

Journal of the Senate

FIRST REGULAR SESSION

FIRST EXTRA SESSION

SIXTH DAY—TUESDAY, SEPTEMBER 13, 2011

The Senate met pursuant to adjournment.

Senator Pearce in the Chair.

Reverend Carl Gauck offered the following prayer:

“By the reading of Scripture I am so renewed that all nature seems renewed around me and with me.” (Thomas Merton)

Dear God, Your Word is a gift in itself and in reading it and meditating on it our whole self is refreshed making us capable of accomplishing what is before us. And even though we may differ from one another help us find ways to do what is right and needful so others may benefit from our work. In Your Holy Name we pray. Amen.

The Pledge of Allegiance to the Flag was recited.

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

The Journal of the previous day was read and approved.

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

Present—Senators

Brown	Callahan	Chappelle-Nadal	Crowell	Cunningham	Curls	Dempsey	Dixon
Engler	Goodman	Green	Justus	Keaveny	Kehoe	Kraus	Lager
Lamping	Lembke	Mayer	McKenna	Munzlinger	Nieves	Parson	Pearce
Purgason	Richard	Ridgeway	Rupp	Schaaf	Schaefer	Schmitt	Stouffer
Wasson	Wright-Jones—34						

Absent—Senators—None

Absent with leave—Senators—None

Vacancies—None

The Lieutenant Governor was present.

RESOLUTIONS

Senator Wright-Jones offered Senate Resolution No. 27, regarding Dr. John A. Pieper, which was adopted.

Senator Kraus offered the following resolution:

SENATE RESOLUTION NO. 28

WHEREAS, Missouri has a proud history of supporting our military and strengthening our nation; and

WHEREAS, Missouri has provided strategic air support to the nation's military since World War II; and

WHEREAS, Missouri is the home of the Air Force Global Strike Command and our military men and women are at the forefront of United States national air defense; and

WHEREAS, our military personnel and their families deserve the peace of mind that they have an unparalleled multi-role fighter to keep them safe, protect our nation, and secure peace around the world; and

WHEREAS, the F-35 is critical to the modernization of our military because it will replace aging and obsolete aircraft and secure United States air superiority for the next generation; and

WHEREAS, thousands of hard working, highly educated Missourians contribute to the success of Whiteman Air Force Base and the Marine Corp Mobilization Command; and

WHEREAS, these Missourians depend on the economic impact of our military bases to support their jobs and thriving communities; and

WHEREAS, the F-35 generates more than five hundred high technology, high paying jobs for Missouri; and

WHEREAS, the global F-35 Joint Strike Fighter program already provides sustained economic impact to Missouri and its citizens of over thirty-five million dollars annually; and

WHEREAS, the United States Congress is currently reviewing its commitment to the F-35 program and its full funding; and

WHEREAS, the United States and its global partners have invested in the development of the F-35 for more than a decade; and

WHEREAS, our military is currently testing the aircraft and we are on the verge of realizing the return on this long-term investment; and

WHEREAS, to slow production would increase the marginal cost of each aircraft and curb the strategic security and economic benefits of the program:

NOW THEREFORE BE IT RESOLVED that we, the members of the Missouri Senate, Ninety-sixth General Assembly, First Extraordinary Session, hereby urge the United States Congress to recognize the importance of the F-35 to the State of Missouri, our military, and our national security, and support high production and full funding of the F-35 Joint Strike Fighter program; and

BE IT FURTHER RESOLVED that the Secretary of the Missouri Senate be instructed to prepare properly inscribed copies of this resolution for the President of the United States, the President of the United States Senate, the Speaker of the United States House of Representatives, and each member of the Missouri Congressional delegation.

REPORTS OF STANDING COMMITTEES

Senator Dempsey, 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 **SCS** for **SB 1**, begs leave to report that it has examined the same and finds that the bill has been truly perfected and that the printed copies furnished the Senators are correct.

President Pro Tem Mayer assumed the Chair.

Senator Engler, Chairman of the Committee on Financial and Governmental Organizations and Elections, submitted the following reports:

Mr. President: Your Committee on Financial and Governmental Organizations and Elections, to which was referred **HB 1**, begs leave to report that it has considered the same and recommends that the bill do

pass.

Also,

Mr. President: Your Committee on Financial and Governmental Organizations and Elections, to which was referred **HCS** for **HB 3**, begs leave to report that it has considered the same and recommends that the bill do pass.

Senator Pearce assumed the Chair.

