

Journal of the Senate

FIRST REGULAR SESSION

THIRTY-FIFTH DAY—TUESDAY, MARCH 10, 2009

The Senate met pursuant to adjournment.

Senator Dempsey in the Chair.

Reverend Carl Gauck offered the following prayer:

“A humble person is more likely to be self-confident...a person with real humility knows how much they are loved.” (Cornelius Plantinga, Jr.)

Almighty God, we meet all types of people and know that we are not to judge but we rejoice in those who are truly humble and give off an authentic confidence that they know they are loved and are loving towards others. They affect those around them and they experience that they are truly loved also. Help us to truly be humbled by Your love and share genuine love with others as well. And we pray that You quickly heal Senator Days’ foot so she can do the things she enjoys. 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

Barnitz	Bartle	Bray	Callahan	Champion	Clemens	Crowell	Cunningham
Days	Dempsey	Engler	Goodman	Green	Griesheimer	Lager	Lembke
Mayer	McKenna	Nodler	Pearce	Purgason	Ridgeway	Rupp	Schaefer
Schmitt	Scott	Shields	Shoemyer	Smith	Stouffer	Vogel	Wilson

Wright-Jones—33

Absent—Senators—None

Absent with leave—Senator Justus—1

Vacancies—None

RESOLUTIONS

Senator Schmitt offered the following resolution:

SENATE RESOLUTION NO. 509

WHEREAS, the Missouri Senate recognizes the importance of empowering citizens to actively participate in the democratic process; and

WHEREAS, the Missouri Senate has a long tradition of rendering assistance to those organizations that sponsor projects in the interest of good citizenship; and

WHEREAS, the 2009 Missouri Youth Leadership Forum for Students with Disabilities, sponsored by the Governor's Council on Disability and the Missouri Planning Council for Developmental Disabilities, is an educational experience in state government for high school juniors and seniors with disabilities by allowing such youth to participate in the democratic process:

NOW, THEREFORE, BE IT RESOLVED that we, the members of the Missouri Senate, Ninety-fifth General Assembly, hereby grant the 2009 Missouri Youth Leadership Forum for Students with Disabilities permission to use the Senate Chamber on Tuesday, July 28, 2009, from 1:15 p.m. to 3:30 p.m. for the purpose of holding a mock legislative session.

Senator Schmitt requested unanimous consent of the Senate that the rules be suspended for the purpose of taking **SR 509** up for adoption, which request was granted.

On motion of Senator Schmitt, **SR 509** was adopted.

PRIVILEGED MOTIONS

Senator Nodler moved that **SCS** for **SB 313**, with **HCS**, as amended, be taken up for 3rd reading and final passage, which motion prevailed.

HCS for **SCS** for **SB 313**, as amended, entitled:

HOUSE COMMITTEE SUBSTITUTE FOR
SENATE COMMITTEE SUBSTITUTE FOR
SENATE BILL NO. 313

An Act to amend chapter 30, RSMo, by adding thereto three new sections relating to the receipt of federal economic stimulus funds, with an emergency clause.

Was taken up.

Senator Nodler moved that **HCS** for **SCS** for **SB 313**, as amended, be adopted, which motion prevailed by the following vote:

YEAS—Senators

Barnitz	Bartle	Bray	Callahan	Champion	Clemens	Crowell	Cunningham
Days	Dempsey	Engler	Goodman	Green	Griesheimer	Lager	Lembke
Mayer	McKenna	Nodler	Pearce	Purgason	Ridgeway	Rupp	Schaefer
Schmitt	Scott	Shields	Shoemyer	Smith	Stouffer	Vogel	Wilson

Wright-Jones—33

NAYS—Senators—None

Absent—Senators—None

Absent with leave—Senator Justus—1

Vacancies—None

On motion of Senator Nodler, **HCS** for **SCS** for **SB 313**, as amended, was read the 3rd time and passed by the following vote:

YEAS—Senators

Barnitz	Bartle	Bray	Callahan	Champion	Clemens	Crowell	Cunningham
Days	Dempsey	Engler	Goodman	Green	Griesheimer	Lager	Lembke
Mayer	McKenna	Nodler	Pearce	Purgason	Ridgeway	Rupp	Schaefer
Schmitt	Scott	Shields	Shoemyer	Smith	Stouffer	Vogel	Wilson

Wright-Jones—33

NAYS—Senators—None

Absent—Senators—None

Absent with leave—Senator Justus—1

Vacancies—None

The President declared the bill passed.

The emergency clause was adopted by the following vote:

YEAS—Senators

Barnitz	Bartle	Bray	Callahan	Champion	Clemens	Crowell	Cunningham
Days	Dempsey	Engler	Goodman	Green	Griesheimer	Lager	Lembke
Mayer	McKenna	Nodler	Pearce	Purgason	Ridgeway	Rupp	Schaefer
Schmitt	Scott	Shields	Shoemyer	Smith	Stouffer	Vogel	Wilson

Wright-Jones—33

NAYS—Senators—None

Absent—Senators—None

Absent with leave—Senator Justus—1

Vacancies—None

On motion of Senator Nodler, title to the bill was agreed to.

Senator Nodler moved that the vote by which the bill passed be reconsidered.

Senator Engler moved that motion lay on the table, which motion prevailed.

Bill ordered enrolled.

SENATE BILLS FOR PERFECTION

At the request of Senator Scott, **SB 216**, with **SCS**, was placed on the Informal Calendar.

Senator Cunningham moved that **SB 235** be taken up for perfection, which motion prevailed.

On motion of Senator Cunningham, **SB 235** was declared perfected and ordered printed.

Senator Griesheimer moved that **SB 174**, with **SCS**, **SS** for **SCS** and **SA 1** (pending), be called from the Informal Calendar and again taken up for perfection, which motion prevailed.

At the request of Senator Griesheimer, **SS** for **SCS** for **SB 174** was withdrawn, rendering the pending amendment moot.

Senator Griesheimer offered **SS No. 2** for **SCS** for **SB 174**, entitled:

SENATE SUBSTITUTE NO. 2 FOR
SENATE COMMITTEE SUBSTITUTE FOR
SENATE BILL NO. 174

An Act to repeal sections 52.240, 53.175, 67.110, 137.073, 137.106, 137.180, 137.243, 137.355, 137.385, 137.425, 137.720, 138.140, 138.380, and 139.031, RSMo, and to enact in lieu thereof seventeen new sections relating to property taxes, with an emergency clause.

Senator Griesheimer moved that **SS No. 2** for **SCS** for **SB 174** be adopted.

Senator Cunningham offered **SA 1**:

SENATE AMENDMENT NO. 1

Amend Senate Substitute No. 2 for Senate Committee Substitute for Senate Bill No. 174, Page 1, In the Title, Line 6 of the title, by inserting after “clause” the following: “and a contingent effective date for certain sections”; and

Further amend said bill, Pages 6 to 22, Section 137.073, by striking all of said section and inserting in lieu thereof the following:

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

(1) “General reassessment”, changes in value, entered in the assessor's books, of a substantial portion of the parcels of real property within a county resulting wholly or partly from reappraisal of value or other actions of the assessor or county equalization body or ordered by the state tax commission or any court;

(2) “Tax rate”, “rate”, or “rate of levy”, singular or plural, includes the tax rate for each purpose of taxation of property a taxing authority is authorized to levy without a vote and any tax rate authorized by election, including bond interest and sinking fund;

(3) “Tax rate ceiling”, a tax rate as revised by the taxing authority to comply with the provisions of this section or when a court has determined the tax rate[; except that, other provisions of law to the contrary notwithstanding, a school district may levy the operating levy for school purposes required for the current year pursuant to subsection 2 of section 163.021, RSMo, less all adjustments required pursuant to article X, section 22 of the Missouri Constitution, if such tax rate does not exceed the highest tax rate in effect subsequent to the 1980 tax year]. This is the maximum tax rate that may be levied, unless a higher tax rate ceiling is approved by voters of the political subdivision as provided in this section;

(4) “Tax revenue”, when referring to the previous year, means the actual receipts from ad valorem levies on all classes of property, including state-assessed property, in the immediately preceding fiscal year of the political subdivision, plus an allowance for taxes billed but not collected in the fiscal year and plus an additional allowance for the revenue which would have been collected from property which was annexed by such political subdivision but which was not previously used in determining tax revenue pursuant to this section. The term “tax revenue” shall not include any receipts from ad valorem levies on any property of

a railroad corporation or a public utility, as these terms are defined in section 386.020, RSMo, which were assessed by the assessor of a county or city in the previous year but are assessed by the state tax commission in the current year. All school districts and those counties levying sales taxes pursuant to chapter 67, RSMo, shall include in the calculation of tax revenue an amount equivalent to that by which they reduced property tax levies as a result of sales tax pursuant to section 67.505, RSMo, and section 164.013, RSMo, or as excess home dock city or county fees as provided in subsection 4 of section 313.820, RSMo, in the immediately preceding fiscal year but not including any amount calculated to adjust for prior years. For purposes of political subdivisions which were authorized to levy a tax in the prior year but which did not levy such tax or levied a reduced rate, the term "tax revenue", as used in relation to the revision of tax levies mandated by law, shall mean the revenues equal to the amount that would have been available if the voluntary rate reduction had not been made.

2. Whenever changes in assessed valuation are entered in the assessor's books for any personal property, in the aggregate, or for any subclass of real property as such subclasses are established in section 4(b) of article X of the Missouri Constitution and defined in section 137.016, the county clerk in all counties and the assessor of St. Louis City shall notify each political subdivision wholly or partially within the county or St. Louis City of the change in valuation of each subclass of real property, individually, and personal property, in the aggregate, exclusive of new construction and improvements. All political subdivisions shall immediately revise the applicable rates of levy for each purpose for each subclass of real property, individually, and personal property, in the aggregate, for which taxes are levied to the extent necessary to produce from all taxable property, exclusive of new construction and improvements, substantially the same amount of tax revenue as was produced in the previous year for each subclass of real property, individually, and personal property, in the aggregate, except that the rate may not exceed the most recent voter-approved rate. Such tax revenue shall not include any receipts from ad valorem levies on any real property which was assessed by the assessor of a county or city in such previous year but is assessed by the assessor of a county or city in the current year in a different subclass of real property. Where the taxing authority is a school district for the purposes of revising the applicable rates of levy for each subclass of real property, the tax revenues from state-assessed railroad and utility property shall be apportioned and attributed to each subclass of real property based on the percentage of the total assessed valuation of the county that each subclass of real property represents in the current taxable year. As provided in section 22 of article X of the constitution, a political subdivision may also revise each levy to allow for inflationary assessment growth occurring within the political subdivision. The inflationary growth factor for any such subclass of real property or personal property shall be limited to the actual assessment growth in such subclass or class, exclusive of new construction and improvements, and exclusive of the assessed value on any real property which was assessed by the assessor of a county or city in the current year in a different subclass of real property, but not to exceed the consumer price index or five percent, whichever is lower. Should the tax revenue of a political subdivision from the various tax rates determined in this subsection be different than the tax revenue that would have been determined from a single tax rate as calculated pursuant to the method of calculation in this subsection prior to January 1, 2003, then the political subdivision shall revise the tax rates of those subclasses of real property, individually, and/or personal property, in the aggregate, in which there is a tax rate reduction, pursuant to the provisions of this subsection. Such revision shall yield an amount equal to such difference and shall be apportioned among such subclasses of real property, individually, and/or personal property, in the aggregate, based on the relative assessed valuation of the class or subclasses of property experiencing a tax rate reduction. Such revision in the tax rates of each class or subclass shall be made by computing the percentage of current year adjusted assessed valuation of each

class or subclass with a tax rate reduction to the total current year adjusted assessed valuation of the class or subclasses with a tax rate reduction, multiplying the resulting percentages by the revenue difference between the single rate calculation and the calculations pursuant to this subsection and dividing by the respective adjusted current year assessed valuation of each class or subclass to determine the adjustment to the rate to be levied upon each class or subclass of property. The adjustment computed herein shall be multiplied by one hundred, rounded to four decimals in the manner provided in this subsection, and added to the initial rate computed for each class or subclass of property. Notwithstanding any provision of this subsection to the contrary, no revision to the rate of levy for personal property shall cause such levy to increase over the levy for personal property from the prior year.

