

Journal of the Senate

FIRST REGULAR SESSION

SIXTY-THIRD DAY—FRIDAY, MAY 1, 2009

The Senate met pursuant to adjournment.

Senator Vogel in the Chair.

RESOLUTIONS

On behalf of Senator Crowell, Senator Vogel offered Senate Resolution No. 1021, regarding the Sixtieth Wedding Anniversary of Mr. and Mrs. Edward Daume, Perryville, which was adopted.

On behalf of Senator Wright-Jones, Senator Vogel offered Senate Resolution No. 1022, regarding Margaret Bush Wilson, St. Louis, which was adopted.

On behalf of Senator Wright-Jones, Senator Vogel offered Senate Resolution No. 1023, regarding Ellen Sherberg, St. Louis, which was adopted.

On behalf of Senator Wright-Jones, Senator Vogel offered Senate Resolution No. 1024, regarding Emily Rauh Pulitzer, St. Louis, which was adopted.

On behalf of Senator Wright-Jones, Senator Vogel offered Senate Resolution No. 1025, regarding Dr. Zelema Harris, St. Louis, which was adopted.

On behalf of Senator Wright-Jones, Senator Vogel offered Senate Resolution No. 1026, regarding Emily Pitts, St. Louis, which was adopted.

On behalf of Senator Wright-Jones, Senator Vogel offered Senate Resolution No. 1027, regarding Deborah J. Patterson, M.A., St. Louis, which was adopted.

On behalf of Senator Wright-Jones, Senator Vogel offered Senate Resolution No. 1028, regarding Mary Strauss, St. Louis, which was adopted.

On behalf of Senator Wright-Jones, Senator Vogel offered Senate Resolution No. 1029, regarding the Honorable Claire McCaskill, St. Louis, which was adopted.

On behalf of Senator Wright-Jones, Senator Vogel offered Senate Resolution No. 1030, regarding Denise Thimes, St. Louis, which was adopted.

On behalf of Senator Wright-Jones, Senator Vogel offered Senate Resolution No. 1031, regarding Dr. Queen Dunlap Fowler, St. Louis, which was adopted.

On behalf of Senator Wright-Jones, Senator Vogel offered Senate Resolution No. 1032, regarding Frankie Muse Freeman, St. Louis, which was adopted.

On behalf of Senator Wright-Jones, Senator Vogel offered Senate Resolution No. 1033, regarding Kim's Kids Company, which was adopted.

On behalf of Senator Wright-Jones, Senator Vogel offered Senate Resolution No. 1034, regarding the Fifth Wedding Anniversary of Mr. and Mrs. Herbert Patterson, Jefferson City, which was adopted.

HOUSE BILLS ON SECOND READING

At the request of President Pro Tem Shields, the following Bill was read the 2nd time and referred by Senator Vogel to the Committee indicated:

HCS for HB 21—Appropriations.

MESSAGES FROM THE HOUSE

The following messages were received from the House of Representatives through its Chief Clerk:

Mr. President: I am instructed by the House of Representatives to inform the Senate that the Speaker has appointed the following conference committee to act with a like committee from the Senate on **SB 513**, as amended. Representatives: Diehl, Stevenson, Cox, Burnett and Kratky.

Also,

Mr. President: I am instructed by the House of Representatives to inform the Senate that the Speaker has appointed the following conference committee to act with a like committee from the Senate on **SCS for HCS for HB 397** and **HCS for HB 947**. Representatives: Flook, Viebrock, Franz, Talboy and Yaeger.

Also,

Mr. President: I am instructed by the House of Representatives to inform the Senate that the House has taken up and passed **HCS for SB 235**, entitled:

An Act to repeal sections 137.016, 137.115, 362.105, 365.020, 365.200, 369.229, 370.300, 400.9-303, 400.9-311, 408.015, 408.052, 408.140, 408.233, 408.250, 408.300, 436.350, 441.005, 442.010, 513.010, 700.010, 700.100, 700.111, 700.320, 700.350, 700.360, 700.370, 700.375, 700.385, 700.525, 700.527, 700.529, 700.530, 700.531, 700.533, 700.535, 700.537, 700.539, and 700.630, RSMo, and to enact in lieu thereof thirty-seven new sections relating to manufactured homes, with penalty provisions.

