

Journal of the Senate

FIRST REGULAR SESSION

FIRST EXTRA SESSION

THIRTEENTH DAY—TUESDAY, OCTOBER 11, 2011

The Senate met pursuant to adjournment.

President Pro Tem Mayer in the Chair.

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

RESOLUTIONS

On behalf of Senator Nieves, Senator Dempsey offered Senate Resolution No. 128, regarding Virginia I. Wolking, which was adopted.

On behalf of Senator Nieves, Senator Dempsey offered Senate Resolution No. 129, regarding Delmar W. Jones, which was adopted.

On behalf of Senator Nieves, Senator Dempsey offered Senate Resolution No. 130, regarding Douglas W. Baecker, which was adopted.

On behalf of Senator Nieves, Senator Dempsey offered Senate Resolution No. 131, regarding Melinda S. Helling, which was adopted.

On behalf of Senator Nieves, Senator Dempsey offered Senate Resolution No. 132, regarding Michael Corley, Eureka, which was adopted.

On behalf of Senator Rupp, Senator Dempsey offered Senate Resolution No. 133, regarding Carol Alexander, Weldon Springs, which was adopted.

On behalf of Senator Munzlinger, Senator Dempsey offered Senate Resolution No. 134, regarding Dawn Food Products, Incorporated, Mexico, which was adopted.

On behalf of Senator Munzlinger, Senator Dempsey offered Senate Resolution No. 135, regarding the Fiftieth Wedding Anniversary of Mr. and Mrs. Bob Meyer, Canton, which was adopted.

On behalf of Senator Munzlinger, Senator Dempsey offered Senate Resolution No. 136, regarding the Fiftieth Wedding Anniversary of Mr. and Mrs. Bennie DeVerger, Maywood, which was adopted.

On behalf of Senator Munzlinger, Senator Dempsey offered Senate Resolution No. 137, regarding the

Fiftieth Wedding Anniversary of Mr. and Mrs. Jim Brumback, Palmyra, which was adopted.

MESSAGES FROM THE HOUSE

The following message was 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 House has taken up and passed **HCS** for **SS** for **SCS** for **SB 8**, entitled:

An Act to repeal sections 32.115, 99.1205, 135.090, 135.313, 135.326, 135.327, 135.350, 135.352, 135.484, 135.535, 135.562, 135.575, 135.630, 135.647, 135.700, 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, 215.020, 215.030, 215.033, 215.034, 253.545, 253.550, 253.557, 253.559, 447.708, 620.470, 620.472, 620.474, 620.475, 620.476, 620.478, 620.479, 620.480, 620.481, 620.482, 620.1878, and 620.1881, RSMo, and to enact in lieu thereof forty-two new sections relating to taxation, with an emergency clause.

With House Amendment Nos. 2, 3, 4, 5, House Amendment No. 1 to House Amendment No. 6, House Amendment No. 6, as amended, House Amendment No. 1 to House Amendment No. 7, House Amendment No. 7, as amended, House Amendment No. 1 to House Amendment No. 8, House Amendment No. 8, as amended, House Amendment No. 9, House Amendment No. 1 to House Amendment No. 10, House Amendment No. 10, as amended, and House Substitute Amendment No. 1 for House Amendment No. 12.

HOUSE AMENDMENT NO. 2

Amend House Committee Substitute for Senate Substitute for Senate Committee Substitute for Senate Bill No. 8, Page 25, Section 135.352, Line 48, by inserting the following after all of said Line:

“10. Notwithstanding provisions of law to the contrary, during the calendar year beginning January 1, 2016, and every fourth calendar year thereafter, the general assembly may, by concurrent resolution adopted during regular session, prohibit the approval of qualified Missouri projects for tax credits provided under sections 253.545 to 253.559. Such resolution shall not take effect prior to the first day of the fiscal year following the fiscal year in which such resolution was adopted. The prohibition contained in such resolution shall not in any way impair the department of economic development’s ability to issue tax credits for projects approved prior to the effective date of such resolution, or a taxpayer’s ability to redeem such tax credits.”; and

Further amend said bill, Page 64, Section 253.559, Line 135, by inserting the following after all of said Line:

“11. Notwithstanding provisions of law to the contrary, during the calendar year beginning January 1, 2016, and every fourth calendar year thereafter, the general assembly may, by concurrent resolution adopted during regular session, prohibit the approval of qualified Missouri projects for tax credits provided under sections 135.350 to 135.363. Such resolution shall not take effect prior to the first day of the fiscal year following the fiscal year in which such resolution was adopted. The prohibition contained in such resolution shall not in any way impair the commission’s ability to issue tax credits for projects approved prior to the effective date of such resolution, or a taxpayer’s ability to redeem such tax credits.”; and

