

Journal of the Senate

FIRST REGULAR SESSION

FIFTY-SIXTH DAY—WEDNESDAY, APRIL 24, 2013

The Senate met pursuant to adjournment.

Senator Schaaf in the Chair.

Reverend Carl Gauck offered the following prayer:

“Peace, peace to you and peace to the one who helps you!” (1 Chronicles 12:18b)

Merciful Lord, on this National Secretaries Day we give thanks and kudos for all those who work for us, helping us to get so much done and making us look competent and helpful. Too often we take their good work and support for granted; so it is good for us to remember and show our appreciation for all that they do that makes our work so much easier. Bless them and us as we each seek to serve. 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	Chappelle-Nadal	Cunningham	Curls	Dempsey	Dixon	Emery	Holsman
Justus	Keaveny	Kehoe	Kraus	Lager	Lamping	LeVota	Libla
McKenna	Munzlinger	Nasheed	Nieves	Parson	Pearce	Richard	Romine
Rupp	Sater	Schaaf	Schaefer	Schmitt	Sifton	Silvey	Wallingford
Walsh	Wasson—34						

Absent—Senators—None

Absent with leave—Senators—None

Vacancies—None

The Lieutenant Governor was present.

RESOLUTIONS

Senator Schmitt offered Senate Resolution No. 783, regarding the death of Olin L. Parks, Sr., Windsor, which was adopted.

Senator Lager offered Senate Resolution No. 784, regarding Laurie A. Mefford, Cameron, which was adopted.

Senator Lager offered Senate Resolution No. 785, regarding Paula M. George, Osborn, which was adopted.

Senator Lager offered Senate Resolution No. 786, regarding the Fiftieth Wedding Anniversary of Mr. and Mrs. Joe Wilmes, Maryville, which was adopted.

Senator Sater offered Senate Resolution No. 787, regarding Dr. Fred Grogan, Lee's Summit, which was adopted.

Senator Sifton offered Senate Resolution No. 788, regarding Samuel Obermeyer, St. Louis, which was adopted.

Senator Schaefer offered Senate Resolution No. 789, regarding the 2012-2013 Class 5 state champion Rock Bridge High School girls basketball program, which was adopted.

Senator Schaefer offered Senate Resolution No. 790, regarding the 2012 Class 2 state champion Rock Bridge High School girls golf program, which was adopted.

Senator Schaefer offered Senate Resolution No. 791, regarding Amber Carmichael, which was adopted.

SENATE BILLS FOR PERFECTION

Senator Pearce moved that **SB 437**, with **SCS** and **SS** for **SCS** (pending), be called from the Informal Calendar and again taken up for perfection, which motion prevailed.

Senator Curls requested unanimous consent of the Senate to allow members of law enforcement to enter the Chamber with side arms, which request was granted.

SS for **SCS** for **SB 437** was again taken up.

Senator Schmitt offered **SA 1**:

SENATE AMENDMENT NO. 1

Amend Senate Substitute for Senate Committee Substitute for Senate Bill No. 437, Page 7, Section 173.1500, Line 15 of said page, by striking the word "exception" and inserting in lieu thereof the word "**exceptions**"; and further amend said line by inserting immediately after the word "College" the following: "**and Truman State University**"; and further amend line 21 of said page, by inserting immediately after the word "income" the following: "**, except for institutions categorized in the statewide liberal arts and sciences institution sector, for which peer states shall be selected as provided in subsection 4 of section 173.1505**"; and

Further amend said bill and section, page 8, line 12 of said page, by striking the word "exception" and inserting in lieu thereof the word "**exceptions**"; and further amend said line by inserting immediately after the word "of" the following: ":

(a)"; and

Further amend line 14 by inserting at the end said line the following: “**and**

(b) Truman State University, which is designated in the statewide liberal arts and sciences institution sector;”; and

Further amend said bill, page 9, section 173.1505, line 17 of said page, by striking the following: “Truman State University,”; and further amend line 18 of said page, by inserting after the semicolon “;” the following:

“(5) The statewide liberal arts and sciences institution sector shall include Truman State University;”; and further amend said subsection by renumbering the remaining subdivision accordingly; and

Further amend said bill and section, page 10, line 1 of said page, by inserting after all of said line the following:

“4. The peer comparison group for Truman State University shall consist of institutions with similar missions, degree programs, and a similar level of selectivity in admissions requirements, chosen by the coordinating board for higher education from the group of thirty states comprised of the fifteen states next higher than Missouri and the fifteen states next lower than Missouri, based on rank-ordering of all states according to the Bureau of Economic Analysis based on the 2011 midyear population estimates of the census data for the per capita personal income, or an equal number of states above and below Missouri in order to obtain a minimum of ten institutions in the statewide liberal arts and sciences institution sector peer comparison group. The rank-ordering of all states according to the Bureau of Economic Analysis using midyear population estimates of the census data for the per capita personal income shall be recalculated decennially based on the previous census.”

Senator Schmitt moved that the above amendment be adopted, which motion prevailed on a standing division vote.

Senator Lager offered SA 2:

SENATE AMENDMENT NO. 2

Amend Senate Substitute for Senate Committee Substitute for Senate Bill No. 437, Page 20, Section 173.1530, Line 4, by inserting immediately after said line the following:

“173.1532. 1. When the general assembly appropriates funds for public institutions of higher education during the appropriations process, ten percent of each institution's funding shall be earmarked and designated as career placement incentive funding. An institution shall only receive such funding if it satisfies the career placement rates established by the department of higher education pursuant to this section.

2. By July 1, 2014, the department of higher education shall develop and adopt a methodology and system that the public institutions shall use for tracking and verifying the career placement rates for their graduates.

3. The department's methodology shall also:

(1) Track and verify acceptance rates at graduate schools, professional schools, or for institutions in the associate's sector or the statewide technical education institution sector, acceptance rates at a public or private four-year institution; and

(2) Identify such acceptance rates in a manner that does not negatively impact an institution's career placement rate.

4. The department shall establish benchmarks and parameters against which the public institutions shall be measured.

5. The department's methodology shall consider the different conditions and circumstances of the sectors in which the public institutions are categorized.

6. The department of higher education shall promulgate such methodology, benchmarks, and parameters through rules and regulations. The department shall update and revise its methodology, benchmarks, and parameters as necessary.

7. The coordinating board for higher education and the institutions shall implement the methodology developed pursuant to this section when measuring institutional performance under section 173.1520.”; and

Further amend the title and enacting clause accordingly.

Senator Lager moved that the above amendment be adopted.

On motion of Senator Pearce, **SB 437**, with **SCS**, **SS** for **SCS** and **SA 2** (pending), was placed on the Informal Calendar.

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 House has taken up and passed **HCS** for **HBs 455** and **297**, entitled:

An Act to repeal section 208.182, RSMo, and to enact in lieu thereof three new sections relating to food stamps, with penalty provisions.

In which the concurrence of the Senate is respectfully requested.

Read 1st time.

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 **HB 335**, entitled:

An Act to repeal sections 77.046, 78.340, 79.240, 80.420, 84.120, 84.430, 84.490, 84.830, 85.551, 106.010, 106.270, 190.100, 190.165, 191.630, 191.631, 192.800, 192.802, 192.804, 192.806, 192.808, 287.067, 287.243, 320.151, 321.017, 321.210, 590.080, 595.020, 595.030, and 610.021, RSMo, and to enact in lieu thereof thirty-five new sections relating to public safety, with penalty provisions and an emergency clause for a certain section.

Emergency clause adopted.

In which the concurrence of the Senate is respectfully requested.

Read 1st time.

Also,

Mr. President: I am instructed by the House of Representatives to inform the Senate that the House has taken up and passed **HB 756**, entitled:

An Act to amend chapter 217, RSMo, by adding thereto one new section relating to prisoner re-entry services.

In which the concurrence of the Senate is respectfully requested.

Read 1st time.

Also,

Mr. President: I am instructed by the House of Representatives to inform the Senate that the House has taken up and passed **HB 808**, entitled:

An Act to repeal sections 168.021, 169.070, and 169.670, RSMo, and to enact in lieu thereof three new sections relating to sunset provisions related to education.

In which the concurrence of the Senate is respectfully requested.

Read 1st time.

