97.** In cases not provided for in these rules, the senate shall be governed by the rules laid down in the practice and procedures adopted by the Senate of the United States and Jefferson's Manual, including the U.S. Senate practice that a substitute amendment to a first degree amendment is subject to a second degree perfecting amendment.

Rule [97.] **98.** No standing rule or order of the senate shall be rescinded or changed without one day's notice being given of the motion thereof, which notice shall be printed in the journal of the senate, and then only by a vote of at least a majority of the senators elected; except that any rule, including this rule, may be suspended for a special purpose, stated in the motion to suspend, by a vote of a two-thirds majority of the members elected to the senate, and such rule shall remain suspended only until the senate proceeds to the consideration of business other than that for which the rule was

suspended. Upon one day's notice of the proposed rule change having been given, the senate resolution adopting such rule change shall not be assigned to a committee without consent of the sponsoring senator and shall be in order to be considered by the senate at any day or time thereafter upon motion of the sponsor during the order of business of Resolutions.

Rule [98.] **99.** No senator shall be permitted to interrupt a roll call and no senator shall be allowed to change his **or her** vote after a verification is requested by any senator, or after the final vote is announced. When verification is requested, any senator within the chamber who has not voted shall vote prior to the verification of the roll.

Rule [99.] **100.** A roll call vote of the senate shall be taken upon any question at the request of five senators.

Rule [100.] **101.** All senate committees shall meet on call of the chairman and the regular meetings of the committees shall be held at the times and places designated by the Committee on Administration.

Rule [101.] **102.** Public introduction of guests shall not be allowed in the Senate Chamber during the last ten calendar days of the session. At other times, the introduction of guests shall be the order of business at the beginning of each daily meeting of the Senate and immediately prior to daily adjournment.

[Rule 102. A member of the Senate may accept meals, food, beverage or other gifts from a legislative lobbyist or the lobbyist's principal as defined in section 105.470. (4) (a), RSMo, if any single item accepted has a value of less than fifty dollars, and all items accepted by any member in any calendar year from a lobbyist or lobbyist principal, as defined in section 105.4703. (4) (a), do not exceed a value of one hundred dollars in the aggregate.

This rule shall not apply to:

(1) The participation of members in activities authorized in Section 105.473.3 (2) (c), RSMo, or in caucuses approved by the Senate Ethics Committee, regardless of the aggregate value;

(2) The participation in seminars or meetings of national or regional associations when such participation and activities have been requested in writing and approved in advance by the Committee on Administration or participation in seminars or meetings of a state association or receipt of educational materials from a state association;

(3) The acceptance of meals, food or beverage or other gifts to be used for charitable purposes, as defined by law, and which are not consumed or used for the personal benefit of the member; or

(4) A member is within the second degree of consanguinity or affinity of the lobbyist with regard to any gift provided to the member by such lobbyist.

The provisions of this rule may be satisfied by reimbursing said lobbyist or lobbyist principal within thirty days of obtaining

actual knowledge that reimbursement is necessary to meet the requirements of this rule.]" and

BE IT FURTHER RESOLVED by the Senate of the Ninety-third General Assembly, First Regular Session, that the temporary rules adopted January 5, 2005, as amended on January 6, 2005, and as amended by this resolution hereby be adopted as the permanent rules of the Missouri Senate for the Ninety-third General Assembly.

RESOLUTIONS

Senator Dougherty offered Senate Resolution No. 166, regarding John A. Karel, St. Louis, which was adopted.

Senator Dougherty offered Senate Resolution No. 167, regarding Dr. Hans-Joachim Reimers, St. Louis, which was adopted.

Senator Dougherty offered Senate Resolution No. 168, regarding Jill A. McGuire, St. Louis, which was adopted.

Senator Dougherty offered Senate Resolution No. 169, regarding Volunteer Lawyers and Accountants for the Arts (VLAA), St. Louis, which was adopted.

Senator Vogel offered Senate Resolution No. 170, regarding Sheila M. Gassner, Jefferson City, which was adopted.

Senator Vogel offered Senate Resolution No. 171, regarding Leonard R. Ratcliff, New Bloomfield, which was adopted.

COMMUNICATIONS

President Pro Tem Gibbons submitted the following:

January 27, 2005

Mrs. Terry Spieler
Secretary of the Missouri Senate
State Capitol, Room 325
Jefferson City, MO 65101

RE: Appointment of Joint Committee on Administrative Rules

Dear Terry:

Pursuant to Section 536.037 of the Revised Statutes of Missouri (RSMo 2002), I am appointing the following senators to the Joint Committee on Administrative Rules:

Senator Luann Ridgeway
Senator John Griesheimer

Senator Chuck Gross

If you have any questions, please feel free to contact me at your earliest convenience.