3. (1) Where the taxing authority is a school district, it shall be required to revise the rates of levy to the extent necessary to produce from all taxable property, including state-assessed railroad and utility property, which shall be separately estimated in addition to other data required in complying with section 164.011, RSMo, substantially the amount of tax revenue permitted in this section. In the year following tax rate reduction, the tax rate ceiling may be adjusted to offset such district's reduction in the apportionment of state school moneys due to its reduced tax rate. However, in the event any school district, in calculating a tax rate ceiling pursuant to this section, requiring the estimating of effects of state-assessed railroad and utility valuation or loss of state aid, discovers that the estimates used result in receipt of excess revenues, which would have required a lower rate if the actual information had been known, the school district shall reduce the tax rate ceiling in the following year to compensate for the excess receipts, and the recalculated rate shall become the tax rate ceiling for purposes of this section.

(2) For any political subdivision which experiences a reduction in the amount of assessed valuation relating to a prior year, due to decisions of the state tax commission or a court pursuant to sections 138.430 to 138.433, RSMo, or due to clerical errors or corrections in the calculation or recordation of any assessed valuation:

(a) Such political subdivision may revise the tax rate ceiling for each purpose it levies taxes to compensate for the reduction in assessed value occurring after the political subdivision calculated the tax rate ceiling for the particular subclass of real property or for personal property, in the aggregate, in a prior year. Such revision by the political subdivision shall be made at the time of the next calculation of the tax rate for the particular subclass of real property or for personal property, in the aggregate, after the reduction in assessed valuation has been determined and shall be calculated in a manner that results in the revised tax rate ceiling being the same as it would have been had the corrected or finalized assessment been available at the time of the prior calculation;

(b) In addition, for up to three years following the determination of the reduction in assessed valuation as a result of circumstances defined in this subdivision, such political subdivision may levy a tax rate for each purpose it levies taxes above the revised tax rate ceiling provided in paragraph (a) of this subdivision to recoup any revenues it was entitled to receive had the corrected or finalized assessment been available at the time of the prior calculation.

4. (1) In order to implement the provisions of this section and section 22 of article X of the Constitution of Missouri, the term "improvements" shall apply to both real and personal property. In order to determine the value of new construction and improvements, each county assessor shall maintain a record of real property valuations in such a manner as to identify each year the increase in valuation for each political subdivision in the county as a result of new construction and improvements. The value of new construction

and improvements shall include the additional assessed value of all improvements or additions to real property which were begun after and were not part of the prior year's assessment, except that the additional assessed value of all improvements or additions to real property which had been totally or partially exempt from ad valorem taxes pursuant to sections 99.800 to 99.865, RSMo, sections 135.200 to 135.255, RSMo, and section 353.110, RSMo, shall be included in the value of new construction and improvements when the property becomes totally or partially subject to assessment and payment of all ad valorem taxes. The aggregate increase in valuation of personal property for the current year over that of the previous year is the equivalent of the new construction and improvements factor for personal property. [Notwithstanding any opt-out implemented pursuant to subsection 15 of section 137.115,] The assessor shall certify the amount of new construction and improvements and the amount of assessed value on any real property which was assessed by the assessor of a county or city in such previous year but is assessed by the assessor of a county or city in the current year in a different subclass of real property separately for each of the three subclasses of real property for each political subdivision to the county clerk in order that political subdivisions shall have this information for the purpose of calculating tax rates pursuant to this section and section 22, article X, Constitution of Missouri. In addition, the state tax commission shall certify each year to each county clerk the increase in the general price level as measured by the Consumer Price Index for All Urban Consumers for the United States, or its successor publications, as defined and officially reported by the United States Department of Labor, or its successor agency. The state tax commission shall certify the increase in such index on the latest twelve-month basis available on February first of each year over the immediately preceding prior twelve-month period in order that political subdivisions shall have this information available in setting their tax rates according to law and section 22 of article X of the Constitution of Missouri. For purposes of implementing the provisions of this section and section 22 of article X of the Missouri Constitution, the term "property" means all taxable property, including state-assessed property.

(2) Each political subdivision required to revise rates of levy pursuant to this section or section 22 of article X of the Constitution of Missouri shall calculate each tax rate it is authorized to levy and, in establishing each tax rate, shall consider each provision for tax rate revision provided in this section and section 22 of article X of the Constitution of Missouri, separately and without regard to annual tax rate reductions provided in section 67.505, RSMo, and section 164.013, RSMo. Each political subdivision shall set each tax rate it is authorized to levy using the calculation that produces the lowest tax rate ceiling. It is further the intent of the general assembly, pursuant to the authority of section 10(c) of article X of the Constitution of Missouri, that the provisions of such section be applicable to tax rate revisions mandated pursuant to section 22 of article X of the Constitution of Missouri as to reestablishing tax rates as revised in subsequent years, enforcement provisions, and other provisions not in conflict with section 22 of article X of the Constitution of Missouri. Annual tax rate reductions provided in section 67.505, RSMo, and section 164.013, RSMo, shall be applied to the tax rate as established pursuant to this section and section 22 of article X of the Constitution of Missouri, unless otherwise provided by law.

5. (1) In all political subdivisions, the tax rate ceiling established pursuant to this section shall not be increased unless approved by a vote of the people. Approval of the higher tax rate shall be by at least a majority of votes cast. When a proposed higher tax rate requires approval by more than a simple majority pursuant to any provision of law or the constitution, the tax rate increase must receive approval by at least the majority required.

(2) When voters approve an increase in the tax rate, the amount of the increase shall be added to the tax rate ceiling as calculated pursuant to this section to the extent the total rate does not exceed any maximum rate prescribed by law. If a ballot question presents a stated tax rate for approval rather than

describing the amount of increase in the question, the stated tax rate approved shall be adjusted as provided in this section and, so adjusted, shall be the current tax rate ceiling. The increased tax rate ceiling as approved shall be adjusted such that when applied to the current total assessed valuation of the political subdivision, excluding new construction and improvements since the date of the election approving such increase, the revenue derived from the adjusted tax rate ceiling is equal to the sum of: the amount of revenue which would have been derived by applying the voter-approved increased tax rate ceiling to total assessed valuation of the political subdivision, as most recently certified by the city or county clerk on or before the date of the election in which such increase is approved, increased by the percentage increase in the consumer price index, as provided by law. Such adjusted tax rate ceiling may be applied to the total assessed valuation of the political subdivision at the setting of the next tax rate. If a ballot question presents a phased-in tax rate increase, upon voter approval, each tax rate increase shall be adjusted in the manner prescribed in this section to yield the sum of: the amount of revenue that would be derived by applying such voter-approved increased rate to the total assessed valuation, as most recently certified by the city or county clerk on or before the date of the election in which such increase was approved, increased by the percentage increase in the consumer price index, as provided by law, from the date of the election to the time of such increase and, so adjusted, shall be the current tax rate ceiling.

(3) The governing body of any political subdivision may levy a tax rate lower than its tax rate ceiling and may, in a nonreassessment year, increase that lowered tax rate to a level not exceeding the tax rate ceiling without voter approval in the manner provided under subdivision (4) of this subsection. Nothing in this section shall be construed as prohibiting a political subdivision from voluntarily levying a tax rate lower than that which is required under the provisions of this section or from seeking voter approval of a reduction to such political subdivision's tax rate ceiling.

(4) In a year of general reassessment, a governing body whose tax rate is lower than its tax rate ceiling shall revise its tax rate pursuant to the provisions of subsection 4 of this section as if its tax rate was at the tax rate ceiling. In a year following general reassessment, if such governing body intends to increase its tax rate, the governing body shall conduct a public hearing, and in a public meeting it shall adopt an ordinance, resolution, or policy statement justifying its action prior to setting and certifying its tax rate. The provisions of this subdivision shall not apply to any political subdivision which levies a tax rate lower than its tax rate ceiling solely due to a reduction required by law resulting from sales tax collections. The provisions of this subdivision shall not apply to any political subdivision which has received voter approval for an increase to its tax rate ceiling subsequent to setting its most recent tax rate.

6. (1) For the purposes of calculating state aid for public schools pursuant to section 163.031, RSMo, each taxing authority which is a school district shall determine its proposed tax rate as a blended rate of the classes or subclasses of property. Such blended rate shall be calculated by first determining the total tax revenue of the property within the jurisdiction of the taxing authority, which amount shall be equal to the sum of the products of multiplying the assessed valuation of each class and subclass of property by the corresponding tax rate for such class or subclass, then dividing the total tax revenue by the total assessed valuation of the same jurisdiction, and then multiplying the resulting quotient by a factor of one hundred. Where the taxing authority is a school district, such blended rate shall also be used by such school district for calculating revenue from state-assessed railroad and utility property as defined in chapter 151, RSMo, and for apportioning the tax rate by purpose.