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

HOUSE AMENDMENT NO. 3

Amend House Committee Substitute for Senate Substitute for Senate Committee Substitute for Senate Bill No. 8, Page 38, Section 135.1180, Line 43, by inserting at the end of said line the following:

“The cumulative amount of tax credits under this section which may be allocated to all taxpayers making eligible donations in any one fiscal year shall not exceed five million dollars. The director of revenue shall establish a procedure by which the cumulative amount of tax credits is apportioned among all taxpayers claiming the credit by April fifteenth of the fiscal year in which the tax credit is claimed. To the maximum extent possible, the director of revenue shall establish the procedure described in this subsection in such a manner as to ensure that taxpayers can claim all the tax credits possible up to the cumulative amount of tax credits available for the fiscal year.”; and

Further amend said title, enacting clause and intersectional references accordingly.

HOUSE AMENDMENT NO. 4

Amend House Committee Substitute for Senate Substitute for Senate Committee Substitute for Senate Bill No. 8, Page 98, Section 620.1878, Line 409, by inserting after all of said section the following:

“Section 1. The amount of tax imposed on the taxable income of a corporation in section 143.071 shall be reduced to five and one half percent of Missouri taxable income beginning January 1, 2012.”; and

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

HOUSE AMENDMENT NO. 5

Amend House Committee Substitute for Senate Substitute for Senate Committee Substitute for Senate Bill No. 8, Page 42, Section 135.1521, Line 9, by inserting the following after all of said Line:

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

(1) "Certificate of occupancy", the certificate, permit, or equivalent document issued by the county that permits the commercial use or occupancy of a building or structure used for commercial purposes;

(2) "Commercial real property", any real property assessed as utility, industrial, commercial, railroad and other real property by the assessor for property tax purposes under section 137.016;

(3) "Commercial real property improvement", any buildings, structures, fixtures, and similar edifice as described in subdivision (3) of section 137.010 which are on and a part of commercial real property;

(4) "Natural disaster", any disaster due to natural causes such as tornado, fire, flood, or earthquake;

(5) "County", any county or city not within a county.

2. If a property owner makes an application under this section, any commercial real property improvement destroyed by a natural disaster shall be removed on a pro rata basis from the tax book for the current year if such property improvement is unusable due to such destruction. If such application is made before the first day of July, the county assessor shall carry out the duties of

subsections 2 and 3 of this section. If such application is made on or after July first, the county board of equalization shall carry out the duties of subsections 2 and 3 of this section. In counties that are not of the first classification, if the destruction occurs after the adjournment of the county board of equalization, the county commission shall perform such duties.

3. Upon issuance of a certificate of occupancy for the improvement to a property removed from the tax book under subsection 2 of this section by the county, the property shall be assessed and taxed on such assessed valuation as of the first day of the month for the proportionate part of the remaining year at the tax rates established for that year in all taxing jurisdictions located in the county adopting this section. If the property is located within a county that does not issue a certificate of occupancy, upon the determination of the assessor that the improvement is suitable for use or occupancy for commercial purposes, the property shall be assessed and taxed on such assessed valuation as of the first day of the month for the proportionate part of the remaining year at the tax rates established for that year in all taxing jurisdictions located in the county adopting this section.

4. Any person claiming destroyed property shall provide a list of such destroyed property to the county assessor. The assessor shall make available a supply of appropriate forms on which the claim shall be made. The assessor may verify all such destroyed property listed to ensure that the person made a correct statement. Any person who completes such a list and, with intent to defraud, includes property on the list that was not destroyed by a natural disaster shall be assessed double the value of any property fraudulently listed, in addition to any other penalties provided by law. The list shall be filed by the assessor, after the assessor has provided a copy of the list to the county collector and the board of equalization or county commission, in the office of the county clerk who, after entering the filing thereof, shall preserve and safely keep it.

5. Any political subdivision may recover all loss of revenue resulting from the provisions of this section by adjusting the rate of taxation, to the extent previously authorized by the voters of such political subdivision, for the tax year immediately following the year of such destruction in an amount not to exceed the loss of revenue caused by this section.

6. For any tax year, including 2011, this section shall become effective immediately upon the adoption of this section by the governing body of such county and shall apply to such tax year and shall remain effective until the end of the tax year in which the governing body of such county votes to repeal the provisions of this section. Any improvement that was removed from the tax book under the provisions of this section prior to the time of repeal by the governing body of such county shall be assessed and taxed at such time as the requirements of subsection 3 of this section have been satisfied.”; and

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

HOUSE AMENDMENT NO. 1 TO
HOUSE AMENDMENT NO. 6

Amend House Amendment No. 6 to House Committee Substitute for Senate Substitute for Senate Committee Substitute for Senate Bill No. 8, Page 1, Line 3, by inserting after all of said line the following; “Further amend said bill, Page 32, Section 135.630, Lines 91 through 93, by deleting all of said lines”; and Further amend said bill by amending the title, enacting clause, and intersectional references accordingly.