REFERRALS

President Pro Tem Mayer referred **HB 1** to the Committee on Ways and Means and Fiscal Oversight.

President Pro Tem Mayer referred **SR 26** to the Committee on Rules, Joint Rules, Resolutions and Ethics.

Senator Dempsey announced that photographers from KRCG-TV and Missouri News Horizon were given permission to take pictures in the Senate Chamber today.

On motion of Senator Dempsey, the Senate recessed until 2:00 p.m.

RECESS

The time of recess having expired, the Senate was called to order by President Kinder.

Senator Dempsey announced that photographers from KOMU-TV, KMOV-TV and KTVI-TV were given permission to take pictures in the Senate Chamber today.

RESOLUTIONS

Senator Lembke offered Senate Resolution No. 29, regarding David Carr, Saint Louis, which was adopted.

Senator Keaveny offered Senate Resolution No. 30, regarding the One Hundredth Anniversary of Saint Roch Parish, Saint Louis, which was adopted.

Senator Purgason offered Senate Resolution No. 31, regarding Travis Joseph Kapp, Camdenton, which was adopted.

Senators Justus and Curles offered Senate Resolution No. 32, regarding Kansas City Police Chief James D. Corwin, which was adopted.

Senator Kraus offered Senate Resolution No. 33, regarding David Scott Hedger, which was adopted.

Senator Parson offered Senate Resolution No. 34, regarding the Fiftieth Wedding Anniversary of Mr. and Mrs. Henry C. Saddler, Sedalia, which was adopted.

Senator Parson offered Senate Resolution No. 35, regarding the Seventy-first Wedding Anniversary of Mr. and Mrs. Marvin W. Speiser, Pittsburg, which was adopted.

SENATE BILLS FOR PERFECTION

Senator Mayer moved that **SB 8**, with **SCS**, be called from the Informal Calendar and taken up for perfection, which motion prevailed.

SCS for SB 8, entitled:

**SENATE COMMITTEE SUBSTITUTE FOR
SENATE BILL NO. 8**

An Act to repeal sections 32.115, 100.286, 100.297, 135.030, 135.090, 135.313, 135.326, 135.327, 135.350, 135.352, 135.460, 135.484, 135.490, 135.535, 135.550, 135.562, 135.575, 135.600, 135.630, 135.647, 135.679, 135.700, 135.815, 135.825, 135.950, 135.973, 135.1150, 143.119, 144.054, 144.062, 178.760, 178.761, 178.762, 178.763, 178.764, 178.892, 178.893, 178.894, 178.895, 178.896, 196.1109, 196.1115, 208.770, 253.545, 253.550, 253.557, 253.559, 348.251, 348.253, 348.256, 348.261, 348.262, 348.263, 348.264, 348.271, 348.300, 348.430, 348.432, 348.434, 348.500, 348.505, 447.708, 620.470, 620.472, 620.474, 620.475, 620.476, 620.478, 620.479, 620.480, 620.481, 620.482, 620.495, and 660.055, RSMo, and to enact in lieu thereof eighty new sections relating to taxation, with penalty provisions and an emergency clause.

Was taken up.

Senator Mayer moved that **SCS for SB 8** be adopted.

Senator Mayer offered **SS for SCS for SB 8**, entitled:

**SENATE SUBSTITUTE FOR
SENATE COMMITTEE SUBSTITUTE FOR
SENATE BILL NO. 8**

An Act to repeal sections 32.115, 100.286, 100.297, 135.010, 135.025, 135.030, 135.090, 135.313, 135.326, 135.327, 135.350, 135.352, 135.460, 135.484, 135.490, 135.535, 135.550, 135.562, 135.575, 135.600, 135.630, 135.647, 135.679, 135.700, 135.815, 135.825, 135.1150, 143.119, 178.760, 178.761, 178.762, 178.763, 178.764, 178.892, 178.893, 178.894, 178.895, 178.896, 208.770, 253.550, 253.557, 253.559, 348.430, 348.432, 348.434, 348.500, 348.505, 447.708, 620.470, 620.472, 620.474, 620.475, 620.476, 620.478, 620.479, 620.480, 620.481, 620.482, 620.495, and 660.055, RSMo, and to enact in lieu thereof fifty-six new sections relating to taxation, with an emergency clause.

Senator Mayer moved that **SS for SCS for SB 8** be adopted.

Senator Lembke raised the point of order that **SS for SCS for SB 8** is out of order under the provisions of Senate Rule 57 as it contains more than one subject matter.

The point of order was referred to the President Pro Tem who ruled it not well taken.