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 **HB 170**, entitled:

An Act to repeal sections 571.030, 571.063, 571.101, and 571.117, RSMo, and to enact in lieu thereof five new sections relating to firearms, with a penalty provision and an emergency clause.

Emergency clause adopted.

In which the concurrence of the Senate is respectfully requested.

Read 1st time.

On motion of Senator Richard, the Senate recessed until 3:00 p.m.

RECESS

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

SENATE BILLS FOR PERFECTION

Senator Pearce moved that **SB 437**, with **SCS**, **SS** for **SCS** and **SA 2** (pending), be called from the Informal Calendar and again taken up for perfection, which motion prevailed.

SA 2 was again taken up.

Senator Schaaf offered **SA 1** to **SA 2**, which was read:

SENATE AMENDMENT NO. 1 TO SENATE AMENDMENT NO. 2

Amend Senate Amendment No. 2 to Senate Substitute for Senate Committee Substitute for Senate Bill No. 437, Page 1, Section 173.1532, Line 5 of said amendment by striking the word “ten” and inserting in lieu thereof the word “five”.

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

Senator Lager moved that **SA 2** be adopted, which motion prevailed.

Senator Dixon offered **SA 3**:

SENATE AMENDMENT NO. 3

Amend Senate Substitute for Senate Committee Substitute for Senate Bill No. 437, Page 5, Section 163.191, Line 24, by inserting after all of said line the following:

“173.616. 1. The following schools, training programs, and courses of instruction shall be exempt from the provisions of sections 173.600 to 173.618:

(1) A public institution;

(2) Any college or university represented directly or indirectly on the advisory committee of the coordinating board for higher education as provided in subsection 3 of section 173.005;

(3) An institution that is certified by the board as an “approved private institution” under subdivision (2) of section 173.1102;

(4) A not-for-profit religious school that is accredited by the American Association of Bible Colleges, the Association of Theological Schools in the United States and Canada, or a regional accrediting association, such as the North Central Association, which is recognized by the Council on Postsecondary Accreditation and the United States Department of Education; and

(5) Beginning July 1, 2008, all out-of-state public institutions of higher education, as such term is defined in subdivision (12) of subsection 2 of section 173.005.

2. The coordinating board shall exempt the following schools, training programs and courses of instruction from the provisions of sections 173.600 to 173.618:

(1) A not-for-profit school owned, controlled and operated by a bona fide religious or denominational organization which offers no programs or degrees and grants no degrees or certificates other than those specifically designated as theological, bible, divinity or other religious designation;

(2) A not-for-profit school owned, controlled and operated by a bona fide eleemosynary organization which provides instruction with no financial charge to its students and at which no part of the instructional cost is defrayed by or through programs of governmental student financial aid, including grants and loans, provided directly to or for individual students;

(3) A school which offers instruction only in subject areas which are primarily for avocational or recreational purposes as distinct from courses to teach employable, marketable knowledge or skills, which does not advertise occupational objectives and which does not grant degrees;

(4) A course of instruction, study or training program sponsored by an employer for the training and preparation of its own employees;

(5) A course of study or instruction conducted by a trade, business or professional organization with a closed membership where participation in the course is limited to bona fide members of the trade, business or professional organization, or a course of instruction for persons in preparation for an examination given by a state board or commission where the state board or commission approves that course and school;

(6) A school or person whose clientele are primarily students aged sixteen or under.

3. A school which is otherwise licensed and approved under and pursuant to any other licensing law of

this state shall be exempt from sections 173.600 to 173.618, but a state certificate of incorporation shall not constitute licensing for the purpose of sections 173.600 to 173.618.

4. Any school, training program or course of instruction exempted herein may elect by majority action of its governing body or by action of its director to apply for approval of the school, training program or course of instruction under the provisions of sections 173.600 to 173.618. **Notwithstanding the provisions of subsections 1 and 2 of section 173.606 to the contrary, any approval granted under this section to an otherwise exempt school, training program, or course of instruction shall expire at the end of five years.** Upon application to and approval by the coordinating board, such school training program or course of instruction may become exempt from the provisions of sections 173.600 to 173.618 at any subsequent time, except the board shall not approve an application for exemption if the approved school is then in any status of noncompliance with certification standards and a reversion to exempt status shall not relieve the school of any liability for indemnification or any penalty for noncompliance with certification standards during the period of the school's approved status."; and

Further amend the title and enacting clause accordingly.

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

Senator McKenna offered **SA 4**, which was read:

SENATE AMENDMENT NO. 4

Amend Senate Substitute for Senate Committee Substitute for Senate Bill No. 437, Page 20, Section 173.1535, Line 20, by inserting after all of said line the following:

"Section 1. Any person living in this state aged 8 and under may wear seersucker suits at their leisure. Any person over the age of 8 living in this state may not wear seersucker suits because adults look ridiculous in seersucker suits, with the exception of Koolaid."

Senator Schaaf raised the point of order that **SA 4** is out of order.

The point of order was referred to the President Pro Tem.

At the request of Senator McKenna, **SA 4** was withdrawn rendering the point of order moot.

Senator Pearce moved that **SS** for **SCS** for **SB 437**, as amended, be adopted, which motion prevailed.

On motion of Senator Pearce, **SS** for **SCS** for **SB 437**, as amended, was declared perfected and ordered printed.

Senator Pearce moved that **SB 378**, with **SCS**, be called from the Informal Calendar and taken up for perfection, which motion prevailed.

SCS for **SB 378**, entitled:

SENATE COMMITTEE SUBSTITUTE FOR
SENATE BILL NO. 378

An Act to repeal sections 160.545, 173.250, and 173.1104, RSMo, and to enact in lieu thereof three new sections relating to higher education scholarship programs.

Was taken up.

Senator Pearce moved that **SCS** for **SB 378** be adopted.

Senator Wallingford offered **SA 1**:

SENATE AMENDMENT NO. 1

Amend Senate Committee Substitute for Senate Bill No. 378, Page 12, Section 173.1104, Line 55, by striking all of said line and inserting in lieu thereof the following: **“of ten semesters or fifteen quarters or their”**.

Senator Wallingford moved that the above amendment be adopted.

President Pro Tem Dempsey assumed the Chair.

Coach Dick Vermeil of the National Football League assumed the dais and addressed the members of the Senate.

Senator Kehoe assumed the Chair.

SA 1 was again taken up.

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

Senator Nasheed offered **SA 2**:

SENATE AMENDMENT NO. 2

Amend Senate Committee Substitute for Senate Bill No. 378, Page 1, In the Title, Line 3, by striking the word “higher”; and further amend said line, by striking the word “scholarship”; and

Further amend said bill, page 6, section 160.545, line 189, by inserting immediately after said line the following:

“160.1995. 1. This section shall be known and may be cited as the “Math and Science Tutoring Act”.

2. There is hereby established a pilot program for the establishment and support of nonprofit math and science tutoring centers serving any metropolitan district schools. The math and science tutoring center shall provide service primarily to schools at any grade level whose schoolwide average assessment scores are less than fifty percent proficient. The programs at the centers shall utilize master teachers who fulfill the criteria of being state certified and exhibit leadership, focused collaboration, distinguished teaching in both content area and the student as a whole person, and continued professional growth. Master teachers shall select and train volunteer tutors. The center shall provide services customized to complement the student’s school math and science assignments during the school day and for extended hours on nights, weekends, and during the summer. The center shall provide transportation for the student’s return trip after a tutoring session.

3. There is hereby created in the state treasury the “Mathematics and Science Tutoring Center Fund”, which shall consist of three hundred thousand dollars appropriated by the general assembly to start up such center and any gifts, grants, bequests, and devises. The state treasurer shall be custodian of the fund and shall, along with the workforce development division and the department of economic development, 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 section. Notwithstanding the provisions of section 33.080, to the contrary, any moneys remaining in the fund at the end of the biennium shall not revert to the credit of 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 fund.

4. The workforce development division with the department of economic development shall develop an application process to certify approved math and science tutoring centers under this section for distribution of appropriated funds.

5. Beginning January 1, 2014, any business in the state engaged in an occupation categorized as a science, technology, engineering, or mathematics occupation may make a donation to a math and science tutoring center created under this section and retain half of the value of its donation from its withholding tax under sections 143.191 to 143.265. The department of revenue shall develop a form to accompany the tax return of any business that retains withholding taxes under this section.

6. 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 the effective date of this section 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.”; and

Further amend the title and enacting clause accordingly.