(2) Each taxing authority proposing to levy a tax rate in any year shall notify the clerk of the county commission in the county or counties where the tax rate applies of its tax rate ceiling and its proposed tax

rate. Each taxing authority shall express its proposed tax rate in a fraction equal to the nearest one-tenth of a cent, unless its proposed tax rate is in excess of one dollar, then one/one-hundredth of a cent. If a taxing authority shall round to one/one-hundredth of a cent, it shall round up a fraction greater than or equal to five/one-thousandth of one cent to the next higher one/one-hundredth of a cent; if a taxing authority shall round to one-tenth of a cent, it shall round up a fraction greater than or equal to five/one-hundredths of a cent to the next higher one-tenth of a cent. Any taxing authority levying a property tax rate shall provide data, in such form as shall be prescribed by the state auditor by rule, substantiating such tax rate complies with Missouri law. All forms for the calculation of rates pursuant to this section shall be promulgated as a rule and shall not be incorporated by reference. The state auditor shall promulgate rules for any and all forms for the calculation of rates pursuant to this section which do not currently exist in rule form or that have been incorporated by reference. In addition, each taxing authority proposing to levy a tax rate for debt service shall provide data, in such form as shall be prescribed by the state auditor by rule, substantiating the tax rate for debt service complies with Missouri law. A tax rate proposed for annual debt service requirements will be prima facie valid if, after making the payment for which the tax was levied, bonds remain outstanding and the debt fund reserves do not exceed the following year's payments. The county clerk shall keep on file and available for public inspection all such information for a period of three years. The clerk shall, within three days of receipt, forward a copy of the notice of a taxing authority's tax rate ceiling and proposed tax rate and any substantiating data to the state auditor. The state auditor shall, within fifteen days of the date of receipt, examine such information and return to the county clerk his or her findings as to compliance of the tax rate ceiling with this section and as to compliance of any proposed tax rate for debt service with Missouri law. If the state auditor believes that a taxing authority's proposed tax rate does not comply with Missouri law, then the state auditor's findings shall include a recalculated tax rate, and the state auditor may request a taxing authority to submit documentation supporting such taxing authority's proposed tax rate. The county clerk shall immediately forward a copy of the auditor's findings to the taxing authority and shall file a copy of the findings with the information received from the taxing authority. The taxing authority shall have fifteen days from the date of receipt from the county clerk of the state auditor's findings and any request for supporting documentation to accept or reject in writing the rate change certified by the state auditor and to submit all requested information to the state auditor. A copy of the taxing authority's acceptance or rejection and any information submitted to the state auditor shall also be mailed to the county clerk. If a taxing authority rejects a rate change certified by the state auditor and the state auditor does not receive supporting information which justifies the taxing authority's original or any subsequent proposed tax rate, then the state auditor shall refer the perceived violations of such taxing authority to the attorney general's office and the attorney general is authorized to obtain injunctive relief to prevent the taxing authority from levying a violative tax rate.

7. No tax rate shall be extended on the tax rolls by the county clerk unless the political subdivision has complied with the foregoing provisions of this section.

8. Whenever a taxpayer has cause to believe that a taxing authority has not complied with the provisions of this section, the taxpayer may make a formal complaint with the prosecuting attorney of the county. Where the prosecuting attorney fails to bring an action within ten days of the filing of the complaint, the taxpayer may bring a civil action pursuant to this section and institute an action as representative of a class of all taxpayers within a taxing authority if the class is so numerous that joinder of all members is impracticable, if there are questions of law or fact common to the class, if the claims or defenses of the representative parties are typical of the claims or defenses of the class, and if the representative parties will fairly and adequately protect the interests of the class. In any class action maintained pursuant to this

section, the court may direct to the members of the class a notice to be published at least once each week for four consecutive weeks in a newspaper of general circulation published in the county where the civil action is commenced and in other counties within the jurisdiction of a taxing authority. The notice shall advise each member that the court will exclude him or her from the class if he or she so requests by a specified date, that the judgment, whether favorable or not, will include all members who do not request exclusion, and that any member who does not request exclusion may, if he or she desires, enter an appearance. In any class action brought pursuant to this section, the court, in addition to the relief requested, shall assess against the taxing authority found to be in violation of this section the reasonable costs of bringing the action, including reasonable attorney's fees, provided no attorney's fees shall be awarded any attorney or association of attorneys who receive public funds from any source for their services. Any action brought pursuant to this section shall be set for hearing as soon as practicable after the cause is at issue.

9. If in any action, including a class action, the court issues an order requiring a taxing authority to revise the tax rates as provided in this section or enjoins a taxing authority from the collection of a tax because of its failure to revise the rate of levy as provided in this section, any taxpayer paying his or her taxes when an improper rate is applied has erroneously paid his or her taxes in part, whether or not the taxes are paid under protest as provided in section 139.031, RSMo, or otherwise contested. The part of the taxes paid erroneously is the difference in the amount produced by the original levy and the amount produced by the revised levy. The township or county collector of taxes or the collector of taxes in any city shall refund the amount of the tax erroneously paid. The taxing authority refusing to revise the rate of levy as provided in this section shall make available to the collector all funds necessary to make refunds pursuant to this subsection. No taxpayer shall receive any interest on any money erroneously paid by him or her pursuant to this subsection. Effective in the 1994 tax year, nothing in this section shall be construed to require a taxing authority to refund any tax erroneously paid prior to or during the third tax year preceding the current tax year.

10. Any rule or portion of a rule, as that term is defined in section 536.010, RSMo, that is created under the authority delegated in this section shall become effective only if it complies with and is subject to all of the provisions of chapter 536, RSMo, and, if applicable, section 536.028, RSMo. This section and chapter 536, RSMo, are nonseverable and if any of the powers vested with the general assembly pursuant to chapter 536, RSMo, to review, to delay the effective date, or to disapprove and annul a rule are subsequently held unconstitutional, then the grant of rulemaking authority and any rule proposed or adopted after August 28, 2004, shall be invalid and void.

137.076. In establishing the value of a parcel of real property the county assessor shall consider **current market conditions, professional appraisals, and** previous decisions of the county board of equalization, the state tax commission or a court of competent jurisdiction that affected the value of such parcel. **For purposes of this section, the term “current market conditions”, shall mean the impact upon the housing market of foreclosures, bank sales and the average time homes remain on the market before a sale is consummated.”;** and

Further amend said bill, page 36, section 137.106, line 5, by inserting immediately after all of said line the following:

“137.115. 1. All other laws to the contrary notwithstanding, the assessor or the assessor's deputies in all counties of this state including the city of St. Louis shall annually make a list of all real and tangible personal property taxable in the assessor's city, county, town or district. Except as otherwise provided in

subsection 3 of this section and section 137.078, the assessor shall annually assess all personal property at thirty-three and one-third percent of its true value in money as of January first of each calendar year. **As provided in this section and section 137.123**, the assessor shall annually assess all real property, including any new construction and improvements to real property, and possessory interests in real property at the percent of its true value in money set in subsection 5 of this section. The true value in money of any possessory interest in real property in subclass (3), where such real property is on or lies within the ultimate airport boundary as shown by a federal airport layout plan, as defined by 14 CFR 151.5, of a commercial airport having a FAR Part 139 certification and owned by a political subdivision, shall be the otherwise applicable true value in money of any such possessory interest in real property, less the total dollar amount of costs paid by a party, other than the political subdivision, towards any new construction or improvements on such real property completed after January 1, 2008, and which are included in the above-mentioned possessory interest, regardless of the year in which such costs were incurred or whether such costs were considered in any prior year. The assessor shall annually assess all real property in the following manner: new assessed values shall be determined as of January first of each odd-numbered year and shall be entered in the assessor's books; those same assessed values shall apply in the following even-numbered year, except for new construction and property improvements which shall be valued as though they had been completed as of January first of the preceding odd-numbered year. The assessor may call at the office, place of doing business, or residence of each person required by this chapter to list property, and require the person to make a correct statement of all taxable tangible personal property owned by the person or under his or her care, charge or management, taxable in the county. On or before January first of each even-numbered year, the assessor shall prepare and submit a two-year assessment maintenance plan to the county governing body and the state tax commission for their respective approval or modification. The county governing body shall approve and forward such plan or its alternative to the plan to the state tax commission by February first. If the county governing body fails to forward the plan or its alternative to the plan to the state tax commission by February first, the assessor's plan shall be considered approved by the county governing body. If the state tax commission fails to approve a plan and if the state tax commission and the assessor and the governing body of the county involved are unable to resolve the differences, in order to receive state cost-share funds outlined in section 137.750, the county or the assessor shall petition the administrative hearing commission, by May first, to decide all matters in dispute regarding the assessment maintenance plan. Upon agreement of the parties, the matter may be stayed while the parties proceed with mediation or arbitration upon terms agreed to by the parties. The final decision of the administrative hearing commission shall be subject to judicial review in the circuit court of the county involved. In the event a valuation of subclass (1) real property within any county with a charter form of government, or within a city not within a county, is made by a computer, computer-assisted method or a computer program, the burden of proof, supported by clear, convincing and cogent evidence to sustain such valuation, shall be on the assessor at any hearing or appeal. In any such county, unless the assessor proves otherwise, there shall be a presumption that the assessment was made by a computer, computer-assisted method or a computer program. Such evidence shall include, but shall not be limited to, the following:

(1) The findings of the assessor based on an appraisal of the property by generally accepted appraisal techniques; and

(2) The purchase prices from sales of at least three comparable properties and the address or location thereof. As used in this subdivision, the word "comparable" means that:

(a) Such sale was closed at a date relevant to the property valuation; and

(b) Such properties are not more than one mile from the site of the disputed property, except where no similar properties exist within one mile of the disputed property, the nearest comparable property shall be used. Such property shall be within five hundred square feet in size of the disputed property, and resemble the disputed property in age, floor plan, number of rooms, and other relevant characteristics.

2. Assessors in each county of this state and the city of St. Louis may send personal property assessment forms through the mail.

3. The following items of personal property shall each constitute separate subclasses of tangible personal property and shall be assessed and valued for the purposes of taxation at the following percentages of their true value in money:

(1) Grain and other agricultural crops in an unmanufactured condition, one-half of one percent;

(2) Livestock, twelve percent;

(3) Farm machinery, twelve percent;

(4) Motor vehicles which are eligible for registration as and are registered as historic motor vehicles pursuant to section 301.131, RSMo, and aircraft which are at least twenty-five years old and which are used solely for noncommercial purposes and are operated less than fifty hours per year or aircraft that are home built from a kit, five percent;

(5) Poultry, twelve percent; and

(6) Tools and equipment used for pollution control and tools and equipment used in retooling for the purpose of introducing new product lines or used for making improvements to existing products by any company which is located in a state enterprise zone and which is identified by any standard industrial classification number cited in subdivision (6) of section 135.200, RSMo, twenty-five percent.

4. The person listing the property shall enter a true and correct statement of the property, in a printed blank prepared for that purpose. The statement, after being filled out, shall be signed and either affirmed or sworn to as provided in section 137.155. The list shall then be delivered to the assessor.

5. All subclasses of real property, as such subclasses are established in section 4(b) of article X of the Missouri Constitution and defined in section 137.016, shall be assessed at the following percentages of true value:

(1) For real property in subclass (1), nineteen percent;

(2) For real property in subclass (2), twelve percent; and

(3) For real property in subclass (3), thirty-two percent.