HOUSE AMENDMENT NO. 6

Amend House Committee Substitute for Senate Substitute for Senate Committee Substitute for Senate Bill No. 8, Page 34, Section 135.647, Lines 56 through 58 by removing said lines from the bill; and
Further amend said bill by amending the title, enacting clause, and intersectional references accordingly.

HOUSE AMENDMENT NO. 1 TO
HOUSE AMENDMENT NO. 7

Amend House Amendment No. 7 to House Committee Substitute for Senate Substitute for Senate Committee Substitute for Senate Bill No. 8, Page 1, Line 8-12, by deleting all of said lines; and
Further amend said bill by amending the title, enacting clause, and intersectional references accordingly.

HOUSE AMENDMENT NO. 7

Amend House Committee Substitute for Senate Substitute for Senate Committee Substitute for Senate Bill No. 8, Page 12, Section 99.1205, Line 6 by deleting the words “**or any portion thereof, engineering costs, attorney's fees, architectural and planning costs,**”; and

Further amend said bill Page 12, Section 99.1205, Line 9 by removing the brackets around the words “attorney fees”; and

Further amend said bill, Page 12, Section 99.1205, Line 38 by inserting an opening bracket “[” before the following: “(4) “Condemnation proceedings””; and

Further amend said bill, Page 13, Section 99.1205, Line 43 by inserting a closing bracket “]” after the following: “section 523.250””; and

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

HOUSE AMENDMENT NO. 1 TO
HOUSE AMENDMENT NO. 8

Amend House Amendment No. 8 to House Committee Substitute for Senate Substitute for Senate Committee Substitute for Senate Bill No. 8, Page 1, Line 6, by deleting the number, “**twenty**” and inserting in lieu thereof the number, “**ten**”; and

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

HOUSE AMENDMENT NO. 8

Amend House Committee Substitute for Senate Substitute for Senate Committee Substitute for Senate Bill No. 8, Page 87, Section 620.1878, Line 165 by deleting the word “twenty” and inserting in lieu thereof the words “[twenty] **ten**”; and

Further amend said bill, Page 87, Section 620.1878, Line 166 by deleting the word “forty” and inserting in lieu thereof the words “[forty] **twenty**”; and

Further amend said bill, Page 87, Section 620.1878, Line 167 by inserting after the word “area” the words “, **two new jobs in an enhanced enterprise zone**”; and

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

HOUSE AMENDMENT NO. 9

Amend House Committee Substitute for Senate Substitute for Senate Committee Substitute for Senate Bill No. 8 Page 5, Section 67.2050 Line 5, of said page by inserting after the word “**state**,” the following: “**or any utilities board thereof**”; and

Further amend said section and page, Line 17, of said page by inserting after the word “**purchase**,” the following: “**lease , sale**”; and

Further amend said section and page, Line 30, of said page by inserting after the word “**may**” the following: “**notwithstanding any limiting, restricting or inconsistent ordinance or charter provision of the Municipality**”; and

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

HOUSE AMENDMENT NO. 1 TO
HOUSE AMENDMENT NO. 10

Amend House Amendment No. 10 to House Committee Substitute for Senate Substitute for Senate Committee Substitute for Senate Bill No. 8, Page 1, Line 2, by deleting “252.545” and inserting in lieu thereof “253.545”; and

Further amend said amendment, Page 2, Lines 25-26, by deleting “**June 30, 2011**” and inserting in lieu thereof “**the effective date of this act**”; and

Further amend said amendment, Page 3, Lines 14, 23, and 25, by deleting “**July 1, 2011**” and inserting in lieu thereof “**the effective date of this act**”; and

Further amend said amendment, Page 4, Lines 5, 7, and 21, by deleting “**July 1, 2011**” and inserting in lieu thereof “**the effective date of this act**”; and

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

HOUSE AMENDMENT NO. 10

Amend House Committee Substitute for Senate Substitute for Senate Committee Substitute for Senate Bill No. 8, Sections 252.545 through 253.559, Pages 56 - 64, by striking all of said sections from the bill and inserting in lieu thereof the following:

“253.545. As used in sections 253.545 to 253.559, the following terms mean, unless the context requires otherwise:

(1) “Certified historic structure”, a property located in Missouri and listed individually on the National Register of Historic Places;

(2) “Deed in lieu of foreclosure or voluntary conveyance”, a transfer of title from a borrower to the lender to satisfy the mortgage debt and avoid foreclosure;

