

Journal of the Senate

FIRST REGULAR SESSION

SEVENTY-FIRST DAY—THURSDAY, MAY 14, 2009

The Senate met pursuant to adjournment.

President Kinder in the Chair.

Reverend Carl Gauck offered the following prayer:

“A man who governs his passions is master of the world. We must either command them, or be enslaved by them. It is better to be a hammer than an anvil.” (St. Dominic)

Merciful Father, You know we are tired and at this time of the year our patience gets thin and our frustrations increase. So help us govern our passions so what we say is kind and conveys the meaning of what we are attempting to do here. May we deal fairly and openly with one another and work the work You would have us complete. 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.

Photographers from KOMU-TV, KRCG-TV and KMIZ-TV were given permission to take pictures in the Senate Chamber today.

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	Justus	Lager
Lembke	Mayer	McKenna	Nodler	Pearce	Purgason	Ridgeway	Rupp
Schaefer	Schmitt	Scott	Shields	Shoemyer	Smith	Stouffer	Vogel
Wilson	Wright-Jones—34						

Absent—Senators—None

Absent with leave—Senators—None

Vacancies—None

The Lieutenant Governor was present.

RESOLUTIONS

Senator Engler offered Senate Resolution No. 1165, regarding Joyce LaVerne Mehner, which was adopted.

Senator Pearce offered Senate Resolution No. 1166, regarding Jonathon Hilton, which was adopted.

HOUSE BILLS ON THIRD READING

HB 69, with **SCS**, introduced by Representative Storch, entitled:

An Act to repeal section 135.327, RSMo, and to enact in lieu thereof one new section relating to the special needs child adoption tax credit.

Was taken up by Senator Champion.

SCS for **HB 69**, entitled:

**SENATE COMMITTEE SUBSTITUTE FOR
HOUSE BILL NO. 69**

An Act to repeal section 135.327, RSMo, and to enact in lieu thereof one new section relating to the special needs child adoption tax credit.

Was taken up.

Senator Cunningham assumed the Chair.

Senator Champion moved that **SCS** for **HB 69** be adopted.

At the request of Senator Champion, **HB 69**, with **SCS** (pending), was placed on the Informal Calendar.

HCS for **HB 1075**, with **SCS**, entitled:

An Act to repeal sections 285.309, 288.040, 288.050, 288.062, 288.130, 288.160, 288.170, 288.250, and 288.330, RSMo, and to enact in lieu thereof nine new sections relating to unemployment compensation, with penalty provisions and an emergency clause.

Was called from the Informal Calendar and taken up by Senator Griesheimer.

SCS for **HCS** for **HB 1075**, entitled:

**SENATE COMMITTEE SUBSTITUTE FOR
HOUSE COMMITTEE SUBSTITUTE FOR
HOUSE BILL NO. 1075**

An Act to repeal section 288.330, RSMo, and to enact in lieu thereof one new section relating to unemployment compensation, with an emergency clause.

Was taken up.

Senator Griesheimer moved that **SCS** for **HCS** for **HB 1075** be adopted.

Senator Callahan offered **SA 1**:

SENATE AMENDMENT NO. 1

Amend Senate Committee Substitute for House Committee Substitute for House Bill No. 1075, Page 7,

Section 288.330, Line 226, by inserting after all of said line the following:

“288.501. Notwithstanding any other provision of law to the contrary:

(1) If a claimant does not have sufficient wages in the base period to be an insured worker, as those terms are defined in section 288.030, the individual's base period shall be the four most recently completed calendar quarters preceding the first day of the individual's benefit year. Such base period shall be known as the “alternate base period”. If information as to wages for the most recent quarter of the alternate base period is not available to the deputy from the regular quarterly reports of wage information, which are systematically accessible, the deputy may base the determination of eligibility for benefits on the affidavit of the claimant with respect to wages for that calendar quarter. The claimant shall furnish payroll documentation, where available, in support of the affidavit. The determination based upon the alternate base period as it relates to the claimant's benefit rights shall be amended if the quarterly report of wage information from the employer is timely received and that information causes a change in the determination. No calendar quarter in a base period or alternate base period for a claimant's current benefit year shall be used to establish a subsequent benefit year.