Senator Goodman requested unanimous consent of the Senate for the Missouri Working Group on Sentencing and Corrections to meet while the Senate is in session, which request was granted.

Senator Stouffer assumed the Chair.

Senator Schaaf offered **SA 1**, which was read:

SENATE AMENDMENT NO. 1

Amend Senate Substitute for Senate Committee Substitute for Senate Bill No. 8, Pages 27-32, Section 135.010, by striking all of said section from the bill; and

Further amend said bill, page 32, section 135.025, by striking all of said section from the bill; and

Further amend said bill, pages 32-34, section 135.030, by striking all of said section from the bill; and

Further amend the title and enacting clause accordingly.

Senator Schaaf moved that the above amendment be adopted.

Senator Chappelle-Nadal requested a roll call vote be taken on the adoption of SA 1 and was joined in her request by Senators Curls, Green, Justus and Schaaf.

SA 1 was adopted by the following vote:

YEAS—Senators

Callahan	Chappelle-Nadal	Curls	Dempsey	Goodman	Green	Justus	Keaveny
Lamping	Lembke	McKenna	Nieves	Rupp	Schaaf	Schaefer	Schmitt

Wright-Jones—17

NAYS—Senators

Brown	Crowell	Cunningham	Dixon	Engler	Kehoe	Kraus	Lager
Mayer	Munzlinger	Parson	Pearce	Richard	Ridgeway	Stouffer	Wasson—16

Absent—Senator Purgason—1

Absent with leave—Senators—None

Vacancies—None

Senator Schaaf offered SA 2, which was read:

SENATE AMENDMENT NO. 2

Amend Senate Substitute for Senate Committee Substitute for Senate Bill No. 8, Page 96, Section 135.1500, Lines 1-2, by striking all of said lines from the bill and inserting in lieu thereof the following:

“(2) “Airport”, any airport located within this state;”.

Senator Schaaf moved that the above amendment be adopted, which motion failed.

Senator Green offered SA 3, which was read:

SENATE AMENDMENT NO. 3

Amend Senate Substitute for Senate Committee Substitute for Senate Bill No. 8, Pages 11-17, Section 67.3000, by striking all of said section from the bill; and

Further amend said bill, Pages 17 to 20, Section 67.3005, by striking all of said section from the bill; and

Further amend the title and enacting clause accordingly.

Senator Green moved that the above amendment be adopted, which motion failed.

Senator Richard offered SA 4:

SENATE AMENDMENT NO. 4

Amend Senate Substitute for Senate Committee Substitute for Senate Bill No. 8, Page 54, Section 135.460, Line 8 of said page, by inserting immediately after said line the following:

“135.478. As used in sections 135.481 to 135.487, the following terms mean:

- (1) “Department”, the department of economic development;
- (2) “Director”, the director of the department of economic development;
- (3) “Distressed community”, as defined in section 135.530;

(4) “Eligible costs for a new residence”, expenses incurred for property acquisition, development, site preparation other than demolition, surveys, architectural and engineering services and construction and all other necessary and incidental expenses incurred for constructing a new market rate residence, which is or will be owner-occupied, which is not replacing a national register listed or local historic structure; except that, costs paid for by the taxpayer with grants or forgivable loans, other than tax credits, provided pursuant to state or federal governmental programs are ineligible;

(5) “Eligible costs for rehabilitation”, expenses incurred for the renovation or rehabilitation of an existing residence including site preparation, surveys, architectural and engineering services, construction, modification, expansion, remodeling, structural alteration, replacements and alterations; except that, costs paid for by the taxpayer with grants or forgivable loans other than tax credits provided pursuant to state or federal governmental programs are ineligible;

(6) “Eligible residence”, a single-family residence forty years of age or older, located in this state and not within a distressed community as defined by section 135.530, which is occupied or intended to be or occupied long-term by the owner or offered for sale at market rate for owner-occupancy and which is either located within a United States census block group which, if in a metropolitan statistical area, has a median household income of less than ninety percent, but greater than or equal to seventy percent of the median household income for the metropolitan statistical area in which the census block group is located, or which, if located within a United States census block group in a nonmetropolitan area, has a median household income of less than ninety percent, but greater than or equal to seventy percent of the median household income for the nonmetropolitan areas in the state, **or which is located within a census block group in which more than fifty percent of the residential structures inside the census block group were destroyed or sustained major damage as the result of a federally declared disaster;**