(3) “Eligible property”, property located in Missouri and offered or used for residential or business purposes;

(4) “Leasehold interest”, a lease in an eligible property for a term of not less than thirty years;

(5) “Principal”, a managing partner, general partner, or president of a taxpayer;

(6) “Structure in a certified historic district”, a structure located in Missouri which is certified by the department of natural resources as contributing to the historic significance of a certified historic district listed on the National Register of Historic Places, or a local district that has been certified by the United States Department of the Interior;

(7) “Taxpayer”, any person, firm, partnership, trust, estate, limited liability company, or corporation;

(8) “Total costs and expenses of rehabilitation”, all costs and expenses related to the rehabilitation of eligible property that is a certified historic structure or a structure in a certified historic district including, but not limited to, qualified rehabilitation expenditures as defined in Section 47(c)(2)(A) of the Internal Revenue Code of 1986, as amended, and any related regulations promulgated under such section. Such costs and expenses shall include, but not be limited to, rehabilitation work in progress and accrued developer fees. Provided however, that accrued developer fees shall only be considered “total costs and expenses of rehabilitation” if an agreement or other contractual document provides for the payment of such fees within no more than six years of completion of the rehabilitation.

253.550. 1. Any taxpayer incurring costs and expenses for the rehabilitation of eligible property, which is a certified historic structure or structure in a certified historic district, may, subject to the provisions of this section and section 253.559, receive a credit against the taxes imposed pursuant to chapters 143 and 148, except for sections 143.191 to 143.265, on such taxpayer in an amount equal to twenty-five percent of the total costs and expenses of rehabilitation incurred after January 1, 1998, which shall include, but not be limited to, qualified rehabilitation expenditures as defined under section 47(c)(2)(A) of the Internal Revenue Code of 1986, as amended, and the related regulations thereunder, provided the rehabilitation costs associated with rehabilitation and the expenses exceed fifty percent of the total basis in the property and the rehabilitation meets standards consistent with the standards of the Secretary of the United States Department of the Interior for rehabilitation as determined by the state historic preservation officer of the Missouri department of natural resources.

2. During the period beginning on January 1, 2010, but ending on or after June 30, 2010, the department of economic development shall not approve applications for tax credits under the provisions of subsections 3 and 8 of section 253.559 which, in the aggregate, exceed seventy million dollars, increased by any amount of tax credits for which approval shall be rescinded under the provisions of section 253.559. For each fiscal year beginning on or after July 1, 2010, **but ending on or before June 30, 2011**, the department of economic development shall not approve applications for tax credits under the provisions of subsections 3 and 8 of section 253.559 which, in the aggregate, exceed one hundred forty million dollars, increased by any amount of tax credits for which approval shall be rescinded under the provisions of section 253.559. The limitations provided under this subsection shall not apply to applications approved under the provisions of subsection 3 of section 253.559 for projects to receive less than two hundred seventy-five thousand dollars in tax credits.

3. For all applications for tax credits approved on or after January 1, 2010, **but before June 30, 2011**, no more than two hundred fifty thousand dollars in tax credits may be issued for eligible costs and expenses incurred in the rehabilitation of an eligible property which is a nonincome producing single-family, owner-occupied residential property and is either a certified historic structure or a structure in a certified historic district.

4. The limitations on tax credit authorization provided under the provisions of subsections 2 and 3 of

this section shall not apply to:

(1) Any application submitted by a taxpayer, which has received approval from the department prior to January 1, 2010; or

(2) Any taxpayer applying for tax credits, provided under this section, which, on or before January 1, 2010, has filed an application with the department evidencing that such taxpayer:

(a) Has incurred costs and expenses for an eligible property which exceed the lesser of five percent of the total project costs or one million dollars and received an approved Part I from the Secretary of the United States Department of Interior; or

(b) Has received certification, by the state historic preservation officer, that the rehabilitation plan meets the standards consistent with the standards of the Secretary of the United States Department of the Interior, and the rehabilitation costs and expenses associated with such rehabilitation shall exceed fifty percent of the total basis in the property.

5. For each fiscal year beginning on or after July 1, 2011, the department of economic development shall not approve applications for tax credits under the provisions of subsections 3 and 8 of section 253.559 which, in the aggregate, exceed eighty million dollars, increased by any amount of tax credits for which approval shall be rescinded under the provisions of section 253.559. The limitations provided under this subsection shall not apply to applications approved under the provisions of subsection 3 of section 253.559 for projects to receive less than two hundred seventy-five thousand dollars in tax credits.

6. For all applications for tax credits approved on or after July 1, 2011, no more than one hundred and twenty-five thousand dollars in tax credits may be issued for eligible costs and expenses incurred in the rehabilitation of an eligible property which is a nonincome producing single-family, owner-occupied residential property and is either a certified historic structure or a structure in a certified historic district.