Senator Pearce raised the point of order that **SA 2** is out of order as it goes beyond the scope of the underlying bill.

The point of order was referred to the President Pro Tem who ruled it well taken.

Senator Romine offered **SA 3**:

SENATE AMENDMENT NO. 3

Amend Senate Committee Substitute for Senate Bill No. 378, Page 5, Section 160.545, Line 139, by inserting at the end of said line the following: **“If an eligible student is unable to successfully complete at least twenty-four semester credit hours in a twelve-month period due to serious and unusual personal circumstances, such student may seek a waiver of this provision by appealing to the person or committee the institution the student attends has designated to consider appeals from students who are not in compliance with federal requirements regarding satisfactory academic progress.”; and**

Further amend said bill, page 10, section 173.250, line 145, by inserting immediately after said line the following:

“10. If an eligible student is unable to successfully complete at least twenty-four semester credit hours in a twelve-month period due to serious and unusual personal circumstances, such student may seek a waiver of this provision by appealing to the person or committee the institution the student attends has designated to consider appeals from students who are not in compliance with federal requirements regarding satisfactory academic progress.”; and

Further amend said bill, page 13, section 173.1104, line 96, by inserting immediately after said line the following:

“5. If an eligible student is unable to successfully complete the number of hours required in

subsection 3 of this section due to serious and unusual personal circumstances, such student may seek a waiver of this provision by appealing to the person or committee the institution the student attends has designated to consider appeals from students who are not in compliance with federal requirements regarding satisfactory academic progress.”.

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

Senator Sater offered **SA 4**:

SENATE AMENDMENT NO. 4

Amend Senate Committee Substitute for Senate Bill No. 378, Page 5, Section 160.545, Line 142, by inserting immediately after the word “need” the following: “, **upon verification to the institution by a healthcare provider,**”; and

Further amend said bill, page 12, section 173.1104, line 70, by inserting immediately after the word “need” the following: “, **upon verification to the institution by a healthcare provider,**”.

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

Senator Wasson offered **SA 5**:

SENATE AMENDMENT NO. 5

Amend Senate Committee Substitute for Senate Bill No. 378, Page 4, Section 160.545, Line 98, by inserting at the end of said line the following: “**and**”; and further amend lines 99-127, by striking all of said lines; and

Further amend said bill and section, page 5, lines 128-134, by striking all of said lines; and further amend said section by renumbering the remaining subdivision accordingly.

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

President Kinder assumed the Chair.

Senator Pearce moved that **SCS** for **SB 378**, as amended, be adopted, which motion prevailed.

On motion of Senator Pearce, **SCS** for **SB 378**, as amended, was declared perfected and ordered printed.

Senator Rupp moved that **SB 401** be called from the Informal Calendar and taken up for perfection, which motion prevailed.

Senator Rupp offered **SS** for **SB 401**, entitled:

SENATE SUBSTITUTE FOR
SENATE BILL NO. 401

An Act to amend chapter 376, RSMo, by adding thereto nine new sections relating to the regulation and licensure of navigators, with penalty provisions and an emergency clause.

Senator Schaaf assumed the Chair.

Senator Pearce assumed the Chair.

Senator Rupp moved that **SS** for **SB 401** be adopted.

Senator Schaaf offered **SA 1**:

SENATE AMENDMENT NO. 1

Amend Senate Substitute for Senate Bill No. 401, Page 1, In the Title, Lines 3-4, by striking all of said lines and inserting in lieu thereof the following: “sections relating to health insurance exchanges, with penalty provisions and an emergency”; and

Further amend said bill, page 10, Section 376.2014, line 7, by inserting immediately after said line the following:

“Section 1. Notwithstanding any other provision of law to the contrary, the department of insurance, financial institutions and professional registration shall exercise its authority and responsibility over health insurance product form filings, consumer complaints, and investigations into compliance with state law, regardless as to how a health insurance product may be sold or marketed in this state or to residents of this state.”; and

Further amend the title and enacting clause accordingly.

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

Senator Rupp moved that **SS** for **SB 401**, as amended, be adopted, which motion prevailed.

On motion of Senator Rupp, **SS** for **SB 401**, as amended, was declared perfected and ordered printed.

Senator Kehoe moved that **SB 411**, with **SCS**, be called from the Informal Calendar and taken up for perfection, which motion prevailed.

SCS for **SB 411**, entitled:

SENATE COMMITTEE SUBSTITUTE FOR
SENATE BILL NO. 411

An Act to repeal sections 302.720, 302.735, 302.740, 302.755, and 304.820, RSMo, and section 302.700 as enacted by conference committee substitute for senate substitute for senate committee substitute for house committee substitute for house bill no. 1402 merged with conference committee substitute for house committee substitute for senate substitute for senate committee substitute for senate bill no. 470 merged with conference committee substitute for house committee substitute no. 2 for senate committee substitute for senate bill no. 480 merged with conference committee substitute for house committee substitute for senate bill no. 568, ninety-sixth general assembly, second regular session, and to enact in lieu thereof six new sections relating to the operation of commercial motor vehicles, with an existing penalty provision.

Was taken up.

Senator Kehoe moved that **SCS** for **SB 411** be adopted, which motion prevailed.

On motion of Senator Kehoe, **SCS** for **SB 411** was declared perfected and ordered printed.

Senator Keaveny moved that **SB 133**, with **SCS**, be called from the Informal Calendar and taken up for perfection, which motion prevailed.

SCS for **SB 133**, entitled:

SENATE COMMITTEE SUBSTITUTE FOR
SENATE BILL NO. 133

An Act to amend chapter 163, RSMo, by adding thereto one new section relating to early childhood

education.

Was taken up.

Senator Keaveny moved that **SCS** for **SB 133** be adopted.

Senator Dixon offered **SA 1**:

SENATE AMENDMENT NO. 1

Amend Senate Committee Substitute for Senate Bill No. 133, Page 1, Section A, Line 2, by inserting after all of said line the following:

“67.1790. 1. The governing body of any county of the first classification with more than two hundred sixty thousand but fewer than three hundred thousand inhabitants, or any city within such county, may impose by order or ordinance a sales tax on all retail sales made within the county or city that are subject to sales tax under chapter 144 for the purpose of funding early childhood education programs in the county or city. The tax shall not exceed one quarter of one percent and shall be imposed solely for the purpose of funding early childhood education programs in the county or city. The tax authorized in this section shall be in addition to all other sales taxes imposed by law and shall be stated separately from all other charges and taxes. The order or ordinance imposing a sales tax under this section shall not become effective unless the governing body of the county or city submits to the voters residing within the county or city, at a general election, a proposal to authorize the governing body of the county or city to impose a tax under this section.

2. The question of whether the tax authorized by this section shall be imposed shall be submitted in substantially the following form:

OFFICIAL BALLOT

Shall (name of county/city) impose a (county-wide/city-wide) sales tax at a rate of (insert rate of percent) percent for the purpose of funding early childhood education in the county or city?

YES

NO

If you are in favor of the question, place an “X” in the box opposite “YES”. If you are opposed to the question, place an “X” in the box opposite “NO”.

If a majority of the votes cast on the question by the qualified voters voting thereon are in favor of the question, the order or ordinance shall become effective on the first day of the second calendar quarter after the director of revenue receives notice of adoption of the tax. If a majority of the votes cast on the question by the qualified voters voting thereon are opposed to the question, the county or city may not impose the sales tax authorized under this section unless and until the question is resubmitted under this section to the qualified voters and such question is approved by a majority of the qualified voters voting on the question.

3. On or after the effective date of any tax authorized under this section, the county or city which imposed the tax shall enter into an agreement with the director of the department of revenue for the purpose of collecting the tax authorized in this section. On or after the effective date of the tax the director of revenue shall be responsible for the administration, collection, enforcement, and operation of the tax, and sections 32.085 and 32.087 shall apply. All revenue collected under this section by the

director of the department of revenue on behalf of any county or city, except for one percent for the cost of collection which shall be deposited in the state’s general revenue fund, shall be deposited in a special trust fund, which is hereby created and shall be known as the “Early Childhood Education Sales Tax Trust Fund”, and shall be used solely for the designated purposes. Moneys in the fund shall not be deemed to be state funds, and shall not be commingled with any funds of the state. The director may make refunds from the amounts in the trust fund and credited to the county or city for erroneous payments and overpayments made, and may redeem dishonored checks and drafts deposited to the credit of such county or city. Any funds in the special trust fund which are not needed for current expenditures shall be invested in the same manner as other funds are invested. Any interest and moneys earned on such investments shall be credited to the fund.