(7) “Flood plain”, any land or area susceptible to being inundated by water from any source or located in a one hundred-year flood plain area determined by Federal Emergency Management Agency mapping as subject to flooding;

(8) “New residence”, a residence constructed on land which if located within a distressed community has either been vacant for at least two years or is or was occupied by a structure which has been condemned by the local entity in which the structure is located or which, if located outside of a distressed community but within a census block group as described in subdivision (6) or (10) of this section, either replaces a residence forty years of age or older demolished for purposes of constructing a replacement residence, or which is constructed on vacant property which has been classified for not less than forty continuous years as residential or utility, commercial, railroad or other real property pursuant to article X, section 4(b) of the Missouri Constitution, as defined in section 137.016, **or which is constructed within a census block group in which more than fifty percent of the residential structures inside the census block group were destroyed or sustained major damage as the result of a federally declared disaster;** except that, no new residence shall be constructed in a flood plain or on property used for agricultural purposes. In a distressed community, the term “new residence” shall include condominiums, owner-occupied units or other units intended to be owner-occupied in multiple unit structures;

(9) “Project”, new construction, rehabilitation or substantial rehabilitation of a residence that qualifies for a tax credit pursuant to sections 135.475 to 135.487;

(10) “Qualifying residence”, a single-family residence, forty years of age or older, located in this state which is occupied or intended to be occupied long-term by the owner or offered for sale at market rate for owner-occupancy and which is located in a metropolitan statistical area or nonmetropolitan statistical area within a United States census block group which has a median household income of less than seventy percent of the median household income for the metropolitan statistical area or nonmetropolitan area, respectively, or which is located within a distressed community. A qualifying residence shall include a condominium or residence within a multiple residential structure or a structure containing multiple single-family residences which is located within a distressed community;

(11) “Substantial rehabilitation”, rehabilitation the costs of which exceed fifty percent of either the purchase price or the cost basis of the structure immediately prior to rehabilitation; provided that, the structure is at least fifty years old notwithstanding any provision of sections 135.475 to 135.487 to the contrary;

(12) “Tax liability”, the tax due pursuant to chapter 143, 147 or 148, other than taxes withheld pursuant to sections 143.191 to 143.265;

(13) “Taxpayer”, any person, partnership, corporation, trust, limited liability company, or any charitable organization which is exempt from federal income tax and whose Missouri unrelated business taxable income, if any, would be subject to the state income tax imposed under chapter 143.”; and

Further amend said bill, Page 54, Section 135.484, Line 11 of said page, by inserting an opening bracket “[” immediately before the word “Of”; and further amend Line 15 of said page, by inserting a closing bracket “]” immediately after “135.478.”; and

Further amend said bill and section, Page 55, Line 17, by inserting immediately after the word “contrary,” the following: “**except as otherwise provided under subsection 5 of this section,**”; and further amend line 23 of said page, by inserting after all of said line the following:

“5. (1) By no later than thirty calendar days following the effective date of this act, and the first day of October each year thereafter, the director of the department may provide to the budget committee of the house of representatives and the appropriations committee of the senate a request for an appropriation for tax credits provided under sections 135.475 to 135.487. Appropriations made pursuant to the provisions of this subsection shall provide the amount of tax credits which may be authorized during the fiscal year immediately following the fiscal year in which such appropriation is made. Appropriations provided under this subsection shall only be made in the annual appropriation bill relating to public debt.

(2) There is hereby created in the state treasury the “Neighborhood Preservation Tax Credits for Disaster Relief Fund”, which shall consist of money appropriated under this subsection. The state treasurer shall be custodian of the fund and may approve disbursements from the fund in accordance with sections 30.170 and 30.180. Upon appropriation, money in the fund shall be used solely for the administration of this subsection. Notwithstanding the provisions of section 33.080 to the contrary, any moneys remaining in the fund for tax credits which have been authorized but not yet redeemed at the end of the fiscal year shall not revert to the credit of the general revenue fund. Any moneys remaining in the fund at the end of the fiscal year for any tax credits which remain unauthorized at the end of the fiscal year shall revert to the credit of the general revenue fund. Provisions of section

32.057 to the contrary notwithstanding, the department of revenue shall notify the department upon redemption of each tax credit authorized under the provisions of this subdivision. Upon such notification, an amount equal to the tax credits redeemed shall be transferred from the fund created in this subdivision to the general revenue fund. In the event the department determines that any tax credit authorized under this subsection is precluded from being redeemed due to contractual agreement entered into by the department and the tax credit applicant or is otherwise precluded by law from being redeemed, an amount equal to such tax credit shall be transferred from the fund created in this subdivision to the general revenue fund. The state treasurer shall invest moneys in the fund in the same manner as other funds are invested. Any interest and moneys earned on such investments shall be credited to the general revenue fund at the end of each fiscal year.