7. In lieu of the limitations on tax credit authorization provided under the provisions of subsections 5 and 6 of this section, the limitations on tax credit authorization provided under the provisions of subsections 2 and 3 of this section shall apply to:

(1) Any application submitted by a taxpayer, which has received approval from the department prior to July 1, 2011; or

(2) Any application for tax credits provided under this section for a project, which on or before July 1, 2011:

(a) Received an approved Part I from the Secretary of the United States Department of Interior and has incurred costs and expenses for an eligible property which exceed the lesser of fifteen percent of the total project costs or three million dollars; or

(b) Has received certification, by the state historic preservation officer, that the rehabilitation plan meets the standards consistent with the standards of the Secretary of the United States Department of the Interior, and the rehabilitation costs and expenses associated with such rehabilitation would, upon completion, be expected to exceed fifty percent of the total basis in the property.

8. For each fiscal year beginning on or after July 1, 2011, the department of economic development shall not approve applications for projects to receive less than two hundred seventy-five thousand dollars in tax credits which, in the aggregate, exceed ten million dollars, increased by any amount of tax credits for which approval shall be rescinded under the provisions of section 253.559. The limitations on tax credit authorization provided under the provisions of this subsection, shall not apply to:

(1) Any application submitted by a taxpayer, which has received approval from the department prior to July 1, 2011; or

(2) Any application for tax credits provided under this section for a project, which on or before July 1, 2011:

(a) Received an approved Part I from the Secretary of the United States Department of Interior and has incurred costs and expenses for an eligible property which exceed five percent of the total project costs; or

(b) Has received certification, by the state historic preservation officer, that the rehabilitation plan meets the standards consistent with the standards of the Secretary of the United States Department of the Interior, and the rehabilitation costs and expenses associated with such rehabilitation would, upon completion, be expected to exceed fifty percent of the total basis in the property.

253.557. 1. If the amount of such credit exceeds the total tax liability for the year in which the rehabilitated property is placed in service, the amount that exceeds the state tax liability may be carried back to any of the three preceding years and carried forward for credit against the taxes imposed pursuant to chapter 143 and chapter 148, except for sections 143.191 to 143.265 for the succeeding ten years, or until the full credit is used, whichever occurs first. **For all tax credits authorized under the provisions of sections 253.545 to 253.559 on or after July 1, 2011, if the total amount of such credit exceeds the total tax liability for the year in which the rehabilitated property is placed in service, the amount that exceeds the state tax liability may be carried back to the preceding year and carried forward for credit against the taxes imposed pursuant to chapters 143 and 148, except for sections 143.191 to 143.265 for the succeeding five years, or until the full credit is used, whichever occurs first.** Not-for-profit entities, including but not limited to corporations organized as not-for-profit corporations pursuant to chapter 355 shall be ineligible for the tax credits authorized under sections 253.545 [through 253.561] to 253.559. **Any taxpayer that receives state tax credits under the provisions of sections 135.350 to 135.363 for a project that is not financed through tax exempt bonds issuance shall be ineligible for the state tax credits authorized under sections 253.545 to 253.559 for the same project.** Taxpayers eligible for such tax credits may transfer, sell or assign the credits **to any other taxpayer including, but not limited to, a not-for-profit entity.** Credits granted to a partnership, a limited liability company taxed as a partnership or multiple owners of property shall be passed through to the partners, members or owners **including, but not limited to, any not-for-profit entity that is a partner, member, or owner,** respectively pro rata or pursuant to an executed agreement among [the] **such** partners, members or owners documenting an alternate distribution method.

2. The assignee of the tax credits, hereinafter the assignee for purposes of this subsection, may use acquired credits to offset up to one hundred percent of the tax liabilities otherwise imposed pursuant to chapter 143 and chapter 148, except for sections 143.191 to 143.265. The assignor shall perfect such transfer

by notifying the department of economic development in writing within thirty calendar days following the effective date of the transfer and shall provide any information as may be required by the department of economic development to administer and carry out the provisions of this section.

253.559. 1. To obtain approval for tax credits allowed under sections 253.545 to 253.559, a taxpayer shall submit an application for tax credits to the department of economic development. Each application for approval, including any applications received for supplemental allocations of tax credits as provided under subsection 8 of this section, shall be prioritized for review and approval, in the order of the date on which the application was postmarked, with the oldest postmarked date receiving priority. Applications postmarked on the same day shall go through a lottery process to determine the order in which such applications shall be reviewed.