4. In order to permit sellers required to collect and report the sales tax to collect the amount required to be reported and remitted, but not to change the requirements of reporting or remitting the tax, or to serve as a levy of the tax, and in order to avoid fractions of pennies, the governing body of the county or city may authorize the use of a bracket system similar to that authorized in section 144.285, and notwithstanding the provisions of that section, this new bracket system shall be used where this tax is imposed and shall apply to all taxable transactions. Beginning with the effective date of the tax, every retailer in the county or city shall add the sales tax to the sale price, and this tax shall be a debt of the purchaser to the retailer until paid, and shall be recoverable at law in the same manner as the purchase price. For purposes of this section, all retail sales shall be deemed to be consummated at the place of business of the retailer.

5. All applicable provisions in sections 144.010 to 144.525 governing the state sales tax, and section 32.057, the uniform confidentiality provision, shall apply to the collection of the tax, and all exemptions granted to agencies of government, organizations, and persons under sections 144.010 to 144.525 are hereby made applicable to the imposition and collection of the tax. The same sales tax permit, exemption certificate, and retail certificate required by sections 144.010 to 144.525 for the administration and collection of the state sales tax shall satisfy the requirements of this section, and no additional permit or exemption certificate or retail certificate shall be required; except that, the director of revenue may prescribe a form of exemption certificate for an exemption from the tax. All discounts allowed the retailer under the state sales tax for the collection of and for payment of taxes are hereby allowed and made applicable to the tax. The penalties for violations provided in section 32.057 and sections 144.010 to 144.525 are hereby made applicable to violations of this section. If any person is delinquent in the payment of the amount required to be paid under this section, or in the event a determination has been made against the person for taxes and penalty under this section, the limitation for bringing suit for the collection of the delinquent tax and penalty shall be the same as that provided in sections 144.010 to 144.525.

6. The governing body of any county or city that has adopted the sales tax authorized in this section may submit the question of repeal of the tax to the voters at a general election. The ballot of submission shall be in substantially the following form:

Shall (insert the name of the county or city) repeal the sales tax imposed at a rate of (insert rate of percent) percent for the purpose of funding early childhood education in the county or city?

YES

NO

If you are in favor of the question, place an “X” in the box opposite “YES”. If you are opposed to the

question, place an “X” in the box opposite “NO”.

If a majority of the votes cast on the question by the qualified voters voting thereon are in favor of repeal, that repeal shall become effective on December thirty-first of the calendar year in which such repeal was approved. If a majority of the votes cast on the question by the qualified voters voting thereon are opposed to the repeal, then the sales tax authorized in this section shall remain effective until the question is resubmitted under this section to the qualified voters and the repeal is approved by a majority of the qualified voters voting on the question.

7. Whenever the governing body of any county or city that has adopted the sales tax authorized in this section receives a petition, signed by ten percent of the registered voters of the county or city voting in the last gubernatorial election, calling for an election to repeal the sales tax imposed under this section, the governing body shall submit to the voters of the county or city a proposal to repeal the tax. If a majority of the votes cast on the question by the qualified voters voting thereon are in favor of the repeal, the repeal shall become effective on December thirty-first of the calendar year in which such repeal was approved. If a majority of the votes cast on the question by the qualified voters voting thereon are opposed to the repeal, then the sales tax authorized in this section shall remain effective until the question is resubmitted under this section to the qualified voters and the repeal is approved by a majority of the qualified voters voting on the question.

8. If the tax is repealed or terminated by any means, all funds remaining in the special trust fund shall continue to be used solely for the designated purposes, and the county or city shall notify the director of the department of revenue of the action at least thirty days before the effective date of the repeal and the director may order retention in the trust fund, for a period of one year, of two percent of the amount collected after receipt of such notice to cover possible refunds or overpayment of the tax and to redeem dishonored checks and drafts deposited to the credit of such accounts. After one year has elapsed after the effective date of abolition of the tax in such county or city, the director shall remit the balance in the account to the county or city and close the account of that county or city. The director shall notify each county or city of each instance of any amount refunded or any check redeemed from receipts due the county or city.

9. The governing body of each county or city imposing the tax authorized under this section shall select an existing community task force to administer the revenue from the tax received by the county or city. Such revenue shall be expended only upon approval of an existing community task force selected by the governing body of the county or city to administer the funds and only in accordance with a budget approved by the county or city governing body.”; and

Further amend the title and enacting clause accordingly.

Senator Dixon moved that the above amendment be adopted.

On motion of Senator Keaveny, **SB 133**, with **SCS** and **SA 1** (pending), was placed on the Informal Calendar.

President Pro Tem Dempsey assumed the Chair.

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 House

refuses to adopt **SS**, as amended, for **HCS** for **HJRs 11** and **7** and requests the Senate to recede from its position and failing to do so grant the House a conference thereon.

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 **SS No. 2** for **SCS** for **SBs 26, 11** and **31**, entitled:

An Act to repeal sections 32.087, 66.601, 66.620, 67.395, 67.525, 67.571, 67.576, 67.578, 67.581, 67.582, 67.583, 67.584, 67.712, 67.713, 67.729, 67.737, 67.738, 67.745, 67.782, 67.799, 67.997, 67.1300, 67.1303, 67.1305, 67.1545, 67.1712, 67.1713, 67.1775, 67.1959, 67.1971, 67.2000, 67.2030, 67.2525, 67.2530, 94.578, 94.605, 94.660, 94.705, 137.073, 143.011, 143.021, 143.071, 143.151, 144.010, 144.014, 144.020, 144.021, 144.030, 144.032, 144.043, 144.049, 144.054, 144.069, 144.070, 144.080, 144.083, 144.100, 144.140, 144.210, 144.285, 144.440, 144.517, 144.526, 144.605, 144.655, 144.700, 144.710, 144.1000, 144.1003, 144.1006, 144.1009, 144.1012, 144.1015, 221.407, 238.235, 238.410, 644.032, RSMo, and to enact in lieu thereof eighty-four new sections relating to taxation, with penalty provisions, effective dates for certain sections, and an emergency clause.

With House Amendment Nos. 1, 2 and 3.

HOUSE AMENDMENT NO. 1

Amend House Committee Substitute for Senate Substitute No. 2 for Senate Committee Substitute for Senate Bill Nos. 26, 11 & 31, Page 7, Section 32.383, Line 9, by deleting the word, “**investigations**” and inserting in lieu thereof the word, “**investigation**”; and

Further amend said bill, Page 96, Section 143.011, Line 3, by inserting after the date, “**December 31, 2013**” the following words, “**or on or before the first tax year after the tax revenues collected in the current year exceed the highest annual level of revenues collected in the prior three years by at least one hundred million dollars, whichever is latest**”; and

Further amend said bill, Page 97, section, Lines 26-27, by deleting all of said lines and inserting in lieu thereof the following words:

“(2) For the first tax year after the tax revenues collected in the current year exceed the highest annual level of revenues collected in the prior three years by at least one hundred million dollars, the tax shall be determined by applying the tax table or the rate”; and

Further amend said bill, page, section, Lines 50-51, by deleting all of said lines and inserting in lieu thereof the following words:

“(3) For the second tax year after the tax revenues collected in the current year exceed the highest annual level of revenues collected in the prior three years by at least one hundred million dollars, the tax shall be determined by applying the tax table or the rate”; and

Further amend said bill, Page 98, section, Lines 74-75, by deleting all of said lines and inserting in lieu thereof the following words:

“(4) For the third tax year after the tax revenues collected in the current year exceed the highest annual level of revenues collected in the prior three years by at least one hundred million dollars, the tax shall be determined by applying the tax table or the rate”; and

Further amend said bill, Page 99, section, Lines 98-99, by deleting all of said lines and inserting in lieu

thereof the following words:

“(5) For the fourth tax year after the tax revenues collected in the current year exceed the highest annual level of revenues collected in the prior three years by at least one hundred million dollars, the tax shall be determined by applying the tax table or the rate”; and

Further amend said bill, page, section, Line 120, by deleting all of said line and inserting in lieu thereof the following words:

