

Journal of the Senate

FIRST REGULAR SESSION

EIGHTEENTH DAY—MONDAY, FEBRUARY 7, 2005

The Senate met pursuant to adjournment.

President Kinder in the Chair.

Reverend Carl Gauck offered the following prayer:

“Be strong and bold; have no fear or dread of them, because it is the Lord your God who goes with you; he will not fail you or forsake you.” (Deuteronomy 31:6)

Ever present God, we come before You not fully knowing what the week holds for us but aware it will have its challenges and difficulties as well as moments of joy and promise. We know that whatever this week brings, You are with us and because You are, we can trust Your promise. So we give You thanks, knowing You will help us embrace all that comes our way and help us to be faithful to Your calling us to serve here. In Your Holy Name we pray. Amen.

The Pledge of Allegiance to the Flag was recited.

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

The Journal for Thursday, February 3, 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. 201, regarding isw group, Inc., St. Louis, which was adopted.

Senator Klindt offered Senate Resolution No. 202, regarding Premier Foods, Milan, which was adopted.

Senator Klindt offered Senate Resolution No. 203, regarding Flexible Staffing, Chillicothe, which was adopted.

Senator Klindt offered Senate Resolution No. 204, regarding Charlie Chapman, Meadville, which was adopted.

Senator Shields offered Senate Resolution No. 205, regarding Big Vision Design, LLC, Platte Woods, which was adopted.

Senator Shields offered Senate Resolution No. 206, regarding Uncle D's Sports Bar and Grill,

Saint Joseph, which was adopted.

Senator Graham offered Senate Resolution No. 207, regarding the Fortieth Anniversary of Campus Lutheran Church, Columbia, which was adopted.

Senator Graham offered Senate Resolution No. 208, regarding David T. Hestir, Columbia, which was adopted.

Senator Graham offered Senate Resolution No. 209, regarding Jesse Lee “Jay” Curry, Jr., Columbia, which was adopted.

Senator Gross offered Senate Resolution No. 210, regarding the Fiftieth Wedding Anniversary of Mr. and Mrs. Earl Crites, Wentzville, which was adopted.

Senator Koster offered Senate Resolution No. 211, regarding DGR Associates, Belton, which was adopted.

Senator Scott offered Senate Resolution No. 212, regarding sComm, Inc., Kansas City, which was adopted.

Senator Stouffer offered Senate Resolution No. 213, regarding the birth of Eli James Norris, Rochester, Minnesota, which was adopted.

Senator Kennedy offered Senate Resolution No. 214, regarding Gregory James Buerkle, St. Louis, which was adopted.

Senator Loudon offered Senate Resolution No. 215, regarding TechGuard Security, LLC, Chesterfield, which was adopted.

Senator Mayer offered Senate Resolution No. 216, regarding Pastor Nathaniel Andrew Ellis, Kennett, which was adopted.

Senator Vogel offered Senate Resolution No. 217, regarding National TRIO Day, which was adopted.

Senator Vogel offered Senate Resolution No. 218, regarding Dr. Howard Marshall, which was adopted.

Senator Crowell offered Senate Resolution No. 219, regarding the Jerry Ford Orchestra, Cape

Girardeau, which was adopted.

Senator Nodler offered Senate Resolution No. 220, regarding Able Products, Joplin, which was adopted.

Senator Gross offered Senate Resolution No. 221, regarding the Fiftieth Wedding Anniversary of Mr. and Mrs. Richard Kemper, St. Charles, which was adopted.

Senator Gross offered Senate Resolution No. 222, regarding Benjamin Thomas Costello, St. Charles, which was adopted.

Senator Purgason offered Senate Resolution No. 223, regarding FundRaiser Software, West Plains, which was adopted.

Senator Engler offered Senate Resolution No. 224, regarding Mississippi Lime Company, Ste. Genevieve, which was adopted.

Senator Stouffer offered Senate Resolution No. 225, regarding the birth of Jessica Ann Chapman, Higginsville, which was adopted.

Senator Stouffer offered Senate Resolution No. 226, regarding Mr. and Mrs. John Bingham Marsh, which was adopted.

Senator Stouffer offered Senate Resolution No. 227, regarding Mr. and Mrs. Brian O’Neill, Olathe, Kansas, which was adopted.

Senator Wilson offered Senate Resolution No. 228, regarding P/Strada, LLC, which was adopted.