2. Each application shall be reviewed by the department of economic development for approval. In order to receive approval, an application, other than applications submitted under the provisions of subsection 8 of this section, shall include:

(1) Proof of ownership or site control. Proof of ownership shall include evidence that the taxpayer is the fee simple owner of the eligible property, such as a warranty deed or a closing statement. Proof of site control may be evidenced by a leasehold interest or an option to acquire such an interest. If the taxpayer is in the process of acquiring fee simple ownership, proof of site control shall include an executed sales contract or an executed option to purchase the eligible property;

(2) Floor plans of the existing structure, architectural plans, and, where applicable, plans of the proposed alterations to the structure, as well as proposed additions;

(3) The estimated cost of rehabilitation, the anticipated total costs of the project, the actual basis of the property, as shown by proof of actual acquisition costs, the anticipated total labor costs, the estimated project start date, and the estimated project completion date;

(4) Proof that the property is an eligible property and a certified historic structure or a structure in a certified historic district; and

(5) Any other information which the department of economic development may reasonably require to review the project for approval. Only the property for which a property address is provided in the application shall be reviewed for approval. Once selected for review, a taxpayer shall not be permitted to request the review of another property for approval in the place of the property contained in such application. Any disapproved application shall be removed from the review process. If an application is removed from the review process, the department of economic development shall notify the taxpayer in writing of the decision to remove such application. Disapproved applications shall lose priority in the review process. A disapproved application, which is removed from the review process, may be resubmitted, but shall be deemed to be a new submission for purposes of the priority procedures described in this section.

3. If the department of economic development deems the application sufficient, the taxpayer shall be notified in writing of the approval for an amount of tax credits equal to the amount provided under section 253.550 less any amount of tax credits previously approved. Such approvals shall be granted to applications in the order of priority established under this section and shall require full compliance thereafter with all other requirements of law as a condition to any claim for such credits.

4. Following approval of an application, the identity of the taxpayer contained in such application shall

not be modified except:

(1) The taxpayer may add partners, members, or shareholders as part of the ownership structure, so long as the principal remains the same, provided however, that subsequent to the commencement of renovation and the expenditure of at least ten percent of the proposed rehabilitation budget, removal of the principal for failure to perform duties and the appointment of a new principal thereafter shall not constitute a change of the principal; or

(2) Where the ownership of the project is changed due to a foreclosure, deed in lieu of a foreclosure or voluntary conveyance, or a transfer in bankruptcy. **Upon any such change in ownership, the taxpayer contained in such application shall notify the department of such change.**

5. In the event that the department of economic development grants approval for tax credits equal to the **applicable** total amount available under subsection 2, **5, or 8** of section 253.550, or sufficient that when totaled with all other approvals, the **applicable** amount available under subsection 2, **5, or 8** of section 253.550 is exhausted, all taxpayers with applications then awaiting approval or thereafter submitted for approval shall be notified by the department of economic development that no additional approvals shall be granted during the fiscal year and shall be notified of the priority given to such taxpayer's application then awaiting approval. Such applications shall be kept on file by the department of economic development and shall be considered for approval for tax credits in the order established in this section in the event that additional credits become available due to the rescission of approvals or when a new fiscal year's allocation of credits becomes available for approval.

6. All taxpayers with applications receiving approval on or after the effective date of this act shall commence rehabilitation within two years of the date of issuance of the letter from the department of economic development granting the approval for tax credits. "Commencement of rehabilitation" shall mean that as of the date in which actual physical work, contemplated by the architectural plans submitted with the application, has begun, the taxpayer has incurred no less than ten percent of the estimated costs of rehabilitation provided in the application. Taxpayers with approval of a project shall submit evidence of compliance with the provisions of this subsection. If the department of economic development determines that a taxpayer has failed to comply with the requirements provided under this section, the approval for the amount of tax credits for such taxpayer shall be rescinded and such amount of tax credits shall then be included in the **applicable** total amount of tax credits, provided under subsection 2, **5, or 8** of section 253.550, from which approvals may be granted. Any taxpayer whose approval shall be subject to rescission shall be notified of such from the department of economic development and, upon receipt of such notice, may submit a new application for the project.