“(6) For all tax years after the fourth tax year after the tax revenues collected in the current year exceed the highest annual level of revenues collected in the prior three years by at least one hundred million dollars, the tax shall be”; and

Further amend said bill, Page 100, Section 143.021, Line 1, by inserting after the date, **“December 31, 2013”** the following words, **“or on or before the first tax year after the tax revenues collected in the current year exceed the highest annual level of revenues collected in the prior three years by at least one hundred million dollars, whichever is latest”;** and

Further amend said bill, page, section, Lines 10-11, by deleting all of said lines and inserting in lieu thereof the following words:

“2. For the first tax year after the tax revenues collected in the current year exceed the highest annual level of revenues collected in the prior three years by at least one hundred million dollars, every resident having a taxable income of less than eight thousand”; and

Further amend said bill, Pages 100-102, section, Lines 12, 22, 29, 32, 39, 42, 49, 51, and 58, by inserting immediately after the word, **“his”** the words, **“or her”;** and

Further amend said bill, Page 101, section, Lines 20-21, by deleting all of said lines and inserting in lieu thereof the following words:

“3. For the second tax year after the tax revenues collected in the current year exceed the highest annual level of revenues collected in the prior three years by at least one hundred million dollars, every resident having a taxable income of less than eight thousand six”; and

Further amend said bill, page, section, Lines 30-31, by deleting all of said lines and inserting in lieu thereof the following words:

“4. For the third tax year after the tax revenues collected in the current year exceed the highest annual level of revenues collected in the prior three years by at least one hundred million dollars, every resident having a taxable income of less than eight thousand four”; and

Further amend said bill, page, section, Lines 40-41, by deleting all of said lines and inserting in lieu thereof the following words:

“5. For the fourth tax year after the tax revenues collected in the current year exceed the highest annual level of revenues collected in the prior three years by at least one hundred million dollars, every resident having a taxable income of less than eight thousand two”; and

Further amend said bill, page, section, Line 50, by deleting all of said line and inserting in lieu thereof the following words:

“6. For all tax years beginning after the fourth tax year after the tax revenues collected in the

current year exceed the highest annual level of revenues collected in the prior three years by at least one hundred million dollars, every resident having a”; and

Further amend said bill, Page 102, Section 143.022, Lines 10-19, by deleting all of said lines and inserting in lieu thereof the following:

“(1) For the first tax year after the tax revenues collected in the current year exceed the highest annual level of revenues collected in the prior three years by at least one hundred million dollars, ten percent of the amount of business income;

(2) For the second tax year after the tax revenues collected in the current year exceed the highest annual level of revenues collected in the prior three years by at least one hundred million dollars, twenty percent of the amount of business income;

(3) For the third tax year after the tax revenues collected in the current year exceed the highest annual level of revenues collected in the prior three years by at least one hundred million dollars, thirty percent of the amount of business income;

(4) For the fourth tax year after the tax revenues collected in the current year exceed the highest annual level of revenues collected in the prior three years by at least one hundred million dollars, forty percent of the amount of business income;

(5) For all tax years beginning after the fourth tax year after the tax revenues collected in the current year exceed the highest annual level of revenues collected in the prior three years by at least one hundred million dollars, fifty percent of the amount of business income.”; and

Further amend said bill, Page 103, Section 143.071, Line 5, by inserting after the date, “**December 31, 2013**” the following words, “**or on or before the first tax year after the tax revenues collected in the current year exceed the highest annual level of revenues collected in the prior three years by at least one hundred million dollars, whichever is latest**”;

Further amend said bill, page, section, Lines 7-8, by deleting all of said lines and inserting in lieu thereof the following words:

“3. (1) For the first tax year after the tax revenues collected in the current year exceed the highest annual level of revenues collected in the prior three years by at least one hundred million dollars, a tax is hereby imposed upon the Missouri taxable income of”; and

Further amend said bill, page, section, Lines 10-11, by deleting all of said lines and inserting in lieu thereof the following words:

“(2) For the second tax year after the tax revenues collected in the current year exceed the highest annual level of revenues collected in the prior three years by at least one hundred million dollars, a tax is hereby imposed upon the Missouri taxable income of”; and

Further amend said bill, page, section, Lines 14-15, by deleting all of said lines and inserting in lieu thereof the following words:

“(3) For the third tax year after the tax revenues collected in the current year exceed the highest annual level of revenues collected in the prior three years by at least one hundred million dollars, a tax is hereby imposed upon the Missouri taxable income of”; and

Further amend said bill, page, section, Lines 17-18, by deleting all of said lines and inserting in lieu

thereof the following words:

“(4) For the fourth tax year after the tax revenues collected in the current year exceed the highest annual level of revenues collected in the prior three years by at least one hundred million dollars, a tax is hereby imposed upon the Missouri taxable income of”; and

Further amend said bill, page, section, Line 21, by deleting all of said line and inserting in lieu thereof the following words:

“(5) For all tax years beginning after the fourth tax year after the tax revenues collected in the current year exceed the highest annual level of revenues collected in the prior three years by at least one hundred million dollars, a tax is hereby imposed”; and

Further amend said bill, page, Section 143.151, Line 8, by inserting after the date, **“January 1, 2014”** the following words, **“or on or before the first tax year after the tax revenues collected in the current year exceed the highest annual level of revenues collected in the prior three years by at least one hundred million dollars, whichever is latest”;** and

Further amend said bill, Page 104, Section 144.010, Lines 25-27, by deleting all of said lines and inserting in lieu thereof the following:

“(7) “Appliance”, clothes washer and dryer, water heater, trash compactor, dishwasher, conventional oven, range, stove, air conditioner, furnace, refrigerator, and freezer”; and

Further amend said bill, Page 105, section, Line 66, by deleting the first occurrence of the word, **“of”** and inserting in lieu thereof the word, **“or”**; and

Further amend said bill, Page 106, section, Line 78, by deleting the word, **“included”** and inserting in lieu thereof the word, **“includes”**; and

Further amend said bill, Page 108, section, Line 146, by deleting the words, **“shoe laces”** and inserting in lieu thereof the word, **“shoelaces”**; and

Further amend said bill, page, section, Line 150, by deleting the words, **“Steel toed”** and inserting in lieu thereof the word, **“Steel-toed”**; and

Further amend said bill, page, section, Line 163, by deleting the second occurrence of the word, **“or”** and inserting in lieu thereof the word, **“and”**; and

Further amend said bill, Page 109, section, Line 208, by deleting the word, **“are”** and inserting in lieu thereof the word, **“is”**; and

Further amend said bill, Page 110, section, Line 220, by deleting the word, **“and”** and inserting in lieu thereof the word, **“or”**; and

Further amend said bill, Page 111, section, Line 248, by deleting the word, **“are”** and inserting in lieu thereof the word, **“is”**; and

Further amend said bill, Page 112, section, Line 294, by deleting the words, **“vending machines”** and inserting in lieu thereof the words, **“a vending machine”**; and

Further amend said bill, page, section, Line 298, by deleting the words, **“over-the-counter-drugs”** and inserting in lieu thereof the words, **“over-the-counter drugs”**; and

Further amend said bill, Page 116, section, Line 441, by deleting the word, **“or”** and inserting in lieu

thereof the word, “**of**”; and

Further amend said bill, Page 118, section, Line 523, by deleting the word, “**protections**” and inserting in lieu thereof the word, “**protection**”; and

Further amend said bill, page, section, Line 524, by deleting the word, “**are**” and inserting in lieu thereof the word, “**is**”; and

Further amend said bill, Page 122, section, Line 657, by deleting the word, “**service**” and inserting in lieu thereof the word, “**services**”; and

Further amend said bill, Page 123, section, Line 699, by deleting the word, “**telecommunication**” and inserting in lieu thereof the word, “**telecommunications**”; and

Further amend said bill, page, section, Line 705, by deleting the word, “**charges**” and inserting in lieu thereof the word, “**charge**”; and

Further amend said bill, Page 128, Section 144.020, Lines 54-59, by deleting all of said lines and inserting in lieu thereof the following words:

“(1) In the first calendar year after the tax revenues collected in the current year exceed the highest annual level of revenues collected in the prior three years by at least one hundred million dollars, four and one-fifth percent;