With House Amendment No. 1.

HOUSE AMENDMENT NO. 1

Amend House Committee Substitute for Senate Bill No. 235, Section 408.094 by inserting after the phrase "loan contract" the following:

"provided that no plan shall include reimbursement for a deductible on a property insurance claim"; and

Further amend said bill, Section 408.233, Page 24, Line 53 by inserting after the phrase "loan contract" on said Line the following:

"provided that no plan shall include reimbursement for a deductible on a property insurance

claim”; and

Further amend said bill, Section 408.250, Page 28, Line 39 by inserting after the phrase “loan contract” on said Line the following:

“provided that no plan shall include reimbursement for a deductible on a property insurance claim”; and

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

In which the concurrence of the Senate is respectfully requested.

Also,

Mr. President: I am instructed by the House of Representatives to inform the Senate that the House has taken up and passed **HCS** for **SCS** for **SB 71**, entitled:

An Act to repeal section 143.011, RSMo, and to enact in lieu thereof two new sections relating to income taxes.

With House Amendment Nos. 1 and 2.

HOUSE AMENDMENT NO. 1

Amend House Committee Substitute for Senate Committee Substitute for Senate Bill No. 71, Section 143.011, Page 3, Line 83, by deleting the words, “**Except as provided in subsection 3 of this section,**” and inserting in lieu thereof the following words, “**For all taxable years ending on or before December 31, 2009,**”; and

Further amend said bill, section, Page 4, Lines 107 to 108, by deleting the words, “**but ending on or before December 31, 2010,**”; and

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

HOUSE AMENDMENT NO. 2

Amend House Committee Substitute for Senate Committee Substitute for Senate Bill No. 71, Section A, Page 1, Line 2, by inserting immediately after said line the following:

“135.535. 1. A corporation, limited liability corporation, partnership or sole proprietorship, which moves its operations from outside Missouri or outside a distressed community into a distressed community, or which commences operations in a distressed community on or after January 1, 1999, and in either case has more than seventy-five percent of its employees at the facility in the distressed community, and which has fewer than one hundred employees for whom payroll taxes are paid, and which is a manufacturing, biomedical, medical devices, scientific research, animal research, computer software design or development, computer programming, including Internet, web hosting, and other information technology, wireless or wired or other telecommunications or a professional firm shall receive a forty percent credit against income taxes owed pursuant to chapter 143, 147 or 148, RSMo, other than taxes withheld pursuant to sections 143.191 to 143.265, RSMo, for each of the three years after such move, if approved by the department of economic development, which shall issue a certificate of eligibility if the department determines that the taxpayer is eligible for such credit. The maximum amount of credits per taxpayer set forth in this subsection shall not exceed one hundred twenty-five thousand dollars for each of the three years for which the credit is claimed. The department of economic development, by means of rule or regulation promulgated pursuant

to the provisions of chapter 536, RSMo, shall assign appropriate North American Industry Classification System numbers to the companies which are eligible for the tax credits provided for in this section. Such three-year credits shall be awarded only one time to any company which moves its operations from outside of Missouri or outside of a distressed community into a distressed community or to a company which commences operations within a distressed community. A taxpayer shall file an application for certification of the tax credits for the first year in which credits are claimed and for each of the two succeeding taxable years for which credits are claimed.

2. Employees of such facilities physically working and earning wages for that work within a distressed community whose employers have been approved for tax credits pursuant to subsection 1 of this section by the department of economic development for whom payroll taxes are paid shall also be eligible to receive a tax credit against individual income tax, imposed pursuant to chapter 143, RSMo, equal to one and one-half percent of their gross salary paid at such facility earned for each of the three years that the facility receives the tax credit provided by this section, so long as they were qualified employees of such entity. The employer shall calculate the amount of such credit and shall report the amount to the employee and the department of revenue.