7. To claim the credit authorized under sections 253.550 to 253.559, a taxpayer with approval shall apply for final approval and issuance of tax credits from the department of economic development [which,]. **Such application for final approval and issuance of tax credits shall include a cost and expense certification, prepared by a licensed certified public accountant that is not an affiliate of the applicant, certifying the total costs and expenses of rehabilitation and the total amount of tax credits for which such taxpayer is eligible under sections 253.550 to 253.559. Cost and expense certifications required under this section shall separately state any accrued developer fees. No later than forty-five calendar days following receipt of a taxpayer's application for final approval and issuance of tax credits, the department of economic development shall determine, in consultation with the department of natural resources, [shall determine the final amount of eligible rehabilitation costs and expenses and] whether the**

completed rehabilitation meets the standards of the Secretary of the United States Department of the Interior for rehabilitation as determined by the state historic preservation officer of the Missouri department of natural resources. **If the completed rehabilitation meets such standards, the department of economic development shall, within forty-five calendar days following the receipt of the taxpayer's application for final approval and tax credit issuance, inform such taxpayer of its initial determination by letter and issue such taxpayer an initial tax credit issuance. A taxpayer receiving an initial tax credit issuance shall receive tax credit certificates in an amount equal the lesser of seventy-five percent of the total amount of tax credits for which the taxpayer is eligible under sections 253.550 to 253.559, as certified in the cost and expense certification, or the amount of tax credits approved for such project under subsection 3 of this section. Within one hundred and fifty calendar days following receipt of a taxpayer's application for final approval and tax credit issuance, the department shall determine the final amount of eligible rehabilitation costs and expenses. For a taxpayer receiving an initial tax credit issuance, no later than one hundred and fifty calendar days following receipt of such taxpayer's application for final approval and tax credit issuance, the department shall notify such taxpayer of its final determination by letter and issue such taxpayer tax credit certificates in an amount equal to the lesser of the remaining amount of tax credits for which such taxpayer is eligible to receive under sections 253.550 to 253.559, as determined by the department, or the remaining amount of tax credits for which such taxpayer was approved under subsection 3 of this section, but not issued under the initial tax credit issuance. If the department of economic development determines that the amount of tax credits issued to a taxpayer in the initial tax credit issuance is in excess of the total amount of tax credits such taxpayer is eligible to receive under sections 253.550 to 253.559, the department shall notify such taxpayer and such taxpayer shall repay the state an amount equal to such excess.** For financial institutions credits authorized pursuant to sections 253.550 to [253.561] **253.559** shall be deemed to be economic development credits for purposes of section 148.064. The approval of all applications and the issuing of certificates of eligible credits to taxpayers shall be performed by the department of economic development. [The department of economic development shall inform a taxpayer of final approval by letter and shall issue, to the taxpayer, tax credit certificates.] The taxpayer shall attach the certificate to all Missouri income tax returns on which the credit is claimed. **Taxpayers which receive tax credit certificates under sections 253.550 to 253.559, attributable to accrued developer fees shall, within six years of completion of rehabilitation, submit an additional cost and expense certification verifying the total amount of developer fees actually accrued and paid. To the extent the amount of developer fees contained in a taxpayer's cost and expense certification included with such taxpayers application for final approval and tax credit issuance exceeds the amount of developer fees actually accrued and paid, as evidenced by the additional cost and expense certification, such taxpayer shall repay to the state an amount equal to twenty-five percent of such excess.**

8. Except as expressly provided in this subsection, tax credit certificates shall be issued in the final year that costs and expenses of rehabilitation of the project are incurred, or within the twelve-month period immediately following the conclusion of such rehabilitation. In the event the amount of eligible rehabilitation costs and expenses incurred by a taxpayer would result in the issuance of an amount of tax credits in excess of the amount provided under such taxpayer's approval granted under subsection 3 of this section, such taxpayer may apply to the department for issuance of tax credits in an amount equal to such excess. Applications for issuance of tax credits in excess of the amount provided under a taxpayer's application shall be made on a form prescribed by the department. Such applications shall be subject to all provisions regarding priority provided under subsection 1 of this section.

9. The department of economic development shall determine, on an annual basis, the overall economic impact to the state from the rehabilitation of eligible property.

10. (1) Taxpayers or duly authorized representatives may appeal any official decision, including all preliminary or final approvals and denials of approvals, made by the department or the department of natural resources with regard to an application submitted under sections 253.550 to 253.559 to an independent third-party appeals officer designated by the department. Such appeals under this section shall constitute an administrative review of the decision appealed from and shall not be conducted as an adjudicative proceeding.

(2) Appeals shall be submitted to the designated appeals officer in writing within thirty days of receipt by the taxpayer or the taxpayer's duly authorized representative of the decision that is the subject of the appeal, and shall include all information the appellant wishes the appeals officer to consider in deciding the appeal.

(3) Upon receipt of an appeal, the appeals officer shall notify the department or the department of natural resources that an appeal is pending, identify the decision being appealed, and forward a copy of the information submitted by the appellant. The department or the department of natural resources may submit a written response to the appeal.

(4) The appellant shall be entitled to one meeting with the appeals officer to discuss the appeal, but the appeals officer may schedule additional meetings at the officer's discretion. The department or the department of natural resources may appear at all meetings.