(3) Tax credits provided under sections 135.475 to 135.487 may, subject to appropriation to the neighborhood preservation tax credits for disaster relief fund, be authorized for projects located within any county declared a disaster area pursuant to federal law at any time during the thirty-six months following the declaration.”; and

Further amend the title and enacting clause accordingly.

Senator Richard moved that the above amendment be adopted, which motion prevailed.

Senator Ridgeway assumed the Chair.

Senator Rupp offered **SA 5**:

SENATE AMENDMENT NO. 5

Amend Senate Substitute for Senate Committee Substitute for Senate Bill No. 8, Page 84, Section 135.679, Line 10 of said page by inserting immediately after all of said line the following:

“135.680. 1. As used in this section, the following terms shall mean:

(1) “Adjusted purchase price”, the product of:

(a) The amount paid to the issuer of a qualified equity investment for such qualified equity investment; and

(b) The following fraction:

a. The numerator shall be the dollar amount of qualified low-income community investments held by the issuer in this state as of the credit allowance date during the applicable tax year; and

b. The denominator shall be the total dollar amount of qualified low-income community investments held by the issuer in all states as of the credit allowance date during the applicable tax year;

c. For purposes of calculating the amount of qualified low-income community investments held by an issuer, an investment shall be considered held by an issuer even if the investment has been sold or repaid; provided that the issuer reinvests an amount equal to the capital returned to or recovered by the issuer from the original investment, exclusive of any profits realized, in another qualified low-income community investment within twelve months of the receipt of such capital. An issuer shall not be required to reinvest capital returned from qualified low-income community investments after the sixth anniversary of the issuance of the qualified equity investment, the proceeds of which were used to make the qualified low-income community investment, and the qualified low-income community investment shall be considered held by the issuer through the seventh anniversary of the qualified equity investment’s issuance;

(2) “Applicable percentage”, zero percent for each of the first two credit allowance dates, seven percent for the third credit allowance date, and eight percent for the next four credit allowance dates;

(3) “Credit allowance date”, with respect to any qualified equity investment:

(a) The date on which such investment is initially made; and

(b) Each of the six anniversary dates of such date thereafter;

(4) **“Disaster relief area”, an area adversely affected by a tornado, severe thunderstorm, or flooding of the Missouri or Mississippi rivers during the calendar year beginning on or after January 1, 2011, but ending on or before December 31, 2011;**

(5) “Long-term debt security”, any debt instrument issued by a qualified community development entity, at par value or a premium, with an original maturity date of at least seven years from the date of its issuance, with no acceleration of repayment, amortization, or prepayment features prior to its original maturity date, and with no distribution, payment, or interest features related to the profitability of the qualified community development entity or the performance of the qualified community development entity’s investment portfolio. The foregoing shall in no way limit the holder’s ability to accelerate payments on the debt instrument in situations where the issuer has defaulted on covenants designed to ensure compliance with this section or Section 45D of the Internal Revenue Code of 1986, as amended;

[(5)] (6) “Qualified active low-income community business”, the meaning given such term in Section 45D of the Internal Revenue Code of 1986, as amended; provided that any business that derives or projects to derive fifteen percent or more of its annual revenue from the rental or sale of real estate shall not be considered to be a qualified active low-income community business;

[(6)] (7) “Qualified community development entity”, the meaning given such term in Section 45D of the Internal Revenue Code of 1986, as amended; provided that such entity has entered into an allocation agreement with the Community Development Financial Institutions Fund of the U.S. Treasury Department with respect to credits authorized by Section 45D of the Internal Revenue Code of 1986, as amended, which includes the state of Missouri within the service area set forth in such allocation agreement;

[(7)] (8) “Qualified equity investment”, any equity investment in, or long-term debt security issued by, a qualified community development entity that:

(a) Is acquired after September 4, 2007, at its original issuance solely in exchange for cash;

(b) Has at least eighty-five percent of its cash purchase price used by the issuer to make qualified low-income community investments; and

(c) Is designated by the issuer as a qualified equity investment under this subdivision and is certified by the department of economic development as not exceeding the limitation contained in subsection 2 of this section. This term shall include any qualified equity investment that does not meet the provisions of paragraph (a) of this subdivision if such investment was a qualified equity investment in the hands of a prior holder;