(2) The claimant shall not be disqualified from unemployment compensation for separating from employment if that separation is for any compelling family reason. For the purposes of this section, the term “compelling family reason” shall mean:

(a) The illness or disability of a member of the claimant's immediate family, which shall include the claimant's spouse, parent, or minor child under the age of eighteen;

(b) The need for the claimant to accompany such claimant's spouse to a location from which it is impractical for the claimant to commute and due to a change in location of the spouse's employment;

(c) Domestic violence, verified by reasonable and confidential documentation, which causes the claimant reasonably to believe that the claimant's continued employment would jeopardize the safety of the claimant or of any member of the claimant's family, as defined by the United States Secretary of Labor.

(3) A claimant who has commenced training under the Workforce Investment Act of 1998, or director-approved training under section 288.055, and has exhausted the claimant's regular unemployment benefits shall be eligible for additional unemployment benefits, not to exceed twenty-six times the claimant's weekly benefit amount. The weekly benefit amount shall be the same as the claimant's regular weekly benefit amount and shall be paid under the same terms and conditions as regular benefits. These training benefits shall be paid after any extended benefits or any similar benefits paid by a federally funded program.

(4) Priority for training funds provided under subdivision (3) of this section shall be given to claimants laid off through no fault of their own from Missouri automobile manufacturing facilities.

(5) No charges shall be made against an employer's account in respect to benefits paid to a claimant under this section.

(6) The director shall separately track payments that were made under this section. Once the amount of payments exceeds the amount of federal incentive funds made available because of the enactment of this section, the unemployment compensation fund shall be reimbursed from general revenue for all subsequent payments to the claimants.

(7) The provisions of this section shall be subject to renewal in the second regular session of the ninety-fifth general assembly. If not renewed, the provisions of this section shall expire once the funds provided under the American Recovery and Reinvestment Act of 2009 are expended as provided in this section.

(8) The provisions of this section shall not take effect, and no benefits paid under this section, unless first certified by the United States Secretary of Labor under 42 U.S.C.1103, as amended by the American Recovery and Reinvestment Act of 2009.”; and

Further amend the title and enacting clause accordingly.

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

Senator Green offered **SA 2**:

SENATE AMENDMENT NO. 2

Amend Senate Committee Substitute for House Committee Substitute for House Bill No. 1075, Page 1, Section A, Line 2, by inserting immediately after said line the following:

“288.130. 1. Each employing unit shall keep true and accurate payroll and other related records, containing such information as the division may by regulation prescribe for a period of at least three calendar years after the record was made. Such records shall be open to inspection and be subject to being copied by authorized representatives of the division at any reasonable time and as often as may be necessary. Any authorized person engaged in administering this law may require from any employing unit any sworn or unsworn reports, with respect to individuals performing services for it, which are deemed necessary for the effective administration of this law.

2. All employers [required to report W-2 copy A information on magnetic media tape to the Social Security Administration pursuant to 26 CFR Section 301.6011-2, or successor regulations,] **with fifty or more workers** are [likewise] required to report quarterly wage information due pursuant to section 288.090 to the division [on magnetic tape or diskette in a format prescribed by the division] **and to the director of revenue in an electronic format prescribed by the division.**

3. Each employer shall post and maintain in places readily accessible to the employer's workers printed statements concerning benefit rights, claims for benefits and such other matters related to the administration of this law as the division may by regulation prescribe. Each employer shall supply to workers copies of any printed statements relating to claims for benefits when and as the division may by regulation prescribe. Such printed statements and other materials shall be supplied by the division without cost.

4. A deputy shall make an ex parte determination after investigation but without hearing with respect to any matter pertaining to the liability of an employing unit which does not involve a claimant. The deputy shall promptly notify any interested employing units of each such determination and the reason for it. The division shall grant a hearing before an appeals tribunal to any employing unit appealing from any such ex parte determination provided an appeal is filed in writing within thirty days following the date of notification or the mailing of such determination to the party's last known address. In the absence of an appeal any such determination shall become final at the expiration of a thirty-day period. The deputy may, however, at any time within a year from the date of the deputy's determination, for good cause, reconsider the determination and shall promptly notify all interested employing units of his amended determination and the reason for it.

5. The thirty-day period provided in subsection 4 of this section may, for good cause, be extended.”; and Further amend the title and enacting clause accordingly.

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

Senator Griesheimer moved that **SCS** for **HCS** for **HB 1075**, as amended, be adopted, which motion prevailed.