(5) The appeals officer shall consider the record of the decision in question, any further written submissions by the appellant and the department or the department of natural resources, and other available information, and shall deliver a written decision to all parties as promptly as circumstances permit.

11. By no later than January 1, 2012, the department shall propose rules to implement the provisions of sections 253.550 to 253.559. Prior to proposing such rules, the department shall conduct a stakeholder process designed to solicit input from interested parties. Any rule or portion of a rule, as that term is defined in section 536.010, that is created under the authority delegated herein 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 the effective date of this act, shall be invalid and void.”; and

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

HOUSE SUBSTITUTE AMENDMENT NO. 1 FOR
HOUSE AMENDMENT NO. 12

Amend House Committee Substitute for Senate Substitute for Senate Committee Substitute for Senate Bill No. 8, Page 42, Section 135.1321, Line 9, by inserting after all of said section and line the following:

“144.059. 1. As used in this section, the term “‘Made in USA’ product” means any new product

that supports a claim to be made in the United States under the policy on “Made in USA” claims enforced by the Federal Trade Commission, and that is not already exempt from state sales taxes under any provision of state law.

2. In each year beginning on or after January 1, 2012, but ending on or before December 31, 2013, there is hereby specifically exempted from state sales tax law all retail sales of any “Made in USA” product during a seven-day period beginning at 12:01 a.m. on July first and ending at midnight on July seventh, unless July first is a Sunday. If July first is a Sunday, the seven-day period shall begin on July second and end on July eighth. The exemption provided in this section shall apply only to the first fifteen thousand dollars of each purchase of a “Made in USA” product.

3. Any political subdivision may, by order or ordinance, allow the sales tax holiday established in this section to apply to its local sales taxes. A political subdivision shall notify the department of revenue not less than forty-five calendar days before the beginning date of the sales tax holiday occurring in that year of any order or ordinance applying the sales tax holiday to its local sales taxes.

4. After adopting an order or ordinance to apply the sales tax holiday established in this section to the political subdivision's local sales taxes, a political subdivision may, by order or ordinance, rescind the order or ordinance applying the sales tax holiday to its local sales taxes. The political subdivision shall notify the department of revenue not less than forty-five calendar days before the beginning date of the sales tax holiday occurring in that year of any order or ordinance rescinding an order or ordinance to apply the sales tax holiday to its local sales taxes.

5. This section shall not apply to any retailer when less than two percent of the retailer's merchandise offered for sale qualifies for the sales tax holiday. The retailer shall offer a sales tax refund in lieu of the sales tax holiday.

6. No sale of any motor vehicle, as defined in section 301.010, shall be exempt from any sales tax under this section.”; and

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

Emergency clause defeated.

In which the concurrence of the Senate is respectfully requested.

COMMUNICATIONS

On behalf of Senator Callahan, President Pro Tem Mayer submitted the following:

The Honorable Rob Mayer
 President Pro-Tem of Missouri Senate
 State Capitol Room 326
 Jefferson City, Mo. 65101

October 6, 2011

Dear Senator Mayer,

I would respectfully ask that the Senator Maria Chappelle-Nadal be appointed to the Joint Interim Committee on State Employee Wages. Further, I would respectfully request that Senator Kiki Curls be appointed to the Task Force on the Prevention of Sexual Abuse of Children. Finally, I would respectfully request that Senator Robin Wright-Jones be appointed to the Missouri Task Force on Premature and Infant Mortality.

Please give me a call if you have any questions or need additional information.

Sincerely yours,

/s/ Victor Callahan

Victor E. Callahan

State Senator — 11th District

Also,

President Pro Tem Mayer submitted the following:

October 11, 2011

Terry Spieler

Secretary of the Missouri Senate

State Capitol, Room 325

Jefferson City, MO 65101

Dear Ms. Spieler:

I am appointing Senator Bob Dixon to the following committee:

Joint Taskforce on the Prevention of Sexual Abuse of Children (Erin's Law)

Please feel free to contact me should you have any questions.

Sincerely,

/s/ Robert N. Mayer

Robert N. Mayer

President Pro Tem

On motion of Senator Dempsey, the Senate adjourned until 4:00 p.m., Monday, October 17, 2011.

SENATE CALENDAR

FOURTEENTH DAY—MONDAY, OCTOBER 17, 2011

FORMAL CALENDAR

HOUSE BILLS ON THIRD READING

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

HB 2-Flanigan, with SCS (Schaefer)
(In Fiscal Oversight)

INFORMAL CALENDAR

HOUSE BILLS ON THIRD READING

HCS for HB 3 (Engler)

SENATE BILLS WITH HOUSE AMENDMENTS

SS for SCS for SB 8-Mayer, with HCS, as amended

RESOLUTIONS

To be Referred

SR 60-Lembke, et al