[(8)] (9) “Qualified low-income community investment”, any capital or equity investment in, or loan to, any qualified active low-income community business. With respect to any one qualified active low-income community business, the maximum amount of qualified low-income community investments made in such business, on a collective basis with all of its affiliates, that may be used from the calculation of any numerator described in subparagraph a. of paragraph (b) of subdivision (1) of this subsection shall

be ten million dollars whether issued to one or several qualified community development entities;

[(9)] (10) “Tax credit”, a credit against the tax otherwise due under chapter 143, excluding withholding tax imposed in sections 143.191 to 143.265, or otherwise due under section 375.916 or chapter 147, 148, or 153;

[(10)] (11) “Taxpayer”, any individual or entity subject to the tax imposed in chapter 143, excluding withholding tax imposed in sections 143.191 to 143.265, or the tax imposed in section 375.916 or chapter 147, 148, or 153.

2. A taxpayer that makes a qualified equity investment earns a vested right to tax credits under this section. On each credit allowance date of such qualified equity investment the taxpayer, or subsequent holder of the qualified equity investment, shall be entitled to a tax credit during the taxable year including such credit allowance date. The tax credit amount shall be equal to the applicable percentage of the adjusted purchase price paid to the issuer of such qualified equity investment. The amount of the tax credit claimed shall not exceed the amount of the taxpayer’s state tax liability for the tax year for which the tax credit is claimed. No tax credit claimed under this section shall be refundable or transferable. Tax credits earned by a partnership, limited liability company, S-corporation, or other pass-through entity may be allocated to the partners, members, or shareholders of such entity for their direct use in accordance with the provisions of any agreement among such partners, members, or shareholders. Any amount of tax credit that the taxpayer is prohibited by this section from claiming in a taxable year may be carried forward to any of the taxpayer’s five subsequent taxable years. The department of economic development shall limit the monetary amount of qualified equity investments permitted under this section to a level necessary to limit tax credit utilization at no more than twenty-five million dollars of tax credits in any fiscal year. Such limitation on qualified equity investments shall be based on the anticipated utilization of credits without regard to the potential for taxpayers to carry forward tax credits to later tax years.

3. The issuer of the qualified equity investment shall certify to the department of economic development the anticipated dollar amount of such investments to be made in this state during the first twelve-month period following the initial credit allowance date. If on the second credit allowance date, the actual dollar amount of such investments is different than the amount estimated, the department of economic development shall adjust the credits arising on the second allowance date to account for such difference.

4. The department of economic development shall recapture the tax credit allowed under this section with respect to such qualified equity investment under this section if:

(1) Any amount of the federal tax credit available with respect to a qualified equity investment that is eligible for a tax credit under this section is recaptured under Section 45D of the Internal Revenue Code of 1986, as amended; or

(2) The issuer redeems or makes principal repayment with respect to a qualified equity investment prior to the seventh anniversary of the issuance of such qualified equity investment. Any tax credit that is subject to recapture shall be recaptured from the taxpayer that claimed the tax credit on a return.

5. The department of economic development shall promulgate rules to implement the provisions of this section, including recapture provisions on a scaled proportional basis, and to administer the allocation of tax credits issued for qualified equity investments, which shall be conducted on a first-come, first-serve basis. **The department of economic development shall promulgate an emergency rule defining the geographic boundaries of any disaster relief areas immediately following the enactment of this act.**

In lieu of an emergency rule the department may issue a private letter ruling pursuant to section 135.682 when applicable. Any rule or portion of a rule, as that term is defined in section 536.010, 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 and, if applicable, section 536.028. This section and chapter 536 are nonseverable and if any of the powers vested with the general assembly pursuant to chapter 536 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 September 4, 2007, shall be invalid and void.

6. For fiscal years following fiscal year 2010, qualified equity investments shall not be made under this section unless reauthorization is made pursuant to this subsection. For all fiscal years following fiscal year 2010, unless the general assembly adopts a concurrent resolution granting authority to the department of economic development to approve qualified equity investments for the Missouri new markets development program and clearly describing the amount of tax credits available for the next fiscal year, or otherwise complies with the provisions of this subsection, no qualified equity investments may be permitted to be made under this section. The amount of available tax credits contained in such a resolution shall not exceed the limitation provided under subsection 2 of this section. In any year in which the provisions of this section shall sunset pursuant to subsection 7 of this section, reauthorization shall be made by general law and not by concurrent resolution. Nothing in this subsection shall preclude a taxpayer who makes a qualified equity investment prior to the expiration of authority to make qualified equity investments from claiming tax credits relating to such qualified equity investment for each applicable credit allowance date **or from reallocating such investment to a qualified active low-income community business located in a disaster relief area.**