(2) In the second calendar year after the tax revenues collected in the current year exceed the highest annual level of revenues collected in the prior three years by at least one hundred million dollars, four and three-tenths percent;

(3) In the third calendar year after the tax revenues collected in the current year exceed the highest annual level of revenues collected in the prior three years by at least one hundred million dollars, four and two-fifths percent;

(4) In the fourth calendar year after the tax revenues collected in the current year exceed the highest annual level of revenues collected in the prior three years by at least one hundred million dollars, four and one-half percent;

(5) For all tax years after the fourth calendar year after the tax revenues collected in the current year exceed the highest annual level of revenues collected in the prior three years by at least one hundred million dollars, four and three-fifths percent.”; and

Further amend said bill, page, Section 144.021, Lines 11-17, by deleting all of said lines and inserting in lieu thereof the words, “**imposed under this section shall be the rate imposed under 144.020.**”; and

Further amend said bill, Page 133, Section 144.030, Line 124, by inserting a coma, “**,**” after the word, “**disabilities**”; and

Further amend said bill, Page 139, Section 144.040, Line 58, by deleting the words, “**the previous rules of**”; and

Further amend said bill, Page 155, Section 144.110, Line 3, by deleting the word, “**Section**” and inserting in lieu thereof the word, “**section**”; and

Further amend said bill, Page 160, Section 144.212, Line 32, by inserting immediately after the word, “**use**” the word, “**is**”; and

Further amend said bill, Page 163, Section 144.440, Lines 37-43, by deleting all of said lines and inserting in lieu thereof the words, “**imposed under this section shall be the rate imposed under 144.020.**”; and

Further amend said bill, page, Section 144.522, Line 9, by inserting immediately after the word, “**Code**” the words, “**of 1986, as amended**”; and

Further amend said bill, Pages 165-166, Section 144.605, Lines 29, 30, 31, 40, 44-45, 46, and 48, by deleting the words, “**the state**” and inserting in lieu thereof the words, “**this state**”; and

Further amend said bill, Page 165, section, Line 31, by deleting the word, “**sales;**” and inserting in lieu thereof the words, “**vendor’s sales.**”; and

Further amend said bill, Page 169, Section 144.700, Line 8, by inserting after the date, “**January 1, 2014**” the following words, “**or the first calendar year after the tax revenues collected in the current year exceed the highest annual level of revenues collected in the prior three years by at least one hundred million dollars**”; and

Further amend said bill, Page 170, Section 144.700, Line 16, by inserting after the word, “**fund**” the following:

“;

(3) The revenue derived from the rate for the second calendar year after the tax revenues collected in the current year exceed the highest annual level of revenues collected in the prior three years by at least one hundred million dollars, one-tenth percent; the revenue derived from the rate for the third calendar year after the tax revenues collected in the current year exceed the highest annual level of revenues collected in the prior three years by at least one hundred million dollars, one-tenth percent; the fourth calendar year after the tax revenues collected in the current year exceed the highest annual level of revenues collected in the prior three years by at least one hundred million dollars, one-tenth percent; and the revenue derived from the rate for all calendar years after the fourth calendar year after the tax revenues collected in the current year exceed the highest annual level of revenues collected in the prior three years by at least one hundred million dollars, one-tenth percent. The revenue derived from the rates specified in this subdivision shall be deposited in the state school moneys fund under section 166.051.”; and

Further amend said bill, Page 181, Section 630.1100, Line 8, by deleting the number, “**2**” and inserting in lieu thereof the number, “**(2)**”; and

Further amend said bill, Page 187, Section B, Lines 10-14, by deleting all of said lines and inserting in lieu thereof the words, “144.124, 144.125, 144.212, and 144.522 shall become effective on January 1, 2015.”; 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 Substitute No. 2 for Senate Committee Substitute for Senate Bill Nos. 26, 11 & 31, Page 3, Section 32.087, Line 8, by inserting after the word, “section” the following words, “, **and shall be imposed on all transactions on which the Missouri state sales tax is imposed**”; and

Further amend said bill, Page 128, Section 144.021, Line 3, by inserting after the number, “144.020” the following words, “**and for the privilege of titling new and used motor vehicles, trailers, boats, and outboard motors purchased or acquired for use on the highways or waters of this state which are required to be registered under the laws of the state of Missouri**”; 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 No. 2 for Senate Committee Substitute for Senate Bill Nos. 26, 11 & 31, Page 104, Section 143.151, Line 13, by inserting after all of said Section and Line the following:

“143.451. 1. Missouri taxable income of a corporation shall include all income derived from sources within this state.

2. A corporation described in subdivision (1) of subsection 1 of section 143.441 shall include in its Missouri taxable income all income from sources within this state, including that from the transaction of business in this state and that from the transaction of business partly done in this state and partly done in another state or states. However:

(1) Where income results from a transaction partially in this state and partially in another state or states, and income and deductions of the portion in the state cannot be segregated, then such portions of income and deductions shall be allocated in this state and the other state or states as will distribute to this state a portion based upon the portion of the transaction in this state and the portion in such other state or states.

(2) The taxpayer may elect to compute the portion of income from all sources in this state in the following manner, **or the manner set forth in subdivision (3) of this subsection**:

(a) The income from all sources shall be determined as provided, excluding therefrom the figures for the operation of any bridge connecting this state with another state.

(b) The amount of sales which are transactions wholly in this state shall be added to one-half of the amount of sales which are transactions partly within this state and partly without this state, and the amount thus obtained shall be divided by the total sales or in cases where sales do not express the volume of business, the amount of business transacted wholly in this state shall be added to one-half of the amount of business transacted partly in this state and partly outside this state and the amount thus obtained shall be divided by the total amount of business transacted, and the net income shall be multiplied by the fraction thus obtained, to determine the proportion of income to be used to arrive at the amount of Missouri taxable income. The investment or reinvestment of its own funds, or sale of any such investment or reinvestment, shall not be considered as sales or other business transacted for the determination of said fraction.

[(3)] (c) For the purposes of this [section] **subdivision**, a transaction involving the sale of tangible property is:

[(a)] **a.** “Wholly in this state” if both the seller’s shipping point and the purchaser’s destination point are in this state;

[(b)] **b.** “Partly within this state and partly without this state” if the seller’s shipping point is in this state and the purchaser’s destination point is outside this state, or the seller’s shipping point is outside this state and the purchaser’s destination point is in this state;

[(c)] **c.** Not “wholly in this state” or not “partly within this state and partly without this state” only if both the seller’s shipping point and the purchaser’s destination point are outside this state[;].

(d) For purposes of this subdivision:

a. The purchaser’s destination point shall be determined without regard to the FOB point or other conditions of the sale[.]; and

b. The seller’s shipping point is determined without regard to the location of the seller’s principle office or place of business.

(3) The taxpayer may elect to compute the portion of income from all sources in this state in the following manner:

(a) The income from all sources shall be determined as provided, excluding therefrom the figures for the operation of any bridge connecting this state with another state;

(b) The amount of sales which are transactions in this state shall be divided by the total sales, and the net income shall be multiplied by the fraction thus obtained, to determine the proportion of income to be used to arrive at the amount of Missouri taxable income. The investment or reinvestment of its own funds, or sale of any such investment or reinvestment, shall not be considered as sales or other business transacted for the determination of said fraction;

(c) For the purposes of this subdivision, a transaction involving the sale of tangible property is:

a. “In this state” if the purchaser’s destination point is in this state;

b. Not “in this state” if the purchaser’s destination point is outside this state;

(d) For purposes of this subdivision, the purchaser’s destination point shall be determined without regard to the FOB point or other conditions of the sale and shall not be in this state if the purchaser received the tangible personal property from the seller in this state for delivery to the purchaser’s location outside this state.