INTRODUCTION OF BILLS

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

SB 304—By Ridgeway and Shields.

An Act to repeal sections 86.387 and 86.630, RSMo, and to enact in lieu thereof two new sections relating to police military leave.

SB 305—By Engler.

An Act to amend chapter 217, RSMo, by adding thereto one new section relating to

minimum pay for certain corrections employees, with an effective date.

SB 306—By Purgason.

An Act to repeal section 105.458, RSMo, and to enact in lieu thereof one new section relating to school board members.

SB 307—By Purgason.

An Act to repeal section 105.454, RSMo, and to enact in lieu thereof one new section relating to city boards.

SB 308—By Purgason.

An Act to repeal sections 355.716 and 355.871, RSMo, and to enact in lieu thereof two new sections relating to not-for-profit corporations.

SB 309—By Wilson.

An Act to repeal sections 571.010 and 571.030, RSMo, and to enact in lieu thereof two new sections relating to stun guns.

SB 310—By Champion.

An Act to repeal section 143.265, RSMo, and to enact in lieu thereof one new section relating to withholding of retirement income.

SB 311—By Dolan.

An Act to repeal section 227.240, RSMo, and to enact in lieu thereof one new section relating to highway rights-of-way.

SB 312—By Dolan.

An Act to repeal section 226.030, RSMo, and to enact in lieu thereof one new section relating to expanding the membership of the highways and transportation commission.

SB 313—By Dolan.

An Act to repeal section 304.580, RSMo, and to enact in lieu thereof four new sections relating to highway construction and work zones, with penalty provisions.

SB 314—By Dolan.

An Act to repeal section 227.240, RSMo, and to enact in lieu thereof one new section relating to

highway construction.

SB 315—By Dolan.

An Act to repeal section 197.121, RSMo, and to enact in lieu thereof one new section relating to the licensure of health care facilities.

SB 316—By Dolan.

An Act to repeal sections 192.665, 192.667, 197.200, 197.205, 197.210, 197.215, 197.220, 197.225, 197.230, and 197.235, RSMo, and to enact in lieu thereof twelve new sections relating to health care providers, with a penalty provision.

SB 317—By Mayer, Kennedy and Griesheimer.

An Act to repeal section 104.040, RSMo, and to enact in lieu thereof one new section relating to the highway patrol retirement system.

SJR 16—By Gross.

Joint Resolution submitting to the qualified voters of Missouri, an amendment repealing sections 19 and 25(c)(1) of article V of the Constitution of Missouri, and adopting two new sections in lieu thereof relating to judges of the supreme court.

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

February 3, 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:

Kevin S. Cahill, 7133 Stanford Avenue, University City, Saint Louis County, Missouri 63130, as a member of the Bi-State Development Agency of the Missouri-Illinois Metropolitan District, for a term ending November 10, 2005, and until his successor is duly appointed and qualified; vice, Kevin S. Cahill, withdrawn.

Respectfully submitted,

MATT BLUNT

Governor

Also,

OFFICE OF THE GOVERNOR
State of Missouri
Jefferson City
65101

February 4, 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:

Lawrence "Doyle" Childers, Post Office Box 127, Reeds
Spring, Stone County, Missouri 65737, as the Director of the
Department of Natural Resources, for a term ending at the pleasure
of the Governor, and until his successor is duly appointed and
qualified; vice, Stephen Mahfood.

Respectfully submitted,
MATT BLUNT
Governor

Also,

OFFICE OF THE GOVERNOR
State of Missouri
Jefferson City
65101

February 4, 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:

Lawrence "Doyle" Childers, Post Office Box 127, Reeds
Spring, Stone County, Missouri 65737, as the member of the
Interstate Mining Commission, for a term ending at the pleasure of
the Governor, and until his successor is duly appointed and
qualified; vice, Stephen Mahfood.

Respectfully submitted,
MATT BLUNT
Governor

Also,

OFFICE OF THE GOVERNOR
State of Missouri
Jefferson City
65101

February 4, 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:

Lawrence "Doyle" Childers, Post Office Box 127, Reeds
Spring, Stone County, Missouri 65737, as the member of the

Midwest Interstate Low-Level Radioactive Waste Commission, for
a term ending at the pleasure of the Governor, and until his
successor is duly appointed and qualified; vice, Stephen Mahfood.