Senator Dempsey assumed the Chair.

On motion of Senator Griesheimer, **SCS** for **HCS** for **HB 1075**, 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	Justus	Lager
Lembke	Mayer	McKenna	Nodler	Pearce	Purgason	Ridgeway	Rupp
Schaefer	Schmitt	Scott	Shields	Shoemyer	Smith	Stouffer	Vogel
Wilson	Wright-Jones—34						

NAYS—Senators—None

Absent—Senators—None

Absent with leave—Senators—None

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	Justus	Lager
Lembke	Mayer	McKenna	Nodler	Pearce	Purgason	Ridgeway	Rupp
Schaefer	Schmitt	Scott	Shields	Shoemyer	Smith	Stouffer	Vogel
Wilson	Wright-Jones—34						

NAYS—Senators—None

Absent—Senators—None

Absent with leave—Senators—None

Vacancies—None

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

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

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

Senator Griesheimer moved that **HCS** for **HB 191**, with **SCS** and **SS** for **SCS**, as amended (pending), be called from the Informal Calendar and again taken up for 3rd reading and final passage, which motion prevailed.

At the request of Senator Lager, **SS** for **SCS** for **HCS** for **HB 191**, as amended, was withdrawn.

Senator Lager offered **SS No. 2** for **SCS** for **HCS** for **HB 191**, entitled:

SENATE SUBSTITUTE NO. 2 FOR
SENATE COMMITTEE SUBSTITUTE FOR
HOUSE COMMITTEE SUBSTITUTE FOR
HOUSE BILL NO. 191

An Act to repeal sections 32.105, 99.820, 99.865, 99.1205, 100.286, 100.760, 100.770, 100.850, 105.145, 135.155, 135.352, 135.535, 135.680, 135.766, 135.800, 135.802, 135.805, 147.010, 208.770, 238.207, 238.212, 238.235, 253.545, 253.550, 253.559, 338.337, 447.708, 610.021, 620.014, 620.017, 620.472, 620.1878, and 620.1881, RSMo, and to enact in lieu thereof thirty-eight new sections relating to taxation, with penalty provisions and an emergency clause for a certain section.

Senator Lager moved that **SS No. 2** for **SCS** for **HCS** for **HB 191** be adopted.

Senator Rupp assumed the Chair.

Senator Griesheimer offered **SA 1**:

SENATE AMENDMENT NO. 1

Amend Senate Substitute No. 2 for Senate Committee Substitute for House Committee Substitute for House Bill No. 191, Pages 9-19, Section 99.820, by striking all of said section from the bill; and

Further amend the title and enacting clause accordingly.

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

Senator Dempsey assumed the Chair.

Senator Smith offered **SA 2**, which was read:

SENATE AMENDMENT NO. 2

Amend Senate Substitute No. 2 for Senate Committee Substitute for House Committee Substitute for House Bill No. 191, Page 92, Section 253.550, Line 16, by inserting immediately after the number "2010," the following:

"for rehabilitations of eligible property with total costs and expenditures of rehabilitation greater than one million three hundred thousand dollars,"; and

Further amend said bill and section, page 93, line 5, by inserting immediately after the word "section," the following:

"for rehabilitations of eligible property with total costs less than or equal to one million three hundred thousand dollars or".

Senator Smith moved that the above amendment be adopted.

At the request of Senator Griesheimer, **HCS** for **HB 191**, with **SCS**, **SS No. 2** for **SCS** and **SA 2** (pending), was placed on the Informal Calendar.

MESSAGES FROM THE HOUSE

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

Mr. President: I am instructed by the House of Representatives to inform the Senate that the House refuses to recede from its position on **HCS** for **SS** for **SCS** for **SB 539**, as amended, and grants the Senate a conference thereon.

Also,

Mr. President: I am instructed by the House of Representatives to inform the Senate that the House refuses to recede from its position on **HCS No. 2** for **SB 114**, as amended, and grants the Senate a conference thereon.

Also,

Mr. President: I am instructed by the House of Representatives to inform the Senate that the House has taken up and adopted the Conference Committee Report on **HCS** for **SB 435** and has taken up and passed **CCS** for **HCS** for **SB 435**.

Bill ordered enrolled.