3. A tax credit against income taxes owed pursuant to chapter 143, 147 or 148, RSMo, other than the taxes withheld pursuant to sections 143.191 to 143.265, RSMo, in lieu of the credit against income taxes as provided in subsection 1 of this section, may be taken by such an entity in a distressed community in an amount of forty percent of the amount of funds expended for computer equipment and its maintenance, medical laboratories and equipment, research laboratory equipment, manufacturing equipment, fiber optic equipment, high speed telecommunications, wiring or software development expense up to a maximum of seventy-five thousand dollars in tax credits for such equipment or expense per year per entity and for each of three years after commencement in or moving operations into a distressed community.

4. A corporation, partnership or sole partnership, which has no more than one hundred employees for whom payroll taxes are paid, which is already located in a distressed community and which expends funds for such equipment pursuant to subsection 3 of this section in an amount exceeding its average of the prior two years for such equipment, shall be eligible to receive a tax credit against income taxes owed pursuant to chapters 143, 147 and 148, RSMo, in an amount equal to the lesser of seventy-five thousand dollars or twenty-five percent of the funds expended for such additional equipment per such entity. Tax credits allowed pursuant to this subsection or subsection 1 of this section may be carried back to any of the three prior tax years and carried forward to any of the **next** five tax years.

5. An existing corporation, partnership or sole proprietorship that is located within a distressed community and that relocates employees from another facility outside of the distressed community to its facility within the distressed community, and an existing business located within a distressed community that hires new employees for that facility may both be eligible for the tax credits allowed by subsections 1 and 3 of this section. To be eligible for such tax credits, such a business, during one of its tax years, shall employ within a distressed community at least twice as many employees as were employed at the beginning of that tax year. A business hiring employees shall have no more than one hundred employees before the addition of the new employees. This subsection shall only apply to a business which is a manufacturing, biomedical, medical devices, scientific research, animal research, computer software design or development, computer programming or telecommunications business, or a professional firm.

6. Tax credits shall be approved for applicants meeting the requirements of this section in the order that

such applications are received. Certificates of tax credits issued in accordance with this section may be transferred, sold or assigned by notarized endorsement which names the transferee.

7. The tax credits allowed pursuant to subsections 1, 2, 3, 4 and 5 of this section shall be for an amount of no more than ten million dollars for each year beginning in 1999. To the extent there are available tax credits remaining under the ten million dollar cap provided in this section, [up to one hundred thousand dollars in the] **such** remaining credits shall first be used for tax credits authorized under section 135.562. The total maximum credit for all entities already located in distressed communities and claiming credits pursuant to subsection 4 of this section shall be seven hundred and fifty thousand dollars. The department of economic development in approving taxpayers for the credit as provided for in subsection 6 of this section shall use information provided by the department of revenue regarding taxes paid in the previous year, or projected taxes for those entities newly established in the state, as the method of determining when this maximum will be reached and shall maintain a record of the order of approval. Any tax credit not used in the period for which the credit was approved may be carried over until the full credit has been allowed.

8. A Missouri employer relocating into a distressed community and having employees covered by a collective bargaining agreement at the facility from which it is relocating shall not be eligible for the credits in subsection 1, 3, 4 or 5 of this section, and its employees shall not be eligible for the credit in subsection 2 of this section if the relocation violates or terminates a collective bargaining agreement covering employees at the facility, unless the affected collective bargaining unit concurs with the move.

9. Notwithstanding any provision of law to the contrary, no taxpayer shall earn the tax credits allowed in this section and the tax credits otherwise allowed in section 135.110, or the tax credits, exemptions, and refund otherwise allowed in sections 135.200, 135.220, 135.225 and 135.245, respectively, for the same business for the same tax period.

135.562. 1. If any taxpayer with a federal adjusted gross income of thirty thousand dollars or less incurs costs for the purpose of making all or any portion of such taxpayer's principal dwelling accessible to [an individual with a disability] **a disabled individual or a senior** who permanently resides with the taxpayer, such taxpayer shall receive a tax credit against such taxpayer's Missouri income tax liability in an amount equal to the lesser of one hundred percent of such costs or two thousand five hundred dollars per taxpayer, per tax year.