Respectfully submitted,
MATT BLUNT
Governor

Also,

OFFICE OF THE GOVERNOR
State of Missouri
Jefferson City
65101

February 2, 2005

**REORGANIZATION PLAN NO. 2
2005**

TO THE SENATE AND HOUSE OF REPRESENTATIVES OF
THE STATE OF MISSOURI:

By virtue of the authority vested in me by the Constitution and laws
of the State of Missouri, including the Omnibus State
Reorganization Act of 1974 and sections 26.500 through 26.540,
RSMo, I hereby transmit Reorganization Plan No. 2 of 2005, by
Executive Order 05-08, to abolish the Division of Design and
Construction within the Office of Administration, assign its
responsibilities and functions to the Division of Facilities
Management within the Office of Administration, and rename the
Division of Facilities Management as the Division of Facilities
Management, Design and Construction.

Respectfully submitted,
MATT BLUNT
GOVERNOR

**EXECUTIVE ORDER
05-08**

WHEREAS, the Division of Design and Construction within the
Office of Administration was created by Section 8.120, RSMo, to
supervise the design, construction, renovations and repair of state
facilities; and

WHEREAS, the Division of Facilities Management within the
Office of Administration was established by Executive Order 94-07
and Section 8.110, RSMo, to have responsibility for state leasing
and facilities management; and

WHEREAS, prior to 1994, responsibility for state leasing and
facilities management resided with the Division of Design and
Construction within the Office of Administration; and

WHEREAS, the consolidation of the Division of Facilities
Management and the Division of Design and Construction will
benefit the citizens of the State of Missouri by promoting efficiency,
avoiding duplication of services, and reducing costs; and

WHEREAS, the Governor, in consultation with the Commissioner

of Administration, has determined that the best way to accomplish this consolidation is to abolish Division of Design and Construction and transfer its responsibilities and functions to the Division of Facilities Management.

NOW THEREFORE, I, Matt Blunt, Governor of the State of Missouri, by virtue of the authority vested in me by the Constitution and laws of the State of Missouri, including Article IV, Section 12, Missouri Constitution, Chapter 26, RSMo, and the Omnibus State Reorganization Act of 1974, hereby:

1. Abolish the Division of Design and Construction and transfer to the Division of Facilities Management the authority, powers, duties, functions, records, personnel, property, contracts, budgets, matters pending, and other pertinent vestiges of the Division of Design and Construction; and
2. Rename the Division of Facilities Management as the Division of Facilities Management, Design and Construction.

(Seal) IN WITNESS WHEREOF, I have hereunto set my hand and caused to be affixed the Great Seal of the State of Missouri, in the City of Jefferson, on this 2nd day of February, 2005.

MATT BLUNT
GOVERNOR

ATTEST:

ROBIN CARNAHAN
SECRETARY OF STATE

Also,

OFFICE OF THE GOVERNOR
State of Missouri
Jefferson City
65101
February 2, 2005

**REORGANIZATION PLAN NO. 3
2005**

TO THE SENATE AND HOUSE OF REPRESENTATIVES OF THE STATE OF MISSOURI:

By virtue of the authority vested in me by the Constitution and laws of the State of Missouri, including the Omnibus State Reorganization Act of 1974 and sections 26.500 through 26.540, RSMo, I hereby transmit Reorganization Plan No. 3 of 2005, by Executive Order 05-09, providing for the transfer of the Missouri Head Injury Advisory Council from the Office of Administration to the Department of Health and Senior Services.

Respectfully submitted,
MATT BLUNT
GOVERNOR

EXECUTIVE ORDER

05-09

WHEREAS, the Missouri Head Injury Advisory Council was established in 1985 by Executive Order 85-06; and

WHEREAS, in 1986 the General Assembly gave the Missouri Head Injury Advisory Council statutory authority (Section 192.745, RSMo); and

WHEREAS, Section 192.745.2, RSMo assigned the Missouri Head Injury Advisory Council to the Division of General Services within the Office of Administration; and

WHEREAS, the Missouri Head Injury Advisory Council's responsibilities include promoting discussion of reducing the debilitating effects of head injuries and disseminates information on the prevention and rehabilitation of persons affected by head injuries, studies current prevention, treatment and rehabilitation technologies and recommends appropriate preparation and distribution of resources to provide services to head injured persons through private and public residential facilities, day programs and other specialized services, and recommending methods to improve the state's service delivery system and developing standards for funding or licensing of facilities, day programs and other specialized services; and

WHEREAS, the Department of Health and Senior Services' mission is to protect and promote the quality of life and health for all Missourians by developing and implementing programs and systems that provide information and education, effective regulation and oversight, quality services, and surveillance of diseases and conditions; and

WHEREAS, the Office of Administration and the Department of Health and Senior Services, with the consent of the Governor, have determined that the Missouri Head Injury Advisory Council should be assigned to Department of Health and Senior Services.