6. Manufactured homes, as defined in section 700.010, RSMo, which are actually used as dwelling units shall be assessed at the same percentage of true value as residential real property for the purpose of taxation. The percentage of assessment of true value for such manufactured homes shall be the same as for residential real property. If the county collector cannot identify or find the manufactured home when attempting to attach the manufactured home for payment of taxes owed by the manufactured home owner, the county collector may request the county commission to have the manufactured home removed from the tax books, and such request shall be granted within thirty days after the request is made; however, the removal from the tax books does not remove the tax lien on the manufactured home if it is later identified or found. A manufactured home located in a manufactured home rental park, rental community or on real estate not

owned by the manufactured home owner shall be considered personal property. A manufactured home located on real estate owned by the manufactured home owner may be considered real property.

7. Each manufactured home assessed shall be considered a parcel for the purpose of reimbursement pursuant to section 137.750, unless the manufactured home has been converted to real property in compliance with section 700.111, RSMo, and assessed as a realty improvement to the existing real estate parcel.

8. Any amount of tax due and owing based on the assessment of a manufactured home shall be included on the personal property tax statement of the manufactured home owner unless the manufactured home has been converted to real property in compliance with section 700.111, RSMo, in which case the amount of tax due and owing on the assessment of the manufactured home as a realty improvement to the existing real estate parcel shall be included on the real property tax statement of the real estate owner.

9. The assessor of each county and each city not within a county shall use the trade-in value published in the October issue of the National Automobile Dealers' Association Official Used Car Guide, or its successor publication, as the recommended guide of information for determining the true value of motor vehicles described in such publication. In the absence of a listing for a particular motor vehicle in such publication, the assessor shall use such information or publications which in the assessor's judgment will fairly estimate the true value in money of the motor vehicle.

10. Before the assessor may increase the assessed valuation of any parcel of subclass (1) real property by more than fifteen percent since the last assessment, excluding increases due to new construction or improvements, the assessor shall conduct a physical inspection of such property.

11. If a physical inspection is required, pursuant to subsection 10 of this section, the assessor shall notify the property owner of that fact in writing and shall provide the owner clear written notice of the owner's rights relating to the physical inspection. If a physical inspection is required, the property owner may request that an interior inspection be performed during the physical inspection. The owner shall have no less than thirty days to notify the assessor of a request for an interior physical inspection.

12. A physical inspection, as required by subsection 10 of this section, shall include, but not be limited to, an on-site personal observation and review of all exterior portions of the land and any buildings and improvements to which the inspector has or may reasonably and lawfully gain external access, and shall include an observation and review of the interior of any buildings or improvements on the property upon the timely request of the owner pursuant to subsection 11 of this section. Mere observation of the property via a drive-by inspection or the like shall not be considered sufficient to constitute a physical inspection as required by this section.

13. The provisions of subsections 11 and 12 of this section shall only apply in any county with a charter form of government with more than one million inhabitants.

14. A county or city collector may accept credit cards as proper form of payment of outstanding property tax or license due. No county or city collector may charge surcharge for payment by credit card which exceeds the fee or surcharge charged by the credit card bank, processor, or issuer for its service. A county or city collector may accept payment by electronic transfers of funds in payment of any tax or license and charge the person making such payment a fee equal to the fee charged the county by the bank, processor, or issuer of such electronic payment.

15. [Any] **Every** county [or] **and** city not within a county in this state [may, by an affirmative vote of

the governing body of such county, opt out of] **shall be subject to** the provisions of this section and sections 137.073, **137.123**, 138.060, and 138.100, RSMo, [as enacted by house bill no. 1150 of the ninety-first general assembly, second regular session and section 137.073 as modified by house committee substitute for senate substitute for senate committee substitute for senate bill no. 960, ninety-second general assembly, second regular session, for the next year of the general reassessment, prior to January first of any year. No county or city not within a county shall exercise this opt-out provision after implementing the provisions of this section and sections 137.073, 138.060, and 138.100, RSMo, as enacted by house bill no. 1150 of the ninety-first general assembly, second regular session and section 137.073 as modified by house committee substitute for senate substitute for senate committee substitute for senate bill no. 960, ninety-second general assembly, second regular session, in a year of general reassessment. For the purposes of applying the provisions of this subsection, a political subdivision contained within two or more counties where at least one of such counties has opted out and at least one of such counties has not opted out shall calculate a single tax rate as in effect prior to the enactment of house bill no. 1150 of the ninety-first general assembly, second regular session. A governing body of a city not within a county or a county that has opted out under the provisions of this subsection may choose to implement the provisions of this section and sections 137.073, 138.060, and 138.100, RSMo, as enacted by house bill no. 1150 of the ninety-first general assembly, second regular session, and section 137.073 as modified by house committee substitute for senate substitute for senate committee substitute for senate bill no. 960, ninety-second general assembly, second regular session, for the next year of general reassessment, by an affirmative vote of the governing body prior to December thirty-first of any year.

16. The governing body of any city of the third classification with more than twenty-six thousand three hundred but fewer than twenty-six thousand seven hundred inhabitants located in any county that has exercised its authority to opt out under subsection 15 of this section may levy separate and differing tax rates for real and personal property only if such city bills and collects its own property taxes or satisfies the entire cost of the billing and collection of such separate and differing tax rates. Such separate and differing rates shall not exceed such city's tax rate ceiling].” and further amend said bill, Page 37, Section 137.121, Line 24, by inserting after all of said line the following:

137.123. 1. The assessor of each county of this state and any city not within a county shall reassess residential real property every odd numbered year as provided under this section, and shall consider current market conditions in making such reassessments. Where appropriate, assessors shall decrease assessed values to accurately reflect fair market value.

2. During any year of general reassessment, the assessed value of property, which is not subject to a transfer of ownership and is in subclass 1 of class 1 provided under article X, sections 4 (a) and (b) of the Missouri Constitution, shall not increase due to reassessment, excluding new construction and improvement, by a percentage greater than the lesser of the percentage increase in the Consumer Price Index for the Midwest Region or two percent. Upon transfer of ownership of a property, such property shall be reassessed at the percentage provided under section 137.115 of the property's true value. For purposes of this section, the term “transfer of ownership” shall not include:

(1) Conveyances of residential real property between individuals within the second degree of consanguinity;

(2) The sale of residential real property and subsequent purchase of another parcel of residential real property located within the same county, by a person age fifty-five years or older, provided the

newly acquired property's value is not more than one million dollars more than the market value of the previously owned property.

3. Where a taxpayer disputes an assessor's determination of assessed valuation for a parcel of residential real property owned by such taxpayer, the submission of an appraised value of such property, determined by a certified appraiser, shall be deemed the true value of money of such property and shall constitute the basis for determining the assessed value of such property. For purposes of this subsection the term "certified appraiser" shall mean any assessor who is a member of the National Association of Master Appraisers or is licensed or certified under the provisions of sections 339.500 to 339.549, RSMo. An appraisal determined by a certified appraiser shall be valid, for purposes of this section, for a period of not more than twelve months from the date of appraisal."; and

Further amend said bill, page 52, section 138.380, Line 5, by inserting immediately after the word "law" the following:

“; and

(6) To develop and provide to the assessors of the counties of this state and any assessors of any city not within a county documents, informational pamphlets to be provided by such assessors with the notices required under the provisions of subsections 2 and 3 of section 137.180, subsection 2 of section 137.355, and subsection 2 of section 137.490, which shall provide taxpayers specific information regarding their right to appeal the determination of assessed value, the time limitations for such appeals, and relevant contact information to aid such taxpayers appealing assessments. Such documents shall be provided by the commission to the assessors of this state at no charge and in an amount sufficient to guarantee that all registered taxpayers within the state are apprised of their appellate rights under Missouri property tax law”; and

Further amend said bill, Page 58, Section B, Line 21 of said page, by inserting after all of said line the following:

“Section C. The repeal and reenactment of sections 137.073, 137.076, and 137.115 and the enactment of section 137.123 of this act shall become effective only upon passage of a constitutional amendment limiting increases in assessed value of residential real property, due to reassessment, until a transfer of ownership occurs.”; and

Further amend the title and enacting clause accordingly.

Senator Cunningham moved that the above amendment be adopted.

Senator Lager offered **SSA 1** for **SA 1**:

**SENATE SUBSTITUTE AMENDMENT NO. 1 FOR
SENATE AMENDMENT NO. 1**

Amend Senate Substitute No. 2 for Senate Committee Substitute for Senate Bill No. 174, Page 8, Section 137.073, Line 16, by inserting immediately after the word “that” the following:

“for all tax years beginning on or after January 1, 2009 but ending on or before December 31, 2013,”; and

Further amend said bill, section and page, line 17, by inserting immediately after the word “rate.” the

following:

“For all tax years beginning on or after January 1, 2014, all political subdivisions shall immediately revise the applicable rates of levy for each purpose for each subclass of real property, individually, and personal property, in the aggregate, for which taxes are levied to the extent necessary to produce from all taxable property, exclusive of new construction and improvements, substantially the same amount of tax revenue as was produced in the previous year for each subclass of real property, individually, and personal property, in the aggregate, except that the rate may not exceed the most recent voter-approved rate.”; and

Further amend said bill and section, page 9, line 4 by inserting immediately after the word “year.” the following:

“Provisions of section 163.021, RSMo, to the contrary notwithstanding, for all tax years beginning on or after January 1, 2014, any school district may levy the operating levy for school purposes required for the current year pursuant to subsection 2 of section 163.021, RSMo, less all adjustments required pursuant to article X, section 22 of the Missouri constitution and under subdivision 4 of subsection 5 of this section if such tax rate does not exceed the most recent voter-approved tax rate.”.