7. Under section 23.253 of the Missouri sunset act:

(1) The provisions of the new program authorized under this section shall automatically sunset six years after September 4, 2007, unless reauthorized by an act of the general assembly; and

(2) If such program is reauthorized, the program authorized under this section shall automatically sunset twelve years after the effective date of the reauthorization of this section; and

(3) This section shall terminate on September first of the calendar year immediately following the calendar year in which the program authorized under this section is sunset. However, nothing in this subsection shall preclude a taxpayer who makes a qualified equity investment prior to sunset of this section under the provisions of section 23.253 from claiming tax credits relating to such qualified equity investment for each credit allowance date.”; and

Further amend the title and enacting clause accordingly.

Senator Rupp moved that the above amendment be adopted, which motion prevailed.

Senator Mayer moved that **SS** for **SCS** for **SB 8**, as amended, be adopted, which motion prevailed.

On motion of Senator Mayer, **SS** for **SCS** for **SB 8**, as amended, was declared perfected and ordered printed.

Senator Mayer moved that **SB 7**, with **SCS**, be called from the Informal Calendar and taken up for perfection, which motion prevailed.

SCS for **SB 7**, entitled:

SENATE COMMITTEE SUBSTITUTE FOR
SENATE BILL NO. 7

An Act to repeal sections 196.1109, 196.1115, 348.251, 348.256, 348.261, 348.262, 348.263, 348.264, 348.271, and 348.300, RSMo, and to enact in lieu thereof fourteen new sections relating to science and innovation.

Was taken up.

Senator Mayer moved that **SCS** for **SB 7** be adopted.

Senator Mayer offered **SS** for **SCS** for **SB 7**, entitled:

SENATE SUBSTITUTE FOR
SENATE COMMITTEE SUBSTITUTE FOR
SENATE BILL NO. 7

An Act to repeal sections 196.1109, 196.1115, 348.251, 348.253, 348.256, 348.261, 348.262, 348.263, 348.264, 348.271, and 348.300, RSMo, and to enact in lieu thereof fourteen new sections relating to science and innovation, with a contingent effective date.

Senator Mayer moved that **SS** for **SCS** for **SB 7** be adopted.

Senator Richard offered **SA 1**, which was read:

SENATE AMENDMENT NO. 1

Amend Senate Substitute for Senate Committee Substitute for Senate Bill No. 7, Page 4, Section 196.1115, Lines 13-18, by striking all of said lines and inserting in lieu thereof the following: “**expenses for appropriations equal to or greater than twenty million dollars; three percent for appropriations less than twenty million dollars but equal to or greater than fifteen million dollars; four percent for appropriations less than fifteen million dollars but equal to or greater than ten million dollars; five percent for appropriations less than ten million dollars; provided, however, that the general assembly**”.

Senator Richard moved that the above amendment be adopted, which motion prevailed.

Senator Rupp offered **SA 2**:

SENATE AMENDMENT NO. 2

Amend Senate Substitute for Senate Committee Substitute for Senate Bill No. 7, Page 34, Section 348.271, Line 19, by inserting immediately after all of said line the following:

“348.275. 1. **Public funds utilized under the provisions of sections 348.250 to 348.275 shall not be expended, paid, or granted to or on behalf of an existing or proposed research project that involves abortion services, human cloning, or prohibited human research as defined in section 196.1127.**

2. The department of economic development may draft and promulgate rules and regulations consistent with the provisions of sections 348.251 to 348.272 as are necessary or useful to carry out the provisions of those sections.

[2.] 3. No rule or portion of a rule promulgated under the authority of sections 348.251 to 348.272 shall become effective until it has been approved by the joint committee on administrative rules in accordance with the procedures provided in this section, and the delegation of the legislative authority to enact law by the adoption of such rules is dependent upon the power of the joint committee on administrative rules to review and suspend rules pending ratification by the senate and the house of representatives as provided in

this section.

[3.] **4.** Upon filing any proposed rule with the secretary of state, the department shall concurrently submit such proposed rule to the committee, which may hold hearings upon any proposed rule or portion thereof at any time.

[4.] **5.** A final order of rulemaking shall not be filed with the secretary of state until thirty days after such final order of rulemaking has been received by the committee. The committee may hold one or more hearings upon such final order of rulemaking during the thirty-day period. If the committee does not disapprove such order of rulemaking within the thirty-day period, the department may file such order of rulemaking with the secretary of state and the order of rulemaking shall be deemed approved.