Yours truly,
/s/ Michael R. Gibbons
MICHAEL R. GIBBONS
President Pro Tem

Also,

January 27, 2005

Mrs. Terry Spieler
Secretary of the Missouri Senate
State Capitol, Room 325
Jefferson City, MO 65101

RE: Appointment of Joint Committee on Capitol Improvements and Leases Oversight

Dear Terry:

Pursuant to Section 21.530 of the Revised Statutes of Missouri (RSMo 2002), I am appointing the following senators to the Joint Committee on Capitol Improvements and Leases Oversight:

Senator Gary Nodler
Senator Luann Ridgeway
Senator Timothy Green

I am also reappointing Senator Chuck Gross to the Joint Committee on Capitol Improvements and Leases Oversight.

If you have any questions, please feel free to contact me at your earliest convenience.

Yours truly,
/s/ Michael R. Gibbons
MICHAEL R. GIBBONS
President Pro Tem

Also,

January 27, 2005

Mrs. Terry Spieler
Secretary of the Missouri Senate
State Capitol, Room 325
Jefferson City, MO 65101

RE: Appointment of Joint Committee on Corrections

Dear Terry:

Pursuant to Section 21.440 of the Revised Statutes of Missouri (RSMo 2002), I am appointing the following senators to the Joint Committee on Corrections:

Senator Kevin Engler
Senator Harry Kennedy
Senator Yvonne Wilson

I am also reappointing Senator Maida Coleman to the Joint Committee on Corrections.

If you have any questions, please feel free to contact me at your

earliest convenience.

Yours truly,
/s/ Michael R. Gibbons
MICHAEL R. GIBBONS
President Pro Tem

Also,

January 27, 2005

Mrs. Terry Spieler
Secretary of the Missouri Senate
State Capitol, Room 325
Jefferson City, MO 65101

RE: Appointment of Joint Committee on Court Automation

Dear Terry:

Pursuant to Section 476.055 of the Revised Statutes of Missouri (RSMo 2002), I am reappointing the following senators to the Joint Committee on Court Automation:

- Senator Chuck Gross
- Senator Matt Bartle
- Senator Rita Days

If you have any questions, please feel free to contact me at your earliest convenience.

Yours truly,
/s/ Michael R. Gibbons
MICHAEL R. GIBBONS
President Pro Tem

Also,

January 27, 2005

Mrs. Terry Spieler
Secretary of the Missouri Senate
State Capitol, Room 325
Jefferson City, MO 65101

RE: Appointment to the Court Automation Committee

Dear Terry:

Pursuant to Senate Bill 248 of 1997, I am appointing the following senator to the Court Automation Committee:

- Senator Charles Wheeler

I am also reappointing Senator David Klindt to the Court Automation Committee.

If you have any questions, please feel free to contact me at your earliest convenience.

Yours truly,
/s/ Michael R. Gibbons
MICHAEL R. GIBBONS
President Pro Tem

Also,

January 27, 2005

Mrs. Terry Spieler
Secretary of the Missouri Senate
State Capitol, Room 325
Jefferson City, MO 65101

RE: Appointment of Joint Committee on Economic Development Policy and Planning

Dear Terry:

Pursuant to Section 620.602 of the Revised Statutes of Missouri (RSMo 2002), I am appointing the following senators to the Joint Committee on Economic Development Policy and Planning:

- Senator John Griesheimer
- Senator Larry Gene Taylor
- Senator Harry Kennedy
- Senator Yvonne Wilson

If you have any questions, please feel free to contact me at your earliest convenience.

Yours truly,
/s/ Michael R. Gibbons
MICHAEL R. GIBBONS
President Pro Tem

Also,

January 27, 2005

Mrs. Terry Spieler
Secretary of the Senate
State Capitol, Room 325
Jefferson City, MO 65101

RE: Appointment to the Joint Committee on Education

Dear Terry:

Pursuant to Section 160.253 of the Revised Statutes of Missouri (RSMo 2002), I am appointing the following senators:

- Senator Robert Mayer
- Senator Charles Shields
- Senator Gary Nodler
- Senator Matt Bartle
- Senator Maida Coleman
- Senator Rita Days
- Senator Yvonne Wilson

If you have any questions do not hesitate to contact me.