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

Senator Cunningham offered SA 2:

SENATE AMENDMENT NO. 2

Amend Senate Substitute No. 2 for Senate Committee Substitute for Senate Bill No. 174, Page 13, Section 137.073, Line 12, by inserting immediately before the word “Notwithstanding” the following: “[”]; and further amend line 13 by inserting after the number “137.115,” the following: “]”]; and

Further amend said bill and section, page 22, line 20, by inserting immediately after all of said line the following:

“137.076. In establishing the value of a parcel of real property the county assessor shall consider current market conditions, professional appraisals, and previous decisions of the county board of equalization, the state tax commission or a court of competent jurisdiction that affected the value of such parcel. For purposes of this section, the term “current market conditions”, shall mean the impact upon the housing market of foreclosures, bank sales and the average time homes remain on the market before a sale is consummated.”; and

Further amend said bill, page 36, section 137.106, line 5, by inserting immediately after all of said line the following:

“137.115. 1. All other laws to the contrary notwithstanding, the assessor or the assessor's deputies in all counties of this state including the city of St. Louis shall annually make a list of all real and tangible personal property taxable in the assessor's city, county, town or district. Except as otherwise provided in subsection 3 of this section and section 137.078, the assessor shall annually assess all personal property at thirty-three and one-third percent of its true value in money as of January first of each calendar year. As provided in this section and section 137.123, the assessor shall annually assess all real property, including any new construction and improvements to real property, and possessory interests in real property at the percent of its true value in money set in subsection 5 of this section. The true value in money of any possessory interest in real property in subclass (3), where such real property is on or lies within the ultimate

airport boundary as shown by a federal airport layout plan, as defined by 14 CFR 151.5, of a commercial airport having a FAR Part 139 certification and owned by a political subdivision, shall be the otherwise applicable true value in money of any such possessory interest in real property, less the total dollar amount of costs paid by a party, other than the political subdivision, towards any new construction or improvements on such real property completed after January 1, 2008, and which are included in the above-mentioned possessory interest, regardless of the year in which such costs were incurred or whether such costs were considered in any prior year. The assessor shall annually assess all real property in the following manner: new assessed values shall be determined as of January first of each odd-numbered year and shall be entered in the assessor's books; those same assessed values shall apply in the following even-numbered year, except for new construction and property improvements which shall be valued as though they had been completed as of January first of the preceding odd-numbered year. The assessor may call at the office, place of doing business, or residence of each person required by this chapter to list property, and require the person to make a correct statement of all taxable tangible personal property owned by the person or under his or her care, charge or management, taxable in the county. On or before January first of each even-numbered year, the assessor shall prepare and submit a two-year assessment maintenance plan to the county governing body and the state tax commission for their respective approval or modification. The county governing body shall approve and forward such plan or its alternative to the plan to the state tax commission by February first. If the county governing body fails to forward the plan or its alternative to the plan to the state tax commission by February first, the assessor's plan shall be considered approved by the county governing body. If the state tax commission fails to approve a plan and if the state tax commission and the assessor and the governing body of the county involved are unable to resolve the differences, in order to receive state cost-share funds outlined in section 137.750, the county or the assessor shall petition the administrative hearing commission, by May first, to decide all matters in dispute regarding the assessment maintenance plan. Upon agreement of the parties, the matter may be stayed while the parties proceed with mediation or arbitration upon terms agreed to by the parties. The final decision of the administrative hearing commission shall be subject to judicial review in the circuit court of the county involved. In the event a valuation of subclass (1) real property within any county with a charter form of government, or within a city not within a county, is made by a computer, computer-assisted method or a computer program, the burden of proof, supported by clear, convincing and cogent evidence to sustain such valuation, shall be on the assessor at any hearing or appeal. In any such county, unless the assessor proves otherwise, there shall be a presumption that the assessment was made by a computer, computer-assisted method or a computer program. Such evidence shall include, but shall not be limited to, the following:

(1) The findings of the assessor based on an appraisal of the property by generally accepted appraisal techniques; and

(2) The purchase prices from sales of at least three comparable properties and the address or location thereof. As used in this subdivision, the word "comparable" means that:

(a) Such sale was closed at a date relevant to the property valuation; and

(b) Such properties are not more than one mile from the site of the disputed property, except where no similar properties exist within one mile of the disputed property, the nearest comparable property shall be used. Such property shall be within five hundred square feet in size of the disputed property, and resemble the disputed property in age, floor plan, number of rooms, and other relevant characteristics.

2. Assessors in each county of this state and the city of St. Louis may send personal property assessment forms through the mail.

3. The following items of personal property shall each constitute separate subclasses of tangible personal property and shall be assessed and valued for the purposes of taxation at the following percentages of their true value in money:

(1) Grain and other agricultural crops in an unmanufactured condition, one-half of one percent;

(2) Livestock, twelve percent;

(3) Farm machinery, twelve percent;

(4) Motor vehicles which are eligible for registration as and are registered as historic motor vehicles pursuant to section 301.131, RSMo, and aircraft which are at least twenty-five years old and which are used solely for noncommercial purposes and are operated less than fifty hours per year or aircraft that are home built from a kit, five percent;

(5) Poultry, twelve percent; and

(6) Tools and equipment used for pollution control and tools and equipment used in retooling for the purpose of introducing new product lines or used for making improvements to existing products by any company which is located in a state enterprise zone and which is identified by any standard industrial classification number cited in subdivision (6) of section 135.200, RSMo, twenty-five percent.

4. The person listing the property shall enter a true and correct statement of the property, in a printed blank prepared for that purpose. The statement, after being filled out, shall be signed and either affirmed or sworn to as provided in section 137.155. The list shall then be delivered to the assessor.

5. All subclasses of real property, as such subclasses are established in section 4(b) of article X of the Missouri Constitution and defined in section 137.016, shall be assessed at the following percentages of true value:

(1) For real property in subclass (1), nineteen percent;

(2) For real property in subclass (2), twelve percent; and

(3) For real property in subclass (3), thirty-two percent.

6. Manufactured homes, as defined in section 700.010, RSMo, which are actually used as dwelling units shall be assessed at the same percentage of true value as residential real property for the purpose of taxation. The percentage of assessment of true value for such manufactured homes shall be the same as for residential real property. If the county collector cannot identify or find the manufactured home when attempting to attach the manufactured home for payment of taxes owed by the manufactured home owner, the county collector may request the county commission to have the manufactured home removed from the tax books, and such request shall be granted within thirty days after the request is made; however, the removal from the tax books does not remove the tax lien on the manufactured home if it is later identified or found. A manufactured home located in a manufactured home rental park, rental community or on real estate not owned by the manufactured home owner shall be considered personal property. A manufactured home located on real estate owned by the manufactured home owner may be considered real property.

7. Each manufactured home assessed shall be considered a parcel for the purpose of reimbursement pursuant to section 137.750, unless the manufactured home has been converted to real property in compliance with section 700.111, RSMo, and assessed as a realty improvement to the existing real estate parcel.

8. Any amount of tax due and owing based on the assessment of a manufactured home shall be included on the personal property tax statement of the manufactured home owner unless the manufactured home has been converted to real property in compliance with section 700.111, RSMo, in which case the amount of tax due and owing on the assessment of the manufactured home as a realty improvement to the existing real estate parcel shall be included on the real property tax statement of the real estate owner.

9. The assessor of each county and each city not within a county shall use the trade-in value published in the October issue of the National Automobile Dealers' Association Official Used Car Guide, or its successor publication, as the recommended guide of information for determining the true value of motor vehicles described in such publication. In the absence of a listing for a particular motor vehicle in such publication, the assessor shall use such information or publications which in the assessor's judgment will fairly estimate the true value in money of the motor vehicle.

10. Before the assessor may increase the assessed valuation of any parcel of subclass (1) real property by more than fifteen percent since the last assessment, excluding increases due to new construction or improvements, the assessor shall conduct a physical inspection of such property.

11. If a physical inspection is required, pursuant to subsection 10 of this section, the assessor shall notify the property owner of that fact in writing and shall provide the owner clear written notice of the owner's rights relating to the physical inspection. If a physical inspection is required, the property owner may request that an interior inspection be performed during the physical inspection. The owner shall have no less than thirty days to notify the assessor of a request for an interior physical inspection.

12. A physical inspection, as required by subsection 10 of this section, shall include, but not be limited to, an on-site personal observation and review of all exterior portions of the land and any buildings and improvements to which the inspector has or may reasonably and lawfully gain external access, and shall include an observation and review of the interior of any buildings or improvements on the property upon the timely request of the owner pursuant to subsection 11 of this section. Mere observation of the property via a drive-by inspection or the like shall not be considered sufficient to constitute a physical inspection as required by this section.

13. The provisions of subsections 11 and 12 of this section shall only apply in any county with a charter form of government with more than one million inhabitants.

14. A county or city collector may accept credit cards as proper form of payment of outstanding property tax or license due. No county or city collector may charge surcharge for payment by credit card which exceeds the fee or surcharge charged by the credit card bank, processor, or issuer for its service. A county or city collector may accept payment by electronic transfers of funds in payment of any tax or license and charge the person making such payment a fee equal to the fee charged the county by the bank, processor, or issuer of such electronic payment.

15. [Any] **Every** county [or] **and** city not within a county in this state [may, by an affirmative vote of the governing body of such county, opt out of] **shall be subject to** the provisions of this section and sections 137.073, **137.123**, 138.060, and 138.100, RSMo, [as enacted by house bill no. 1150 of the ninety-first general assembly, second regular session and section 137.073 as modified by house committee substitute for senate substitute for senate committee substitute for senate bill no. 960, ninety-second general assembly, second regular session, for the next year of the general reassessment, prior to January first of any year. No county or city not within a county shall exercise this opt-out provision after implementing the provisions of this section and sections 137.073, 138.060, and 138.100, RSMo, as enacted by house bill no. 1150 of the

ninety-first general assembly, second regular session and section 137.073 as modified by house committee substitute for senate substitute for senate committee substitute for senate bill no. 960, ninety-second general assembly, second regular session, in a year of general reassessment. For the purposes of applying the provisions of this subsection, a political subdivision contained within two or more counties where at least one of such counties has opted out and at least one of such counties has not opted out shall calculate a single tax rate as in effect prior to the enactment of house bill no. 1150 of the ninety-first general assembly, second regular session. A governing body of a city not within a county or a county that has opted out under the provisions of this subsection may choose to implement the provisions of this section and sections 137.073, 138.060, and 138.100, RSMo, as enacted by house bill no. 1150 of the ninety-first general assembly, second regular session, and section 137.073 as modified by house committee substitute for senate substitute for senate committee substitute for senate bill no. 960, ninety-second general assembly, second regular session, for the next year of general reassessment, by an affirmative vote of the governing body prior to December thirty-first of any year.

16. The governing body of any city of the third classification with more than twenty-six thousand three hundred but fewer than twenty-six thousand seven hundred inhabitants located in any county that has exercised its authority to opt out under subsection 15 of this section may levy separate and differing tax rates for real and personal property only if such city bills and collects its own property taxes or satisfies the entire cost of the billing and collection of such separate and differing tax rates. Such separate and differing rates shall not exceed such city's tax rate ceiling]."; and

Further amend said bill, section 137.121, page 37, line 24, by inserting immediately after all of said line the following:

"137.123. 1. The assessor of each county of this state and any city not within a county shall reassess residential real property every odd numbered year as provided under this section, and shall consider current market conditions in making such reassessments. Where appropriate, assessors shall decrease assessed values to accurately reflect fair market value.

2. During any year of general reassessment, the assessed value of property, which is not subject to a transfer of ownership and is in subclass 1 of class 1 provided under article X, sections 4 (a) and (b) of the Missouri Constitution, shall not increase due to reassessment, excluding new construction and improvement, by a percentage greater than the lesser of the percentage increase in the Consumer Price Index for the Midwest Region or two percent. Upon transfer of ownership of a property, such property shall be reassessed at the percentage provided under section 137.115 of the property's true value. For purposes of this section, the term "transfer of ownership" shall not include:

(1) Conveyances of residential real property between individuals within the second degree of consanguinity;

(2) The sale of residential real property and subsequent purchase of another parcel of residential real property located within the same county, by a person age fifty-five years or older, provided the newly acquired property's value is not more than one million dollars more than the market value of the previously owned property.