(4) For purposes of this subsection, the following words shall, unless the context otherwise requires, have the following meaning:

(a) “Administration services” include, but are not limited to, clerical, fund or shareholder accounting, participant record keeping, transfer agency, bookkeeping, data processing, custodial, internal auditing, legal and tax services performed for an investment company;

(b) “Affiliate”, the meaning as set forth in 15 U.S.C. Section 80a-2(a)(3)(C), as may be amended from time to time;

(c) “Distribution services” include, but are not limited to, the services of advertising, servicing, marketing, underwriting or selling shares of an investment company, but, in the case of advertising, servicing or marketing shares, only where such service is performed by a person who is, or in the case of a closed end company, was, either engaged in the services of underwriting or selling investment company shares or affiliated with a person that is engaged in the service of underwriting or selling investment company shares. In the case of an open end company, such service of underwriting or selling shares must be performed pursuant to a contract entered into pursuant to 15 U.S.C. Section 80a-15(b), as from time to time amended;

(d) “Investment company”, any person registered under the federal Investment Company Act of 1940, as amended from time to time, (the act) or a company which would be required to register as an investment company under the act except that such person is exempt to such registration pursuant to Section 80a-3(c)(1) of the act;

(e) “Investment funds service corporation” includes any corporation or S corporation doing business in the state which derives more than fifty percent of its gross income in the ordinary course of business from the provision directly or indirectly of management, distribution or administration services to or on behalf of an investment company or from trustees, sponsors and participants of employee benefit plans which have accounts in an investment company. An investment funds service corporation shall include any corporation or S corporation providing management services as an investment advisory firm registered under Section 203 of the Investment Advisors Act of 1940, as amended from time to time, regardless of the percentage of gross revenues consisting of fees from management services provided to or on behalf of an investment company;

(f) “Management services” include but are not limited to, the rendering of investment advice directly or indirectly to an investment company making determinations as to when sales and purchases of securities are to be made on behalf of the investment company, or the selling or purchasing of securities constituting assets of an investment company, and related activities, but only where such activity or activities are performed:

a. Pursuant to a contract with the investment company entered into pursuant to 15 U.S.C. Section 80a-15(a), as from time to time amended;

b. For a person that has entered into such contract with the investment company; or

c. For a person that is affiliated with a person that has entered into such contract with an investment company;

(g) “Qualifying sales”, gross income derived from the provision directly or indirectly of management, distribution or administration services to or on behalf of an investment company or from trustees, sponsors and participants of employee benefit plans which have accounts in an investment company. For purposes of this section, gross income is defined as that amount of income earned from qualifying sources without deduction of expenses related to the generation of such income;

(h) “Residence”, presumptively the fund shareholder’s mailing address on the records of the investment company. If, however, the investment company or the investment funds service corporation has actual knowledge that the fund shareholder’s primary residence or principal place of business is different than the fund shareholder’s mailing address such presumption shall not control. To the extent an investment funds service corporation does not have access to the records of the investment company, the investment funds service corporation may employ reasonable methods to determine the investment company fund shareholder’s residence.

(5) Notwithstanding other provisions of law to the contrary, qualifying sales of an investment funds service corporation, or S corporation, shall be considered wholly in this state only to the extent that the fund shareholders of the investment companies, to which the investment funds service corporation, or S corporation, provide services, are resided in this state. Wholly in this state qualifying sales of an investment funds service corporation, or S corporation, shall be determined as follows:

(a) By multiplying the investment funds service corporation’s total dollar amount of qualifying sales

from services provided to each investment company by a fraction, the numerator of which shall be the average of the number of shares owned by the investment company's fund shareholders resided in this state at the beginning of and at the end of the investment company's taxable year that ends with or within the investment funds service corporation's taxable year, and the denominator of which shall be the average of the number of shares owned by the investment company's fund shareholders everywhere at the beginning of and at the end of the investment company's taxable year that ends with or within the investment funds service corporation's taxable year;

(b) A separate computation shall be made to determine the wholly in this state qualifying sales from each investment company. The qualifying sales for each investment company shall be multiplied by the respective percentage of each fund, as calculated pursuant to paragraph (a) of this subdivision. The product of this equation shall result in the wholly in this state qualifying sales. The qualifying sales for each investment company which are not wholly in this state will be considered wholly without this state;

(c) To the extent an investment funds service corporation has sales which are not qualifying sales, those nonqualified sales shall be apportioned to this state based on the methodology utilized by the investment funds service corporation without regard to this subdivision.

3. Any corporation described in subdivision (1) of subsection 1 of section 143.441 organized in this state or granted a permit to operate in this state for the transportation or care of passengers shall report its gross earnings within the state on intrastate business and shall also report its gross earnings on all interstate business done in this state which report shall be subject to inquiry for the purpose of determining the amount of income to be included in Missouri taxable income. The previous sentence shall not apply to a railroad.

4. A corporation described in subdivision (2) of subsection 1 of section 143.441 shall include in its Missouri taxable income all income arising from all sources in this state and all income from each transportation service wholly within this state, from each service where the only lines of such corporation used are those in this state, and such proportion of revenue from each service where the facilities of such corporation in this state and in another state or states are used, as the mileage used over the lines of such corporation in the state shall bear to the total mileage used over the lines of such corporation. The taxpayer may elect to compute the portion of income from all sources within this state in the following manner:

(1) The income from all sources shall be determined as provided;

(2) The amount of investment of such corporation on December thirty-first of each year in this state in fixed transportation facilities, real estate and improvements, plus the value on December thirty-first of each year of any fixed transportation facilities, real estate and improvements in this state leased from any other railroad shall be divided by the sum of the total amount of investment of such corporation on December thirty-first of each year in fixed transportation facilities, real estate and improvements, plus the value on December thirty-first of each year, of any fixed transportation facilities, real estate and improvements leased from any other railroad. Where any fixed transportation facilities, real estate or improvements are leased by more than one railroad, such portion of the value shall be used by each railroad as the rental paid by each shall bear to the rental paid by all lessees. The income shall be multiplied by the fraction thus obtained to determine the proportion to be used to arrive at the amount of Missouri taxable income.

5. A corporation described in subdivision (3) of subsection 1 of section 143.441 shall include in its Missouri taxable income one-half of the net income from the operation of a bridge between this and another state. If any such bridge is owned or operated by a railroad corporation or corporations, or by a corporation owning a railroad corporation using such bridge, then the figures for operation of such bridge may be

included in the return of such railroad or railroads; or if such bridge is owned or operated by any other corporation which may now or hereafter be required to file an income tax return, one-half of the income or loss to such corporation from such bridge may be included in such return by adding or subtracting same to or from another net income or loss shown by the return.

6. A corporation described in subdivision (4) of subsection 1 of section 143.441 shall include in its Missouri taxable income all income arising from all sources within this state. Income shall include revenue from each telephonic or telegraphic service rendered wholly within this state; from each service rendered for which the only facilities of such corporation used are those in this state; and from each service rendered over the facilities of such corporation in this state and in other state or states, such proportion of such revenue as the mileage involved in this state shall bear to the total mileage involved over the lines of said company in all states. The taxpayer may elect to compute the portion of income from all sources within this state in the following manner:

(1) The income from all sources shall be determined as provided;

(2) The amount of investment of such corporation on December thirty-first of each year in this state in telephonic or telegraphic facilities, real estate and improvements thereon, shall be divided by the amount of the total investment of such corporation on December thirty-first of each year in telephonic or telegraphic facilities, real estate and improvements. The income of the taxpayer shall be multiplied by fraction thus obtained to determine the proportion to be used to arrive at the amount of Missouri taxable income.

7. From the income determined in subsections 2, 3, 4, 5 and 6 of this section to be from all sources within this state shall be deducted such of the deductions for expenses in determining Missouri taxable income as were incurred in this state to produce such income and all losses actually sustained in this state in the business of the corporation.

8. If a corporation derives only part of its income from sources within Missouri, its Missouri taxable income shall only reflect the effect of the following listed deductions to the extent applicable to Missouri. The deductions are: (a) its deduction for federal income taxes pursuant to section 143.171, and (b) the effect on Missouri taxable income of the deduction for net operating loss allowed by Section 172 of the Internal Revenue Code. The extent applicable to Missouri shall be determined by multiplying the amount that would otherwise affect Missouri taxable income by the ratio for the year of the Missouri taxable income of the corporation for the year divided by the Missouri taxable income for the year as though the corporation had derived all of its income from sources within Missouri. For the purpose of the preceding sentence, Missouri taxable income shall not reflect the listed deductions.

9. Any investment funds service corporation organized as a corporation or S corporation which has any shareholders resided in this state shall be subject to Missouri income tax as provided in this chapter.”; and

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

Emergency clause adopted.

In which the concurrence of the Senate is respectfully requested.