[5.] **6.** The committee may, by majority vote of the members, suspend the order of rulemaking or portion thereof by action taken prior to the filing of the final order of rulemaking only for one or more of the following grounds:

- (1) An absence of statutory authority for the proposed rule;
- (2) An emergency relating to public health, safety or welfare;
- (3) The proposed rule is in conflict with state law;
- (4) A substantial change in circumstance since enactment of the law upon which the proposed rule is based.

[6.] **7.** If the committee disapproves any rule or portion thereof, the department shall not file such disapproved portion of any rule with the secretary of state and the secretary of state shall not publish in the Missouri Register any final order of rulemaking containing the disapproved portion.

[7.] **8.** If the committee disapproves any rule or portion thereof, the committee shall report its findings to the senate and the house of representatives. No rule or portion thereof disapproved by the committee shall take effect so long as the senate and the house of representatives ratify the act of the joint committee by resolution adopted in each house within thirty legislative days after such rule or portion thereof has been disapproved by the joint committee.

[8.] **9.** Upon adoption of a rule as provided in this section, any such rule or portion thereof may be suspended or revoked by the general assembly either by bill or, pursuant to section 8, article IV of the Constitution of Missouri, by concurrent resolution upon recommendation of the joint committee on administrative rules. The committee shall be authorized to hold hearings and make recommendations pursuant to the provisions of section 536.037. The secretary of state shall publish in the Missouri Register, as soon as practicable, notice of the suspension or revocation.”; and

Further amend the title and enacting clause accordingly.

Senator Rupp moved that the above amendment be adopted.

Senator Dixon offered **SSA 1** for **SA 2**, which was read:

SENATE SUBSTITUTE AMENDMENT NO. 1 FOR
SENATE AMENDMENT NO. 2

Amend Senate Substitute for Senate Committee Substitute for Senate Bill No. 7, Page 26, Section 348.261, Line 19, by inserting after all of said line the following:

“7. At least ten days prior to releasing funds to a recipient of financial assistance pursuant to the powers established in this section, the corporation shall submit to the president pro tem of the senate and the speaker of the house of representatives the name of the recipient of such assistance, and post such information on the corporation’s website.”.

Senator Dixon moved that the above substitute amendment be adopted, which motion prevailed.

Senator Mayer moved that **SS** for **SCS** for **SB 7**, as amended, be adopted, which motion prevailed.

On motion of Senator Mayer, **SS** for **SCS** for **SB 7**, as amended, was declared perfected and ordered printed.

On motion of Senator Dempsey, the Senate recessed until 10:30 p.m.

RECESS

The time of recess having expired, the Senate was called to order by President Pro Tem Mayer.

REPORTS OF STANDING COMMITTEES

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

Mr. President: Your Committee on Rules, Joint Rules, Resolutions and Ethics, to which were referred **SS** for **SCS** for **SB 8** and **SS** for **SCS** for **SB 7**, begs leave to report that it has examined the same and finds that the bills have been truly perfected and that the printed copies furnished the Senators are correct.

REFERRALS

President Pro Tem Mayer referred **SS** for **SCS** for **SB 8** to the Committee on Ways and Means and Fiscal Oversight.

INTRODUCTIONS OF GUESTS

Senator Kehoe introduced to the Senate, Debbie Livingston, Administrator Michael Rapp, parents and ninth grade students from Lighthouse Preparatory Academy, Jefferson City.

Senator Rupp introduced to the Senate, Shawn “The Meter Man” Gipperich, O’Fallon.

Senator Rupp introduced to the Senate, his wife, Carissa, St. Charles.

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

SENATE CALENDAR

SEVENTH DAY—WEDNESDAY, SEPTEMBER 14, 2011

FORMAL CALENDAR

SECOND READING OF SENATE BILLS

HOUSE BILLS ON SECOND READING

HB 6-Silvey

HB 7-Silvey

THIRD READING OF SENATE BILLS

SCS for SB 1-Cunningham

SS for SCS for SB 7-Mayer

SS for SCS for SB 8-Mayer (In Fiscal Oversight)

HOUSE BILLS ON THIRD READING

HB 1-Nasheed and Tilley (Keaveny)
(In Fiscal Oversight)

HCS for HB 3 (Engler)

INFORMAL CALENDAR

RESOLUTIONS

To be Referred

SR 28-Kraus

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