3. Where a taxpayer disputes an assessor's determination of assessed valuation for a parcel of residential real property owned by such taxpayer, the submission of an appraised value of such property, determined by a certified appraiser, shall be deemed the true value of money of such property and shall constitute the basis for determining the assessed value of such property. For

purposes of this subsection the term “certified appraiser” shall mean any assessor who is a member of the National Association of Master Appraisers or is licensed or certified under the provisions of sections 339.500 to 339.549, RSMo. An appraisal determined by a certified appraiser shall be valid, for purposes of this section, for a period of not more than twelve months from the date of appraisal.”; and

Further amend said bill, page 52, section 138.380, Line 5, by inserting immediately after the word “law” the following:

“; and

(6) To develop and provide to the assessors of the counties of this state and any assessors of any city not within a county documents, informational pamphlets to be provided by such assessors with the notices required under the provisions of subsections 2 and 3 of section 137.180, subsection 2 of section 137.355, and subsection 2 of section 137.490, which shall provide taxpayers specific information regarding their right to appeal the determination of assessed value, the time limitations for such appeals, and relevant contact information to aid such taxpayers appealing assessments. Such documents shall be provided by the commission to the assessors of this state at no charge and in an amount sufficient to guarantee that all registered taxpayers within the state are apprised of their appellate rights under Missouri property tax law”; and

Further amend said bill, Page 58, Section B, Line 21 of said page, by inserting after all of said line the following:

“Section C. The repeal and reenactment of sections 137.076, and 137.115 and the enactment of section 137.123 of this act shall become effective only upon passage of a constitutional amendment limiting increases in assessed value of residential real property, due to reassessment, until a transfer of ownership occurs.”; and

Further amend the title and enacting clause accordingly.

Senator Cunningham moved that the above amendment be adopted.

At the request of Senator Griesheimer, **SB 174**, with **SCS**, **SS No. 2** for **SCS** and **SA 2** (pending), was placed on the Informal Calendar.

REPORTS OF STANDING COMMITTEES

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

Mr. President: Your Committee on Rules, Joint Rules, Resolutions and Ethics, to which were referred **SB 235**; **SCS** for **SB 44**; **SCS** for **SB 202**; and **SCS** for **SB 231**, begs leave to report that it has examined the same and finds that the bills have been truly perfected and that the printed copies furnished the Senators are correct.

Also,

Mr. President: Your Committee on Rules, Joint Rules, Resolutions and Ethics, to which was referred **HCS** for **SCS** for **SB 313**, begs leave to report that it has examined the same and finds that the bill has been duly enrolled and that the printed copies furnished the Senators are correct.

President Pro Tem Shields assumed the Chair.

SIGNING OF BILLS

The President Pro Tem announced that all other business would be suspended and **HCS** for **SCS** for **SB 313**, having passed both branches of the General Assembly, would be read at length by the Secretary, and if no objections be made, the bill would be signed by the President Pro Tem to the end that it may become law. No objections being made, the bill was so read by the Secretary and signed by the President Pro Tem.

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 adopted **HCS** for **HCR 4**.

HOUSE COMMITTEE SUBSTITUTE FOR
HOUSE CONCURRENT RESOLUTION NO. 4

Whereas, dogs play an important role in the lives of many Missouri citizens by serving as companions, therapy dogs, and service dogs; and

Whereas, it is recognized that dog related problems are most often caused by irresponsible owners; and

Whereas, responsible dog ownership is encouraged in Missouri and responsible owners should properly control and provide adequate training for their dogs; and

Whereas, Canine Good Citizen programs identify and officially recognize those dogs who behave as members in good standing with the community; and

Whereas, the Canine Good Citizen Program which was developed by the American Kennel Club teaches pet owners that dogs should exhibit "good citizen" behaviors in the presence of other people and animals, in both the home and the community; and

Whereas, children and adults of all ages participate in Canine Good Citizen classes to learn the skills involved in responsible dog ownership; and

Whereas, with dog bites and animal concerns on the rise, there is a real need for dogs to remain well-behaved canine community members:

Now, therefore, be it resolved that the members of the House of Representatives of the Ninety-fifth General Assembly, First Regular Session, the Senate concurring therein, hereby encourage dog training programs and kennel clubs to provide training and education for community pet owners that result in dogs being "Canine Good Citizens".

In which the concurrence of the Senate is respectfully requested.

Also,

Mr. President: I am instructed by the House of Representatives to inform the Senate that the House has taken up and passed **HCS** for **HB 111**, entitled:

An Act to amend chapter 194, RSMo, by adding thereto one new section relating to the disposal of unclaimed veterans' remains.

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 289**, entitled:

An Act to repeal sections 162.961 and 162.963, RSMo, and to enact in lieu thereof two sections relating to special education due process hearings.

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 682**, entitled:

An Act to repeal section 171.033, RSMo, and to enact in lieu thereof one new section relating to loss of attendance due to inclement weather, with an emergency clause.

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 **HCS for HB 286**, entitled:

An Act to repeal sections 192.667 and 197.150, RSMo, and to enact in lieu thereof two new sections relating to infections, with a penalty provision.

In which the concurrence of the Senate is respectfully requested.

Read 1st time.

On motion of Senator Engler, the Senate recessed until 4:00 p.m.

RECESS

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

RESOLUTIONS

Senator Shoemyer offered Senate Resolution No. 510, regarding Carole Jo Riley, Hannibal, which was adopted.

Senator Shoemyer offered Senate Resolution No. 511, regarding Corrections Officer I Gary Yokem, Pleasant Hill, Illinois, which was adopted.

Senator Pearce offered Senate Resolution No. 512, regarding Brigadier General Garrett Harencak, which was adopted.

Senator Crowell offered Senate Resolution No. 513, regarding Mr. and Mrs. Thomas Andrew Hoffmeister, which was adopted.

Senator Crowell offered Senate Resolution No. 514, regarding the Fifty-fifth Wedding Anniversary of Mr. and Mrs. Cletus Reutzel, Jackson, which was adopted.

SENATE BILLS FOR PERFECTION

Senator Griesheimer moved that **SB 174**, with **SCS**, **SS No. 2** 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 Griesheimer raised the point of order that SA 2 is out of order as it is dilatory.

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

At the request of Senator Griesheimer, SB 174, with SCS, SS No. 2 for SCS and SA 2 (pending) was placed on the Informal Calendar.

Senator Stouffer moved that SB 58 be called from the Informal Calendar and taken up for perfection, which motion prevailed.

Senator Stouffer offered SS for SB 58, entitled:

SENATE SUBSTITUTE FOR
SENATE BILL NO. 58

An Act to repeal sections 21.795, 23.140, 226.030, 301.3150, 301.3152, 301.3154, 302.230, 302.341, 302.545, 302.700, 302.735, 302.755, 302.775, 304.155, 306.535, 311.326, and 387.040, RSMo, and to enact in lieu thereof eighteen new sections relating to transportation, with penalty provisions.

Senator Stouffer moved that SS for SB 58 be adopted.

Senator Green offered SA 1:

SENATE AMENDMENT NO. 1

Amend Senate Substitute for Senate Bill No. 58, Page 59, Section 387.040, Line 3, by inserting after all of said line the following:

“389.948. 1. The provisions of this section shall only apply to contract carriers that transport railroad employees under the terms of a contractual agreement with a railroad corporation on a road or highway of this state in a vehicle designed to carry eight or fewer passengers, including the driver. As used in this section, the term “contract carrier” has the meaning set forth in section 390.020, RSMo.

2. A contract carrier that transports railroad employees shall limit the hours of service by a driver who transports railroad employees to sixteen hours of total on-duty time within any twenty-four hour period.

3. A contract carrier that transports railroad employees shall make a concerted effort to provide a rest period of at least eight consecutive hours off duty for a driver who transports railroad employees and has accumulated sixteen hours of total on-duty time within any twenty-four hour period before allowing the driver to operate a vehicle under his or her employ again whenever practical.

4. A contract carrier who transports railroad employees shall maintain individualized daily time records for a minimum of six months indicating the time or times all for-hire motor carrier drivers employed by them reported for duty and the corresponding time or times of relief for each tour of duty. All records required to be maintained under this section shall be made available for inspection to the director of the department of transportation or the director's designee.

5. The provisions established in this section shall be considered minimum standards and shall not be construed to supercede or abrogate any law, rule, or regulation which imposes stricter standards

or regulations upon the operation of contract carriers that transport railroad employees.

6. The Missouri highways and transportation commission shall promulgate rules and regulations to implement and administer the provisions of this section. Any rule or portion of a rule, as that term is defined in section 536.010, RSMo, that is created under the authority delegated in this section shall become effective only if it complies with and is subject to all of the provisions of chapter 536, RSMo, and, if applicable, section 536.028, RSMo. This section and chapter 536, RSMo, are nonseverable and if any of the powers vested with the general assembly pursuant to chapter 536, RSMo, to review, to delay the effective date, or to disapprove and annul a rule are subsequently held unconstitutional, then the grant of rulemaking authority and any rule proposed or adopted after August 28, 2009, shall be invalid and void.”; and

Further amend the title and enacting clause accordingly.

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

Senator Purgason offered SA 2:

SENATE AMENDMENT NO. 2

Amend Senate Substitute for Senate Bill No. 58, Pages 56-57, Section 306.535, by striking all of said section from the bill; and further amend the title and enacting clause accordingly.

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

Senator Lembke offered SA 3:

SENATE AMENDMENT NO. 3

Amend Senate Substitute for Senate Bill No. 58, Page 55, Section 304.155, Line 11, by inserting after all of said line the following:

“304.284. No automated photo red light enforcement system summons or citation may be issued unless a law enforcement officer located within the municipality employing the use of an automated photo red light system can clearly identify a violation of a traffic control signal and can make a positive identification of the driver of the vehicle. As used in this section, the term “automated photo red light enforcement system” shall mean a device, consisting of a camera or cameras and a vehicle sensor or sensors, installed to work in conjunction with a traffic control signal, which is used to produce recorded images of motor vehicles entering an intersection against a red signal indication.”; and

Further amend the title and enacting clause accordingly.

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

Senator Dempsey assumed the Chair.

Senator Barnitz offered SA 4:

SENATE AMENDMENT NO. 4

Amend Senate Substitute for Senate Bill No. 58, Page 55, Section 304.155, Line 11, by inserting after all of said line the following:

“304.170. 1. No vehicle operated upon the highways of this state shall have a width, including load, in

excess of one hundred two inches, except clearance lights, rearview mirrors or other accessories required by federal, state or city law or regulation. Provided however, a recreational vehicle as defined in section 700.010, RSMo, may exceed the foregoing width limits if the appurtenances on such recreational vehicle extend no further than the rearview mirrors. Such mirrors may only extend the distance necessary to provide the required field of view before the appurtenances were attached.