REPORTS OF STANDING COMMITTEES

Senator Parson, Chairman of the Committee on Governmental Accountability and Fiscal Oversight, submitted the following report:

Mr. President: Your Committee on Governmental Accountability and Fiscal Oversight, to which was referred **HB 34**, begs leave to report that it has considered the same and recommends that the bill do pass.

RESOLUTIONS

Senator Silvey offered Senate Resolution No. 792, regarding Charles Roberts, which was adopted.

Senator Silvey offered Senate Resolution No. 793, regarding Christopher Seward, which was adopted.

Senator Silvey offered Senate Resolution No. 794, regarding Sydney Ruffin, which was adopted.

Senator Silvey offered Senate Resolution No. 795, regarding Austin Van Black, Liberty, which was adopted.

Senator Sater offered Senate Resolution No. 796, regarding the One Hundred Fifth Birthday of Ruth Taylor, Hollister, which was adopted.

Senators Sifton and Keaveny offered Senate Resolution No. 797, regarding Meredith Marie McGrath, which was adopted.

Senator Sifton offered Senate Resolution No. 798, regarding Amy Ruzicka, St. Louis, which was adopted.

Senator Sifton offered Senate Resolution No. 799, regarding Susan Reeves, St. Louis, which was adopted.

Senator Romine offered Senate Resolution No. 800, regarding Kevin Buckley, Bonne Terre, which was adopted.

Senator Romine offered Senate Resolution No. 801, regarding Glenda R. Dillon, Park Hills, which was adopted.

Senator Romine offered Senate Resolution No. 802, regarding Mark J. Ruark, Cape Girardeau, which was adopted.

Senator Romine offered Senate Resolution No. 803, regarding Kathleen Guinan, which was adopted.

Senator Dixon offered Senate Resolution No. 804, regarding the History Museum on the Square, Springfield, which was adopted.

Senator Dixon offered Senate Resolution No. 805, regarding Georgena M. "Gena" Valente, which was adopted.

Senator Dixon offered Senate Resolution No. 806, regarding the Twenty-fifth Anniversary of Penmac, Springfield, which was adopted.

Senator Dixon offered Senate Resolution No. 807, regarding the ALS Association of Springfield, which was adopted.

Senator Dixon offered Senate Resolution No. 808, regarding the Fiftieth Anniversary of Christian Schools of Springfield, which was adopted.

Senator Munzlinger offered Senate Resolution No. 809, regarding the Twenty-fifth Anniversary of the Mark Twain Lake Sailing Association, which was adopted.

INTRODUCTIONS OF GUESTS

Senator Holsman introduced to the Senate, Aimee and Steve Gromowsky, their children, Dayvon, Katy, Jaylen; Lanti Riederer; and Jackson County Legislator Theresa Garza-Ruiz, Kansas City; and Dayvon, Katy and Jaylen were made honorary pages.

Senator Pearce introduced to the Senate, Robin McGinnity Connelly, Marilyn Boeschen, Kim Blackburn, Rhonda Beerman and Sara Wetzig, Saline and Lafayette Counties.

Senator Romine introduced to the Senate, Roger Crome, Fredericktown; and Aaron Luna, Farmington.

On behalf of Senator Emery and himself, Senator Schmitt introduced to the Senate, Ruby Parks and her family, Olin, Mark, Kevin, Nancy and Ryan, Windsor.

Senator Chappelle-Nadal introduced to the Senate, representatives of Urban League Young Professionals, St. Louis.

Senator Holsman introduced to the Senate, Vickie Wolgast, Tosha Everhart, Bill Faust, Penny Holman, Elvis Butler, Matthew Huls, Nola Wood, Kari Thompson, Travis Levitt, Anne Cull, Laurel McKean, Katrina Foster and Steven Kyser, representatives of Leadership South Kansas City Chamber of Commerce.

Senator Romine introduced to the Senate, his father, Leroy, Poplar Bluff.

Senator Dixon introduced to the Senate, Ken McClure, Debbie Donnellan, Lauren Calef and University Staff Ambassadors from Missouri State University, Springfield.

Senator Curls introduced to the Senate, Major Shawn Wadle and Master Patrol Officer James Schriever, Kansas City Police Department.

Senator Walsh introduced to the Senate, Principal Mary Ann Kauffman, Theresa Kremer and twenty-eight 7th grade students from St. Angela Merici Elementary School, Florissant; and Jordyn Holts, Kellie Maddox, Malik McCollum and Nicholas Stockard were made honorary pages.

Senator Brown introduced to the Senate, representatives of St. James Transport Company.

Senator Sater introduced to the Senate, Ken and Ann Hall and their nephews, David and Sean Thomas, Purdy.

Senator Lager introduced to the Senate, fourth grade students from Rock Port Elementary School.

Senator LeVota introduced to the Senate, Coach Dick Vermeil, E. Fallowfield, Pennsylvania; and Lynn Stiles, Overland Park, Kansas.

Senator Nasheed introduced to the Senate, Head Coach Mike Jones, Lincoln University, Jefferson City.

Senator Keaveny introduced to the Senate, Matthew Behnke, Chicago, Illinois.

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

SENATE CALENDAR

 FIFTY-SEVENTH DAY—THURSDAY, APRIL 25, 2013

FORMAL CALENDAR

VETOED BILLS

HCS for SCS for SB 182-Kehoe, et al

HOUSE BILLS ON SECOND READING

HCS for HBs 455 & 297
 HCS for HB 335
 HB 756-Hubbard, et al

HB 808-Funderburk, et al
 HCS for HB 170

THIRD READING OF SENATE BILLS

SCS for SBs 317 & 319-Romine

SS for SCS for SB 432-Cunningham

HOUSE BILLS ON THIRD READING

HB 34-Guernsey (Brown)

HCS for HB 473 (Lager) (In Fiscal Oversight)

INFORMAL CALENDAR

SENATE BILLS FOR PERFECTION

SB 3-Rupp, with SA 1 (pending)
 SB 13-Schaefer, with SCS
 SB 21-Dixon
 SB 22-Dixon
 SB 48-Lamping
 SB 53-Lamping
 SB 61-Keaveny, with SCA 1 (pending)
 SB 65-Dixon, with SCS
 SB 82-Schaefer, with SCS
 SB 109-Brown, with SCS
 SB 133-Keaveny and Holsman, with SCS &
 SA 1 (pending)

SB 141-Dempsey
 SB 167-Sater and Wallingford, with SCS
 SB 174-Parson, with SCS
 SB 175-Wallingford
 SB 207-Kehoe, et al, with SCS
 SB 210-Lamping and Nieves, with SCS
 SB 231-Munzlinger, with SA 1 (pending)
 SB 239-Emery, with SCS & SA 2 (pending)
 SB 250-Schaaf, with SCS
 SB 259-Schaaf, with SCS
 SB 272-Nieves, with SA 2 (pending)
 SB 285-Romine

SB 291-Rupp	SB 396-Holsman and Chappelle-Nadal, with SCS
SB 292-Rupp	
SB 308-Schaaf	SB 403-Rupp, with SCS
SB 315-Pearce	SB 410-Kehoe
SB 339-Romine	SB 419-Lager, with SCS
SB 343-Parson	SB 423-Nasheed
SB 364-Parson	SB 441-Dempsey
SB 371-Munzlinger, with SCS	SB 448-Schmitt and Keaveny
SB 377-Dixon	SB 455-Nieves, with SCS
SB 383-Wallingford	SJR 2-Lager

HOUSE BILLS ON THIRD READING

HB 53-Gatschenberger (Rupp)	HB 112-Burlison (Brown)
HB 55-Flanigan and Allen, with SCS (Schaefer)	HCS for HB 199 (Lamping)
	HCS for HB 457, with SCS (Rupp)

CONSENT CALENDAR

House Bills

Reported 4/15

HB 673-Schatz (Kehoe)	HB 498-Jones (50), et al, with SCS (Sifton)
HB 212-Cox, et al (Keaveny)	HCS for HB 159 (Kraus)
HCS for HB 235 (Parson)	HCS for HB 233, with SCS (Lamping)

SENATE BILLS WITH HOUSE AMENDMENTS

SS#2 for SCS for SBs 26, 11 & 31-Kraus,
with HCS, as amended

BILLS IN CONFERENCE AND BILLS CARRYING REQUEST MESSAGES

Requests to Recede or Grant Conference

HCS for HJR 11 & 7,
with SS, as amended (Parson)
(House requests Senate
recede or grant conference)

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