Also,

Mr. President: I am instructed by the House of Representatives to inform the Senate that the House has taken up and adopted the Conference Committee Report on **SCS** for **HB 745**, as amended, and has taken up and passed **CCS** for **SCS** for **HB 745**.

Also,

Mr. President: I am instructed by the House of Representatives to inform the Senate that the House has taken up and adopted the Conference Committee Report on **HCS** for **SCS** for **SB 216**, as amended, and has taken up and passed **SCS** for **SB 216**.

Bill ordered enrolled.

Also,

Mr. President: I am instructed by the House of Representatives to inform the Senate that the House has taken up and adopted **SCR 5**.

Also,

Mr. President: I am instructed by the House of Representatives to inform the Senate that the House refuses to adopt **SCS** for **HCS** for **HB 1075**, as amended, and requests the Senate to recede from its position and failing to do so grant the House a conference thereon.

Also,

Mr. President: I am instructed by the House of Representatives to inform the Senate that the House has taken up and adopted **SCR 27**.

Also,

Mr. President: I am instructed by the House of Representatives to inform the Senate that the House has taken up and passed **SS** for **SCS** for **SB 376**.

Bill ordered enrolled.

Also,

Mr. President: I am instructed by the House of Representatives to inform the Senate that the Speaker has appointed the following conference committee to act with a like committee from the Senate on **HCS** for **SS** for **SCS** for **SB 539**, as amended. Representatives: Ruzicka, Brown (30), Emery, Rucker and Harris.

Also,

Mr. President: I am instructed by the House of Representatives to inform the Senate that the Speaker has appointed the following conference committee to act with a like committee from the Senate on **HCS No. 2** for **SB 114**, as amended. Representatives: Tracy, Lipke, Cox, Meadows and Colona.

Also,

Mr. President: I am instructed by the House of Representatives to inform the Senate that the House has taken up and passed **HCS** for **SCS** for **SB 176**, entitled:

An Act to amend chapter 191, RSMo, by adding thereto one new section relating to the Alzheimer's state plan task force, with an expiration date.

In which the concurrence of the Senate is respectfully requested.

CONFERENCE COMMITTEE APPOINTMENTS

President Pro Tem Shields appointed the following conference committee to act with a like committee from the House on **HCS** for **SS** for **SCS** for **SB 539**, as amended: Senators Schaefer, Clemens, Stouffer, Shoemyer and Bray.

RESOLUTIONS

Senator Shields offered Senate Resolution No. 1167, regarding Ms. Amber Lusk, which was adopted.

Senator Shields offered Senate Resolution No. 1168, regarding Mrs. Rachel Carroll, which was adopted.

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 President Pro Tem Shields.

RESOLUTIONS

Senator Crowell offered Senate Resolution No. 1169, regarding Jacob Ward, Jackson, which was adopted.

Senator Crowell offered Senate Resolution No. 1170, regarding Luke Sievers, Jackson, which was adopted.

Senator Crowell offered Senate Resolution No. 1171, regarding Tom Gilliland, Jackson, which was

adopted.

Senator Crowell offered Senate Resolution No. 1172, regarding Aaron Lee Bell, East Prairie, which was adopted.

Senator Crowell offered Senate Resolution No. 1173, regarding Blaire Elizabeth Peters, Bertrand, which was adopted.

Senator Crowell offered Senate Resolution No. 1174, regarding Nikki Marlene Moll, Oak Ridge, which was adopted.

Senator Crowell offered Senate Resolution No. 1175, regarding Rebekah Jean Seabaugh, which was adopted.

Senator Lembke offered Senate Resolution No. 1176, regarding Lisa Vaughn, St. Louis, which was adopted.

Senator Lembke offered Senate Resolution No. 1177, regarding Joseph Szatkowski, Crestwood, which was adopted.

Senator Champion offered Senate Resolution No. 1178, regarding Forrest Randolph Hall, Springfield, which was adopted.

Senator Champion offered Senate Resolution No. 1179, regarding Steven Christopher Sanocki, Columbia, which was adopted.

Senator Champion offered Senate Resolution No. 1180, regarding Rachel Hassani, which was adopted.

Senator Clemens offered Senate Resolution No. 1181, regarding Jordan Donaldson, Ozark, which was adopted.

Senator Clemens offered Senate Resolution No. 1182, regarding Alex Ndikum, Springfield, which was adopted.