2. No vehicle operated upon the interstate highway system or upon any route designated by the chief engineer of the state transportation department shall have a height, including load, in excess of fourteen feet. On all other highways, no vehicle shall have a height, including load, in excess of thirteen and one-half feet, except that any vehicle or combination of vehicles transporting automobiles or other motor vehicles may have a height, including load, of not more than fourteen feet.

3. No single motor vehicle operated upon the highways of this state shall have a length, including load, in excess of forty-five feet, except as otherwise provided in this section.

4. No bus, recreational motor vehicle or trackless trolley coach operated upon the highways of this state shall have a length in excess of forty-five feet, except that such vehicles may exceed the forty-five feet length when such excess length is caused by the projection of a front safety bumper or a rear safety bumper or both. Such safety bumper shall not cause the length of the bus or recreational motor vehicle to exceed the forty-five feet length limit by more than one foot in the front and one foot in the rear. The term "safety bumper" means any device which may be fitted on an existing bumper or which replaces the bumper and is so constructed, treated, or manufactured that it absorbs energy upon impact.

5. No combination of truck-tractor and semitrailer or truck-tractor equipped with dromedary and semitrailer operated upon the highways of this state shall have a length, including load, in excess of sixty feet; except that in order to comply with the provisions of Title 23 of the United States Code (Public Law 97-424), no combination of truck-tractor and semitrailer or truck-tractor equipped with dromedary and semitrailer operated upon the interstate highway system of this state shall have an overall length, including load, in excess of the length of the truck-tractor plus the semitrailer or truck-tractor equipped with dromedary and semitrailer. The length of such semitrailer shall not exceed fifty-three feet.

6. In order to comply with the provisions of Title 23 of the United States Code (Public Law 97-424), no combination of truck-tractor, semitrailer and trailer operated upon the interstate highway system of this state shall have an overall length, including load, in excess of the length of the truck-tractor plus the semitrailer and trailer, neither of which semitrailer or trailer shall exceed twenty-eight feet in length, except that any existing semitrailer or trailer up to twenty-eight and one-half feet in length actually and lawfully operated on December 1, 1982, within a sixty-five foot overall length limit in any state, may continue to be operated upon the interstate highways of this state. On those primary highways not designated by the state highways and transportation commission as provided in subsection 10 of this section, no combination of truck-tractor, semitrailer and trailer shall have an overall length, including load, in excess of sixty-five feet; provided, however, the state highways and transportation commission may designate additional routes for such sixty-five foot combinations.

7. Automobile transporters, boat transporters, truck-trailer boat transporter combinations, stinger-steered combination automobile transporters and stinger-steered combination boat transporters having a length not in excess of seventy-five feet may be operated on the interstate highways of this state and such other highways as may be designated by the highways and transportation commission for the operation of such vehicles plus a distance not to exceed ten miles from such interstate or designated highway. All length

provisions regarding automobile or boat transporters, truck-trailer boat transporter combinations and stinger-steered combinations shall include a semitrailer length not to exceed fifty-three feet and are exclusive of front and rear overhang, which shall be no greater than a three-foot front overhang and no greater than a four-foot rear overhang.

8. Driveaway saddlemount combinations having a length not in excess of ninety-seven feet may be operated on the interstate highways of this state and such other highways as may be designated by the highways and transportation commission for the operation of such vehicles plus a distance not to exceed ten miles from such interstate or designated highway. Saddlemount combinations must comply with the safety requirements of Section 393.71 of Title 49 of the Code of Federal Regulations and may contain no more than three saddlemounted vehicles and one fullmount.

9. No truck-tractor semitrailer-semitrailer combination vehicles operated upon the interstate and designated primary highway system of this state shall have a semitrailer length in excess of twenty-eight feet or twenty-eight and one-half feet if the semitrailer was in actual and lawful operation in any state on December 1, 1982, operating in a truck-tractor semitrailer-semitrailer combination. The B-train assembly is excluded from the measurement of semitrailer length when used between the first and second semitrailer of a truck-tractor semitrailer-semitrailer combination, except that when there is no semitrailer mounted to the B-train assembly, it shall be included in the length measurement of the semitrailer.

10. The highways and transportation commission is authorized to designate routes on the state highway system other than the interstate system over which those combinations of vehicles of the lengths specified in subsections 5, 6, 7, 8 and 9 of this section may be operated. Combinations of vehicles operated under the provisions of subsections 5, 6, 7, 8 and 9 of this section may be operated at a distance not to exceed ten miles from the interstate system and such routes as designated under the provisions of this subsection.

11. Except as provided in subsections 5, 6, 7, 8, 9 and 10 of this section, no other combination of vehicles operated upon the primary or interstate highways of this state plus a distance of ten miles from a primary or interstate highway shall have an overall length, unladen or with load, in excess of sixty-five feet or in excess of fifty-five feet on any other highway, except the state highways and transportation commission may designate additional routes for use by sixty-five foot combinations, seventy-five foot stinger-steered combinations or seventy-five foot saddlemount combinations. Any vehicle or combination of vehicles transporting automobiles, boats or other motor vehicles may carry a load which extends no more than three feet beyond the front and four feet beyond the rear of the transporting vehicle or combination of vehicles.

12. (1) Except as hereinafter provided, these restrictions shall not apply to agricultural implements operating occasionally on the highways for short distances[,] **including tractor parades for fund-raising activities or special events, provided the tractors are driven by licensed drivers during daylight hours only and with the approval of the superintendent of the Missouri state highway patrol;** or to self-propelled hay-hauling equipment or to implements of husbandry, or to the movement of farm products as defined in section [400.9-109] **400.9-102**, RSMo, or to vehicles temporarily transporting agricultural implements or implements of husbandry or roadmaking machinery, or road materials or towing for repair purposes vehicles that have become disabled upon the highways; or to implement dealers delivering or moving farm machinery for repairs on any state highway other than the interstate system.

(2) Implements of husbandry and vehicles transporting such machinery or equipment and the movement of farm products as defined in section 400.9.109, RSMo, may be operated occasionally for short distances

on state highways when operated between the hours of sunrise and sunset by a driver licensed as an operator or chauffeur.

13. As used in this chapter the term “implements of husbandry” means all self-propelled machinery operated at speeds of less than thirty miles per hour, specifically designed for, or especially adapted to be capable of, incidental over-the-road and primary offroad usage and used exclusively for the application of commercial plant food materials or agricultural chemicals, and not specifically designed or intended for transportation of such chemicals and materials.

14. Sludge disposal units may be operated on all state highways other than the interstate system. Such units shall not exceed one hundred thirty-eight inches in width and may be equipped with over-width tires. Such units shall observe all axle weight limits. The chief engineer of the state transportation department shall issue special permits for the movement of such disposal units and may by such permits restrict the movements to specified routes, days and hours.”; and

Further amend said bill, page 55, section 304.155, line 11, by inserting after all of said line the following:

“304.260. Farm tractors when using the highways in traveling from one field or farm to another, or to or from places of delivery or repair, **or when participating in activities or events permitted under subsection 12 of section 304.170** are exempt from the provisions of the law relating to registration and display of number plates, but shall comply with all the other provisions hereof. The state highways and transportation commission shall have the power and authority to prescribe the type of road upon which such tractors may be used and may exclude the use of such tractors or the use of trucks of any particular weight from the use of certain designated roads or types of roads, by the posting of signs along or upon such roads or any part thereof.”; and

Further amend the title and enacting clause accordingly.

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

Senator Griesheimer offered **SA 5**:

SENATE AMENDMENT NO. 5

Amend Senate Substitute for Senate Bill No. 58, Page 18, Section 227.295, Line 16, by inserting after all of said line the following:

“227.310. The portion of Missouri highway 100 located in Franklin County, from its intersection with Missouri highway 47, to the highway's connection with Interstate highway 44, shall be designated as the “Veterans Memorial Highway”. The department of transportation shall erect and maintain appropriate signs designating such highway, with the costs for such designation to be paid for by the city of Washington.”; and

Further amend the title and enacting clause accordingly.

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

Senator Shoemyer offered **SA 6**:

SENATE AMENDMENT NO. 6

Amend Senate Substitute for Senate Bill No. 58, Page 46, Section 304.155, Line 27, by striking the opening bracket “[” as it appears on said line; and further amend said bill, page 47, section 304.155, line

1, by striking “[**the state highway system,**”]; and further amend said bill, page, section, line 9, by striking the opening bracket “[” that appears on said line; and further amend said bill, page, section, line 10 by striking “forty-eight” and inserting in lieu thereof the following “**twenty-four**”; and further amend said bill, page, section, line 27, by striking the closing bracket “]” that appears on said line.

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

Senator Ridgeway offered SA 7:

SENATE AMENDMENT NO. 7

Amend Senate Substitute for Senate Bill No. 58, Page 25, Section 302.230, Line 27, by inserting immediately after said line the following:

“302.289. 1. Any person or towing company directed by law enforcement to remove or tow abandoned property from public property under section 304.155, RSMo, may, within thirty days, but not more than forty-five days after the removal of such property, file an affidavit with the department of revenue attesting that such person or towing company has removed abandoned property pursuant to section 304.155, RSMo, and has incurred costs associated with the removal of the abandoned property. In addition to filing an affidavit, the person or towing company shall submit an application, in a format prescribed by the director of the department of revenue, which shall include the following information:

(1) The name and address of the person or towing company that removed the abandoned property pursuant to section 304.155, RSMo;

(2) The date the person or towing company performed a law enforcement authorized tow of abandoned property under section 304.155, RSMo;

(3) An itemized accounting of the reasonable towing and storage charges associated with removing the abandoned property; and

(4) Any other relevant information the director of the department of revenue may prescribe by rule.

2. The application shall also be accompanied by a copy of the crime inquiry and inspection report required to be retained by subsection 7 of section 304.155, RSMo. The applicant shall also attest that the towing company has complied with all procedural requirements outlined in sections 304.155 to 304.158, RSMo.

3. Within five business days of receiving the application submitted under subsection 1 of this section, the director of the department of revenue, or the director's designee, shall send notice to the registered owner of the abandoned motor vehicle, as revealed by the department's records, that a claim for reasonable towing and storage charges has been filed with the department. The notice shall further state that if the registered owner of the abandoned motor vehicle does not provide satisfactory proof to the department that such charges have been satisfied within thirty days of receiving the notice, the department shall suspend the owner's driver's license or driving privileges and any motor vehicle registrations registered in the owner's name. The notice of suspension shall be mailed to the registered owner at the last known address shown on the department's records. The notice of suspension is deemed received three days after mailing. The notice of suspension shall clearly specify the reason and statutory grounds for the suspension and the effective date of the suspension, the right

of the person to request a hearing, the procedure for requesting a hearing, and the date by which that request for a hearing must be made. If the request for a hearing is received by the department prior to the effective date of the suspension, the effective date of the suspension will be stayed until a final order is issued following the hearing, and for these services, the department shall charge a fee not to exceed ten dollars.