NOW THEREFORE, I, Matt Blunt, Governor of the State of Missouri, by virtue of the authority vested in me by the Constitution and laws of the State of Missouri, including Article IV, Section 12, Missouri Constitution, Chapter 26, RSMo, and the Omnibus State Reorganization Act of 1974, hereby transfer the Missouri Head Injury Advisory Council to the Department of Health and Senior Services by a Type I transfer.

(Seal) IN WITNESS WHEREOF, I have hereunto set my hand and caused to be affixed the Great Seal of the State of Missouri, in the City of Jefferson, on this 2nd day of February, 2005.

MATT BLUNT
GOVERNOR

ATTEST:

ROBIN CARNAHAN
SECRETARY OF STATE

Also,

OFFICE OF THE GOVERNOR

State of Missouri

Jefferson City

65101

February 3, 2005

REORGANIZATION PLAN NO. 4

2005

TO THE SENATE AND HOUSE OF REPRESENTATIVES OF
THE STATE OF MISSOURI:

By virtue of the authority vested in me by the Constitution and laws of the State of Missouri, including the Omnibus State Reorganization Act of 1974 and sections 26.500 through 26.540, RSMo, I hereby transmit Reorganization Plan No. 4 of 2005, by Executive Order 05-10, providing for the transfer of in-home service programs from the Department of Social Services and the Department of Elementary and Secondary Education to the Department of Health and Senior Services.

Respectfully submitted,

MATT BLUNT
GOVERNOR

EXECUTIVE ORDER

05-10

WHEREAS, the Department of Elementary and Secondary Education is authorized pursuant to Article IX of the Missouri Constitution and created pursuant to Chapter 161.020, RSMo; and

WHEREAS, the Department of Social Services is created pursuant to Article IV, Section 37 of the Missouri Constitution and Chapter 660.010, RSMo; and

WHEREAS, the Department of Health and Senior Services is created pursuant to Chapter 192.005, RSMo; and

WHEREAS, the Department of Elementary and Secondary Education currently provides personal attendant care to individuals with sever physical disabilities to enable them to live more independently through the Personal Assistance Services Program; and

WHEREAS, the Department of Social Services currently provides access to health care for low-income elderly and disabled individuals through the Medicaid Program; and

WHEREAS, the Department of Health and Senior Services provides support services to help seniors and adults with disabilities maintain their independence and safety; and

WHEREAS, the transfer of in-home care programs and services to one state department would better serve the state's elderly and disabled clients; and

WHEREAS, consolidation of these services would increase

efficiencies and eliminate duplication of efforts; and

WHEREAS, I am committed to integrating executive branch operations to improve the way the state delivers services.

NOW THEREFORE, I, Matt Blunt, Governor of the State of Missouri, by virtue of the authority vested in me by the Constitution and laws of the State of Missouri, including Article IV, Section 12, Missouri Constitution, Chapter 26, RSMo, and the Omnibus State Reorganization Act of 1974, hereby order the Missouri Department of Elementary and Secondary Education, the Missouri Department of Social Services, and the Missouri Department of Health and Senior Services to cooperate to:

1. Develop mechanisms and processes necessary to effectively transfer in-home services programs that serve the elderly and disabled individuals to the Department of Health and Senior Services;
2. Transfer all authority, powers, duties, functions, records, personnel, property, contracts, budgets, matters pending, and other pertinent vestiges of the in-home services programs to the Department of Health and Senior Services, by Type I transfer, as defined under the Reorganization Act of 1974; and
3. Take the steps necessary to maintain compliance with federal requirements, so as not to jeopardize federal financial participation with this consolidation.

(Seal) IN WITNESS WHEREOF, I have hereunto set my hand and caused to be affixed the Great Seal of the State of Missouri, in the City of Jefferson, on this 3rd day of February, 2005.