Yours truly,
/s/ Michael R. Gibbons
MICHAEL R. GIBBONS

Also,

January 27, 2005

Mrs. Terry Spieler

Secretary of the Missouri Senate
State Capitol, Room 325
Jefferson City, MO 65101

RE: Appointment of Joint Committee on Gaming and Wagering

Dear Terry:

Pursuant to Section 313.001 of the Revised Statutes of Missouri (RSMo 2002), I am reappointing the following senators to the Joint Committee on Gaming and Wagering:

Senator John Loudon
Senator Victor Callahan
Senator Harry Kennedy

If you have any questions, please feel free to contact me at your earliest convenience.

Yours truly,
/s/ Michael R. Gibbons
MICHAEL R. GIBBONS
President Pro Tem

Also,

January 27, 2005

Mrs. Terry Spieler
Secretary of the Missouri Senate
State Capitol, Room 325
Jefferson City, MO 65101

RE: Appointment of Joint Committee on Government Accountability

Dear Terry:

Pursuant to Section 21.820 of the Revised Statutes of Missouri (RSMo 2002), I am appointing the following senators to the Joint Committee on Government Accountability:

Senator John Cauthorn
Senator Timothy Green

I am also reappointing Senator Victor Callahan and Senator Maida Coleman to the Joint Committee on Government Accountability.

If you have any questions, please feel free to contact me at your earliest convenience.

Yours truly,
/s/ Michael R. Gibbons
MICHAEL R. GIBBONS
President Pro Tem

Also,

January 27, 2005

Mrs. Terry Spieler
Secretary of the Missouri Senate
State Capitol, Room 325
Jefferson City, MO 65101

RE: Appointment of Joint Committee on Legislative Research

Dear Terry:

Pursuant to Section 23.010 of the Revised Statutes of Missouri (RSMo 2002), I am appointing the following senators to the Joint Committee on Legislative Research:

Senator Delbert Scott
Senator Charles Wheeler

I am also reappointing Senator Michael R. Gibbons, Senator Chuck Gross and Senator Victor Callahan to the Joint Committee on Legislative Research.

If you have any questions, please feel free to contact me at your earliest convenience.

Yours truly,
/s/ Michael R. Gibbons
MICHAEL R. GIBBONS
President Pro Tem

Also,

January 27, 2005

Mrs. Terry Spieler
Secretary of the Missouri Senate
State Capitol, Room 325
Jefferson City, MO 65101

RE: Appointment of Joint Committee on Public Employee Retirement

Dear Terry:

Pursuant to Section 21.553 of the Revised Statutes of Missouri (RSMo 2002), I am appointing the following senators to the Joint Committee on Public Employee Retirement:

Senator Jason Crowell
Senator Harry Kennedy
Senator Timothy Green
Senator Maida Coleman

I am also reappointing Senator Chuck Gross to the Joint Committee on Public Employee Retirement.

If you have any questions, please feel free to contact me at your earliest convenience.

Yours truly,
/s/ Michael R. Gibbons
MICHAEL R. GIBBONS
President Pro Tem

Also,

January 27, 2005

Mrs. Terry Spieler
Secretary of the Missouri Senate
State Capitol, Room 325
Jefferson City, MO 65101

RE: Appointment of Joint Committee on Transportation Oversight

Dear Terry:

Pursuant to Section 21.795 of the Revised Statutes of Missouri

(RSMo 2002), I am appointing the following senators to the Joint Committee on Transportation Oversight:

- Senator Matt Bartle
- Senator Bill Stouffer
- Senator Larry Gene Taylor
- Senator Rita Days
- Senator Victor Callahan

If you have any questions, please feel free to contact me at your earliest convenience.

Yours truly,
/s/ Michael R. Gibbons
MICHAEL R. GIBBONS
President Pro Tem

INTRODUCTIONS OF GUESTS

Senator Nodler introduced to the Senate, Steve and Pat Russell, and their grandson, R.J. Daniels, Joplin.

Senator Engler introduced to the Senate, Jarad Falk and Gary Romine, Farmington.

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

SENATE CALENDAR

FIFTEENTH DAY—TUESDAY, FEBRUARY 1, 2005

FORMAL CALENDAR

SECOND READING OF SENATE BILLS

SB 238-Gross
SB 239-Scott
SB 262-Griesheimer
SB 263-Griesheimer
SB 264-Stouffer
SB 265-Taylor

SB 266-Gibbons
SB 267-Gibbons
SB 268-Gibbons and Coleman
SB 269-Shields and Callahan
SJR 14-Klindt

RESOLUTIONS

Reported from Committee

SR 150-Shields, with SCS