4. The suspension shall become effective thirty days after the registered owner of the abandoned motor vehicle is deemed to have received the notice as provided in subsection 3 of this section. The period of the suspension shall continue until the registered owner of the abandoned motor vehicle submits proof that he or she has satisfied all reasonable towing and storage charges associated with the abandonment of such property.

5. The director shall promulgate rules and regulations necessary to implement the provisions of this section. Any rule or portion of a rule, as that term is defined in section 536.010, RSMo, that is created under the authority delegated in this section shall become effective only if it complies with and is subject to all of the provisions of chapter 536, RSMo, and, if applicable, section 536.028, RSMo. This section and chapter 536, RSMo, are nonseverable and if any of the powers vested with the general assembly pursuant to chapter 536, RSMo, to review, to delay the effective date, or to disapprove and annul a rule are subsequently held unconstitutional, then the grant of rulemaking authority and any rule proposed or adopted after August 28, 2009, shall be invalid and void.

6. As used in this section, “reasonable storage charges” shall not exceed the charges for motor vehicles which have been towed with the consent of the owner on a negotiated basis. For any application submitted pursuant to this section, reasonable storage charges shall not exceed ninety days.”; and

Further amend said bill, page 46, section 302.775, line 22, by inserting immediately after said line the following:

“304.033. Notwithstanding the provisions of section 304.022, any vehicle responding to an emergency, motor vehicle accident, incident, other traffic hazard, or other critical situation on the state highway system where there is the threat of serious physical injury or death resulting from the emergency, accident, incident, traffic hazard, or other critical situation, may use amber lights instead of red or blue lights.”; and

Further amend said bill, page 55, section 304.155, line 11, by inserting immediately after said line the following:

“304.162. 1. Notwithstanding any other law, the Missouri highway patrol may use rotation lists when requesting wrecker or towing services for removal of a vehicle from property for reasons listed in section 304.155 or 304.157.

2. The department of public safety may promulgate rules to administer the provisions of this section. Any rule or portion of a rule, as that term is defined in section 536.010, RSMo, that is created under the authority delegated in this section shall become effective only if it complies with and is subject to all of the provisions of chapter 536, RSMo, and, if applicable, section 536.028, RSMo. This section and chapter 536, RSMo, are nonseverable and if any of the powers vested with the general assembly pursuant to chapter 536, RSMo, to review, to delay the effective date, or to disapprove and annul a rule are subsequently held unconstitutional, then the grant of rulemaking authority and any rule proposed or adopted after August 28, 2009, shall be invalid and void.”; and

Further amend the title and enacting clause accordingly.

Senator Ridgeway moved that the above amendment be adopted.

At the request of Senator Stouffer, **SB 58**, with **SS** and **SA 7** (pending), was placed on the Informal Calendar.

REPORTS OF STANDING COMMITTEES

On behalf of Senator Engler, Chairman of the Committee on Rules, Joint Rules, Resolutions and Ethics, Senator Goodman submitted the following reports:

Mr. President: Your Committee on Rules, Joint Rules, Resolutions and Ethics, after examination of **SB 349**, respectfully requests that it be removed from the Senate Consent Calendar in accordance with the provisions of Senate Rule 45.

Also,

Mr. President: Your Committee on Rules, Joint Rules, Resolutions and Ethics, to which was referred **SCR 10**, begs leave to report that it has considered the same and recommends that the concurrent resolution do pass.

President Pro Tem Shields assumed the Chair.

Senator Nodler, Chairman of the Committee on Appropriations, submitted the following report:

Mr. President: Your Committee on Appropriations, to which was referred **HCS** for **HB 14**, begs leave to report that it has considered the same and recommends that the Senate Committee Substitute, hereto attached, do pass.

COMMUNICATIONS

Senator Days submitted the following:

March 10, 2009

Ms. Terry Spieler
Secretary of Senate
State Capitol
Jefferson City, MO 65101

Dear Ms. Spieler:

Due to a temporary physical disability, I am not able to stand. I respectfully request that I be recognized from a chair in lieu of standing. This request is in accordance with Rule 76 "*Of Decorum and Debate*" under the Rules of the Missouri Senate, 95th General Assembly. Thank you for your assistance in this matter.

Sincerely,
/s/ Rita Heard Days
RITA HEARD DAYS
State Senator, District 14

INTRODUCTIONS OF GUESTS

Senator Barnitz introduced to the Senate, Maggie Stiegman, Eva Erickson and Leah Lerbs, representatives of Hermann School District; and Ida McClure, representative of Vienna School District.

Senator Wright-Jones introduced to the Senate, Todd Weaver, St. Louis.

Senator Shields introduced to the Senate, Derek Frieling and students, Brittany Lynch, Aubrey Bourne,

Adam Lotito, Josh Hainey and Gage Herrington, Lafayette High School.

Senator Scott introduced to the Senate, Dr. John Payne, Washington, D.C.; and State Representative Becky McClanahan and her husband, Marvin, Kirksville.

Senator Goodman introduced to the Senate, members of Greater Ozark Leadership Development Class, community leaders from Southwest Missouri.

Senator Schmitt introduced to the Senate, Margaret Skouby, Webster Groves.

Senator Schaefer introduced to the Senate, his mother, Catherine Schaefer and Mary Ann Druhe, St. Louis.

Senator Champion introduced to the Senate, students from Parkview High School, Springfield.

Senator McKenna introduced to the Senate, Tom Ludwig and ninth grade students from Festus High School.

Senator Smith introduced to the Senate, Lisa Potts and her children, Tylar and Skylar, St. Louis.

Senator Griesheimer introduced to the Senate, students from Southpoint Elementary School, Washington.

Senator Scott introduced to the Senate, Sandy Crawford, Buffalo.

Senator Purgason introduced to the Senate, Brenda Jackson and sixty-five eighth grade students from Fairview School, West Plains.

Senator Schmitt introduced to the Senate, his aunt, Denise Schmitt, Andrew and Donna Robinson, Betty Rottler, Betty Street, Rosalie Suda, Carol Southard, Diane and Diana Wood, Judy Lochirco, Mike Klein, Sr., Dennis Schisler and Mary Stuckmeyer, Fenton.

Senator Wright-Jones introduced to the Senate, Benjamin Phillips, St. Louis.

Senator Griesheimer introduced to the Senate, St. Francis Borgia Pro Life Club and East Central Area Missouri Right to Life.

Senator Lembke introduced to the Senate, Mrs. Susan Van Hoornbeek and eighth grade students from Providence Christian Academy, South St. Louis County.

Senator Barnitz introduced to the Senate, Shannon Engelbrecht, parents and Lara Edwards, Annette Cruser, Amanda Chambers, Ashley Prohaska, Sophia Gordan, Blake Duncan and Drew Hagni, students from Rolla High School.

Senator Barnitz introduced to the Senate, Vicky Goodwin and Karla Tiefenthaler, Northwood R-4 School, Dent County.

Senator Clemens introduced to the Senate, the Physician of the Day, Dr. David L. Redfern, M.D., Rogersville.

Senator Vogel introduced to the Senate, Jason and Shana Schuemann, their children, Dawson Daniel and Eli Jackson and Karen Dumey, Jefferson City; and Dawson Daniel and Eli Jackson were made honorary pages.

Senator Bray introduced to the Senate, Sherry Blough and six eleventh and twelfth grade students from Westminster Christian Academy, Creve Coeur.

Senator Wright-Jones introduced to the Senate, former State Representative Amber Boykins, St. Louis.
On motion of Senator Goodman, the Senate adjourned under the rules.

SENATE CALENDAR

THIRTY-SIXTH DAY—WEDNESDAY, MARCH 11, 2009

FORMAL CALENDAR

SECOND READING OF SENATE BILLS

SJR 14-Wilson
SJR 15-Cunningham
SJR 16-Lager

SJR 17-Lembke
SJR 18-Cunningham

HOUSE BILLS ON SECOND READING

HCS for HB 96
HB 744-Icet
HB 287-Day, et al
HB 86-Sutherland
HCS for HB 242
HB 65-Wilson (119), et al
HCS for HB 580

HCS for HB 82
HCS for HB 310
HCS for HB 459
HCS for HB 111
HB 289-Wallace
HB 682-Swinger, et al
HCS for HB 286

THIRD READING OF SENATE BILLS

SCS for SB 265-Mayer, et al
(In Fiscal Oversight)
SB 235-Cunningham

SCS for SB 44-Pearce
SCS for SB 202-Schaefer
SCS for SB 231-Cunningham

SENATE BILLS FOR PERFECTION

SB 284-Lembke, et al
SB 236-Lembke
SB 264-Mayer
SB 291-Shields
SB 130-McKenna, et al, with SCS

SB 167-Rupp, with SCS
SBs 65 & 43-Rupp, et al, with SCS
SB 188-Dempsey, et al, with SCS
SB 272-Lager

HOUSE BILLS ON THIRD READING

HCS for HB 191, with SCS
(Griesheimer) (In Fiscal Oversight)

HCS for HB 14, with SCS (Nodler)

INFORMAL CALENDAR

SENATE BILLS FOR PERFECTION

SB 5-Griesheimer, with SCS, SS for SCS
& SA 2 (pending)

SB 7-Griesheimer, with SS (pending)

SB 18-Bray, et al, with SCS & SS for SCS
(pending)

SB 29-Stouffer

SBs 45, 212, 136, 278, 279, 285 &
288-Pearce, with SCS (pending)

SB 57-Stouffer, with SCS

SB 58-Stouffer, with SS & SA 7 (pending)

SB 72-Stouffer, with SCS

SB 89-Stouffer, with SCS, SA 1 &
SSA 1 for SA 1 (pending)

SB 174-Griesheimer and Goodman, with
SCS, SS#2 for SCS & SA 2 (pending)

SB 176-Stouffer, with SCS

SCS for SB 189-Shields

SB 216-Scott, with SCS

SBs 223 & 226-Goodman, with SCS (pending)

SBs 261, 159, 180 & 181-Bartle and Goodman,
with SCS, SS#2 for SCS & SA 7 (pending)

CONSENT CALENDAR

Senate Bills

Reported 3/4

SB 66-Scott

SB 196-Shoemyer

SB 122-Griesheimer

SB 294-Barnitz

SB 262-Bartle

SB 224-Goodman

SB 232-Cunningham

SB 134-Dempsey, with SCS

SB 127-Rupp, with SCS

RESOLUTIONS

Reported from Committee

SR 141-Engler, with point of order
(pending)

SCR 7-Pearce

SR 207-Lembke and Smith, with SCS & SS
for SCS (pending)

SCR 11-Bartle, et al

SCR 14-Schmitt

SCR 21-Clemens

SCR 10-Rupp

To be Referred

HCS for HCR 4