For purposes of this section, "disabled individual" means any natural person who:

- (1) Is a hearing-impaired person as defined in section 302.174, RSMo;**
- (2) Is a blind person as defined in section 8.700, RSMo; or**
- (3) Has medical disabilities that, as determined by a health care professional as defined in section 191.300, RSMo, prohibit, limit, or severely impair the person's ability to ambulate or walk as follows:**
 - (a) The person is unable to ambulate or walk less than fifty feet without stopping to rest due to a severe and disabling arthritic, neurological, orthopedic, or other severe and disabling condition; or**
 - (b) The person is unable to ambulate or walk without the use of or assistance from a brace, cane, crutch, prosthetic device, wheelchair, other assistive device, or another person.**

2. Any taxpayer with a federal adjusted gross income greater than thirty thousand dollars but less than sixty thousand dollars who incurs costs for the purpose of making all or any portion of such taxpayer's

principal dwelling accessible to [an individual with a disability] **a disabled individual or senior** who permanently resides with the taxpayer shall receive a tax credit against such taxpayer's Missouri income tax liability in an amount equal to the lesser of fifty percent of such costs or two thousand five hundred dollars per taxpayer per tax year. No taxpayer shall be eligible to receive tax credits under this section in any tax year immediately following a tax year in which such taxpayer received tax credits under the provisions of this section.

3. Tax credits issued pursuant to this section may be refundable in an amount not to exceed two thousand five hundred dollars per tax year.

4. Eligible costs for which the credit may be claimed include:

- (1) Constructing entrance or exit ramps;
- (2) Widening exterior or interior doorways;
- (3) Widening hallways;
- (4) Installing handrails or grab bars;
- (5) Moving electrical outlets and switches;
- (6) Installing stairway lifts;
- (7) Installing or modifying fire alarms, smoke detectors, and other alerting systems;
- (8) Modifying hardware of doors; [or]
- (9) Modifying bathrooms; **or**

(10) Constructing additional rooms in the dwelling or structures on the property for the purpose of accommodating the senior or disabled person.

5. The tax credits allowed, including the maximum amount that may be claimed, pursuant to this section shall be reduced by an amount sufficient to offset any amount of such costs a taxpayer has already deducted from such taxpayer's federal adjusted gross income or to the extent such taxpayer has applied any other state or federal income tax credit to such costs.

6. A taxpayer shall claim a credit allowed by this section in the same taxable year as the credit is issued, and at the time such taxpayer files his or her Missouri income tax return; provided that such return is timely filed.

7. The department may, in consultation with the department of social services, promulgate such rules or regulations as are necessary to administer the provisions of this section. Any rule or portion of a rule, as that term is defined in section 536.010, RSMo, that is created under the authority delegated in this section shall become effective only if it complies with and is subject to all of the provisions of chapter 536, RSMo, and, if applicable, section 536.028, RSMo. This section and chapter 536, RSMo, are nonseverable and if any of the powers vested with the general assembly pursuant to chapter 536, RSMo, to review, to delay the effective date or to disapprove and annul a rule are subsequently held unconstitutional, then the grant of rulemaking authority and any rule proposed or adopted after August 28, 2007, shall be invalid and void.

8. The provisions of this section shall apply to all tax years beginning on or after January 1, 2008.

9. The provisions of this section shall expire December 31, 2013.

10. In no event shall the aggregate amount of all tax credits allowed pursuant to this section exceed [one hundred thousand dollars] **the amount of tax credits remaining unused under the program authorized under section 135.535** in any given fiscal year. The tax credits issued pursuant to this section shall be on a first-come, first-served filing basis.”; and

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

In which the concurrence of the Senate is respectfully requested.

On motion of Senator Vogel, the Senate adjourned until 2:00 p.m., Monday, May 4, 2009.