MATT BLUNT
GOVERNOR

ATTEST:

ROBIN CARNAHAN
SECRETARY OF STATE

President Pro Tem Gibbons referred the appointments to the Committee on Gubernatorial Appointments.

President Pro Tem Gibbons assumed the Chair.

REPORTS OF STANDING COMMITTEES

Senator Bartle, Chairman of the Committee on the Judiciary and Civil and Criminal Jurisprudence, submitted the following report:

Mr. President: Your Committee on the Judiciary and Civil and Criminal Jurisprudence, to

which were referred **SB 10** and **SB 27**, begs leave to report that it has considered the same and recommends that the Senate Committee Substitute, hereto attached, do pass.

Senator Crowell, Chairman of the Committee on Pensions, Veterans' Affairs and General Laws, submitted the following report:

Mr. President: Your Committee on Pensions, Veterans' Affairs and General Laws, to which were referred **SB 202**, **SB 33**, **SB 45**, **SB 183** and **SB 217**, begs leave to report that it has considered the same and recommends that the Senate Committee Substitute, hereto attached, do pass.

President Kinder assumed the Chair.

SECOND READING OF SENATE BILLS

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

SB 275—Pensions, Veterans' Affairs and General Laws.

SB 276—Pensions, Veterans' Affairs and General Laws.

SB 277—Small Business, Insurance and Industrial Relations.

SB 278—Judiciary and Civil and Criminal Jurisprudence.

SB 279—Judiciary and Civil and Criminal Jurisprudence.

SB 280—Financial and Governmental Organizations and Elections.

SB 281—Agriculture, Conservation, Parks and Natural Resources.

SB 282—Economic Development, Tourism and Local Government.

SB 283—Pensions, Veterans' Affairs and General Laws.

SB 284—Agriculture, Conservation, Parks and Natural Resources.

SB 285—Education.

SB 286—Education.

SB 287—Education.

SB 288—Economic Development, Tourism and Local Government.

SB 289—Economic Development, Tourism and Local Government.

SB 290—Transportation.

REFERRALS

President Pro Tem Gibbons referred **SCR 3** to the Committee on Rules, Joint Rules and Resolutions.

COMMUNICATIONS

Senator Gibbons submitted the following:

February 3, 2005

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

RE: Appointment of Joint Committee on State Records Commission

Dear Terry:

Pursuant to Section 109.250 of the Revised Statutes of Missouri (RSMo 2002), I am appointing the following senator to the Joint Committee on State Records Commission:

Senator Gary Nodler

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,

February 3, 2005

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

RE: Appointment of the Missouri Commission on the Delta Regional Authority

Dear Terry:

Pursuant to HCR 25 of 2002, I am appointing the following senators to the Missouri Commission on the Delta Regional Authority:

Senator Robert Mayer

Senator Kevin Engler

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 Kennedy introduced to the Senate, twenty-four students and teachers from Cor Jesu Academy, St. Louis County.

Senator Stouffer introduced to the Senate, Tom Hiles, Bates City.

Senator Scott introduced to the Senate, Keith and Rhoda Ackerman, Springfield.

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

SENATE CALENDAR

NINETEENTH DAY—TUESDAY, FEBRUARY 8, 2005

Unofficial
FORMAL CALENDAR

SECOND READING OF SENATE BILLS

SB 291-Mayer, et al

SB 292-Bray, et al

SB 293-Bray, et al

SB 294-Bray

SB 295-Dolan

SB 296-Coleman

SB 297-Coleman

SB 298-Coleman

SB 299-Coleman

SB 300-Coleman

SB 301-Coleman, et al

SB 302-Coleman

SB 303-Dougherty, et al

SB 304-Ridgeway and Shields

SB 305-Engler

SB 306-Purgason

SB 307-Purgason

SB 308-Purgason

SB 309-Wilson

SB 310-Champion

SB 311-Dolan

SB 312-Dolan

SB 313-Dolan

SB 314-Dolan

SB 315-Dolan

SB 316-Dolan

SB 317-Mayer, et al

SJR 14-Klindt

SJR 15-Coleman

SJR 16-Gross

SENATE BILLS FOR PERFECTION

SBs 1 & 130-Loudon, et al, with SCS

SBs 10 & 27-Cauthorn, et al, with SCS

SBs 202, 33, 45, 183 & 217-Crowell, with SCS