SENATE CALENDAR

SIXTY-FOURTH DAY—MONDAY, MAY 4, 2009

FORMAL CALENDAR

THIRD READING OF SENATE BILLS

SS for SCS for SB 558-Mayer (In
Fiscal Oversight)

SENATE BILLS FOR PERFECTION

SB 569-Lembke, with SCS

SB 540-Schaefer

HOUSE BILLS ON THIRD READING

- | | |
|--|---|
| 1. HB 65-Wilson (119), et al (Pearce)
(In Fiscal Oversight) | 12. HB 734-Ruzicka and Hobbs, with SCS
(Lager) |
| 2. HCS for HB 82, with SCS (Pearce) | 13. HCS for HB 246 (Purgason) |
| 3. HB 745-Loehner, et al, with SCS
(Clemens) | 14. HB 15-Icet (Nodler) |
| 4. HCS for HBs 320, 39 & 662 (Mayer) | 15. HCS for HJR 32, with SCA 1 (Schaefer) |
| 5. HB 86-Sutherland (Lager) | 16. HB 30-Brandom, et al, with SCS (Goodman) |
| 6. HCS for HB 580, with SCS (Dempsey) | 17. HB 218-Ervin (Dempsey) |
| 7. HB 716-Todd, et al, with SCS (Mayer) | 18. HCS for HB 863 (Cunningham) |
| 8. HCS for HBs 46 & 434 (Mayer) | 19. HCS for HB 909 (Crowell) |
| 9. HCS for HB 152 (Bartle) | 20. HCS for HB 299 (Pearce) |
| 10. HCS for HB 62, with SCS (Bartle) | 21. HCS for HB 577, with SCS (Rupp) |
| 11. HCS for HBs 658 & 706 (Clemens) | 22. HB 258-Jones (89), et al, with SCS (Rupp) |

INFORMAL CALENDAR

SENATE BILLS FOR PERFECTION

SB 7-Griesheimer, with SS (pending)	SB 254-Barnitz, with SS (pending)
SB 18-Bray, et al, with SCS & SS for SCS (pending)	SBs 261, 159, 180 & 181-Bartle and Goodman, with SCS & SS#3 for SCS (pending)
SB 29-Stouffer	SB 264-Mayer
SBs 45, 212, 136, 278, 279, 285 & 288-Pearce and Smith, with SCS & SS#3 for SCS (pending)	SB 267-Mayer and Green, with SA 1 (pending)
SB 57-Stouffer, with SCS & SA 1 (pending)	SB 284-Lembke, et al, with SA 1 (pending)
SB 72-Stouffer, with SCS	SB 299-Griesheimer, with SCS & SS for SCS (pending)
SB 94-Justus, et al, with SCS & SS for SCS (pending)	SB 321-Days, et al, with SCS (pending)
SB 174-Griesheimer and Goodman, with SCS, SS#2 for SCS & SA 2 (pending)	SB 364-Clemens and Schaefer
SCS for SB 189-Shields	SB 409-Stouffer, with SCS (pending)
SBs 223 & 226-Goodman and Nodler, with SCS & SA 1 (pending)	SB 477-Wright-Jones, with SS (pending)
SB 228-Scott, with SCS, SS for SCS, SA 12, SSA 1 for SA 12 & SA 1 to SSA 1 for SA 12 (pending)	SB 527-Nodler and Bray
SB 236-Lembke	SB 555-Lager, with SCS, SS for SCS & SA 2 (pending)
	SB 572-Dempsey and Justus
	SJR 12-Scott, with SCS (pending)

HOUSE BILLS ON THIRD READING

HCS for HBs 128 & 340, with SA 1 (pending) (Scott)	HCS for HB 481 (Lembke)
SS for HCS for HB 154 (Shields)	HB 488-Schad, et al, with SCS (pending) (Pearce)
HCS for HB 191, with SCS & SS for SCS (pending) (Griesheimer)	HCS for HB 495, with SCS, SS for SCS, SA 1, SSA 2 for SA 1 & SA 1 to SSA 2 for SA 1 (pending) (Griesheimer)
HB 229-Ervin, with SCS, SS for SCS, SA 8, SSA 1 for SA 8 & SA 1 to SSA 1 for SA 8 (pending) (Dempsey)	HB 659-Dusenberg, et al, with SCS & SA 1 (pending) (Bartle)
HB 287-Day, et al, with SS (pending) (Mayer)	SS for SCS for HB 683-Schieffer, et al (Stouffer) (In Fiscal Oversight)
SS for SCS for HB 376-Hobbs, et al (Griesheimer) (In Fiscal Oversight)	HCS for HJR 10, with SS (pending) (Lembke)

CONSENT CALENDAR

House Bills

Reported 4/9

HCS for HB 251 (Clemens)
HB 210-Deeken (Crowell)
HB 400-Nasheed, et al (Pearce)

HB 593-Viebrock (Crowell)
HB 678-Wasson (Goodman)
HB 537-Dixon, et al (Wright-Jones)

Reported 4/14

HB 83-Wood, with SCS (Goodman)
HCS for HB 124 (McKenna)
HB 282-Stevenson, et al (Nodler)
HB 652-Pratt (Bartle)

HB 698-Zimmerman, et al (Schmitt)
HCS for HB 895 (Stouffer)
HB 918-Kelly (Schaefer)
HB 919-Ruestman, et al (Goodman)

Reported 4/15

HCS for HB 525 (Schmitt)
HCS for HB 231 (Rupp)
HB 826-Brown (149), et al (Lembke)
HCS for HB 685 (Goodman)
HB 811-Wasson (Scott)
HCS for HB 273 (Scott)
HCS for HB 485 (Mayer)

HB 859-Dieckhaus, et al (Griesheimer)
HB 283-Wood, with SCS (Goodman)
HCS for HBs 234 & 493 (Shoemyer)
HB 289-Wallace (Mayer)
HB 373-Wallace, with SCS (Mayer)
HB 490-Schad, et al (Pearce)
HB 682-Swinger, et al (Mayer)

SENATE BILLS WITH HOUSE AMENDMENTS

SCS for SB 71-Stouffer, with HCS, as amended
SB 147-Dempsey, with HCS
SB 154-Goodman, with HCS
SCS for SB 157-Schmitt, with HCS, as amended
SB 215-Shields, with HCS, as amended

SB 235-Cunningham, with HCS, as amended
SCS for SB 338-Rupp, with HCS
SB 435-Lembke, with HCS
SB 526-Clemens, with HA 1, HA 2, HA 3 & HA 4
SCS for SB 563-Smith, with HCS

BILLS IN CONFERENCE AND BILLS
CARRYING REQUEST MESSAGES

In Conference

SCS for SB 242-Pearce, with HCS, as amended	HCS for HB 10, with SCS (Nodler)
SS for SB 307-Dempsey, with HCS, as amended	HCS for HB 11, with SCS (Nodler)
SB 513-Dempsey, with HA 1, as amended	HCS for HB 12, with SCS (Nodler)
HCS for HB 2, with SS for SCS (Nodler)	HB 13-Icet, with SCS (Nodler)
HCS for HB 3, with SS for SCS (Nodler)	HB 91-Pollock, with SCS (Purgason)
HCS for HB 4, with SCS (Nodler)	HCS for HB 148, with SCS#2 (Griesheimer)
HCS for HB 5, with SCS (Nodler)	HCS for HB 265, with SCS (Crowell)
HCS for HB 6, with SCS (Nodler)	HB 269-Parson, et al, with SCS, as amended (Scott)
HCS for HB 7, with SCS (Nodler)	HB 395-Nance, et al, with SS for SCS, as amended (Stouffer)
HCS for HB 8, with SCS (Nodler)	HCS for HB 397 & HCS for HB 947, with SCS (Ridgeway)
HCS for HB 9, with SCS (Nodler)	

Requests to Recede or Grant Conference

SCS for SB 47-Scott, with HCS (Senate requests House recede or grant conference)	SB 296-Scott, with HCS, as amended (Senate requests House recede or grant conference)
SB 171-Griesheimer, with HCS, as amended (Senate requests House recede or grant conference)	SB 464-Stouffer, with HCS, as amended (Senate requests House recede or grant conference)

RESOLUTIONS

Reported from Committee

SR 141-Engler, with point of order (pending)	SCR 21-Clemens
SCR 7-Pearce	SCR 10-Rupp
SR 207-Lembke and Smith, with SCS & SS for SCS (pending)	SCR 18-Bartle and Rupp
SCR 11-Bartle, et al	SCR 23-Schmitt
SCR 14-Schmitt	HCS for HCR 16 (Cunningham)
	SCR 13-Pearce

✓