Senator Clemens offered Senate Resolution No. 1183, regarding Timothy Peacock, Ozark, which was adopted.

Senator Shields offered Senate Resolution No. 1184, regarding Jake Wendling, Kansas City, which was adopted.

Senator Shields offered Senate Resolution No. 1185, regarding Tyler Hiatt, Smithville, which was adopted.

Senator Shields offered Senate Resolution No. 1186, regarding Dillon Vulgamott, Kansas City, which was adopted.

REPORTS OF STANDING COMMITTEES

Senator Champion, Chairman of the Committee on Health, Mental Health, Seniors and Families, submitted the following report:

Mr. President: Your Committee on Health, Mental Health, Seniors and Families, to which was referred **HB 156**, begs leave to report that it has considered the same and recommends that the bill do pass.

REFERRALS

President Pro Tem Shields referred **HB 156** to the Committee on Governmental Accountability and Fiscal Oversight.

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 adopted **SCS** for **HCS** for **HB 250** and has taken up and passed **SCS** for **HCS** for **HB 250**.

Emergency clause adopted.

Also,

Mr. President: I am instructed by the House of Representatives to inform the Senate that the House has taken up and passed **SCS** for **SB 37**.

Bill ordered enrolled.

Also,

Mr. President: I am instructed by the House of Representatives to inform the Senate that the House has taken up and passed **HCS No. 2** for **SS** for **SB 291**, entitled:

An Act to repeal sections 115.121, 160.011, 160.041, 160.254, 160.400, 160.405, 160.410, 160.534, 160.730, 161.072, 161.122, 162.431, 162.492, 163.011, 163.031, 163.043, 167.031, 167.126, 167.275, 168.021, 168.133, 168.221, 168.251, 171.031, 171.033, 177.088, 313.775, 313.778, and 313.822, RSMo, and to enact in lieu thereof fifty-five new sections relating to education, with an effective date for a certain section and an emergency clause for certain sections.

With House Amendment Nos. 1 and 2.

HOUSE AMENDMENT NO. 1

Amend House Committee Substitute No. 2 for Senate Substitute for Senate Bill No. 291, Section 167.031, Page 54, Line 74, by inserting after all of said line the following:

“7. For purposes of subsection 2 of this section as applied in subsection 6 herein, a completed credit towards high school graduation shall be defined as one hundred hours or more of instruction in a course. Home school education enforcement and records pursuant to this section, and sections 210.167 and 211.031, RSMo, shall be subject to review only by the local prosecuting attorney.”; and

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

HOUSE AMENDMENT NO. 2

Amend House Committee Substitute No. 2 for Senate Substitute for Senate Bill No. 291, Page 54, Section 167.031, Line 70, by deleting all of said Line and inserting in lieu thereof the following:

“(2) Seventeen [Sixteen] years of age or having successfully completed sixteen credits towards high”; and

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

Emergency clause adopted.

In which the concurrence of the Senate is respectfully requested.

Also,

Mr. President: I am instructed by the House of Representatives to inform the Senate that the Speaker has appointed the following conference committee to act with a like committee from the Senate on **SS** for **SCS** for **HCS** for **HB 62**, as amended. Representatives: Lipke, Keeney, Cox, Roorda and Burnett.

Also,

Mr. President: I am instructed by the House of Representatives to inform the Senate that the House refuses to adopt **SS** for **SCS** for **HCS** for **HB 390** and requests the Senate to recede from its position and failing to do so grant the House a conference thereon.

Also,

Mr. President: I am instructed by the House of Representatives to inform the Senate that the House refuses to adopt **SS** for **HCS** for **HBs 46** and **434** and requests the Senate to recede from its position and failing to do so grant the House a conference thereon.

Also,

Mr. President: I am instructed by the House of Representatives to inform the Senate that the House has taken up and passed **HCS** for **SB 480**, entitled:

An Act to repeal sections 8.001, 8.003, and 8.007, RSMo, and to enact in lieu thereof four new sections relating to state boards and commissions.

In which the concurrence of the Senate is respectfully requested.

REPORTS OF STANDING COMMITTEES

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

Mr. President: Your Committee on Governmental Accountability and Fiscal Oversight, to which was referred **HCS** for **HBs 620** and **671**, begs leave to report that it has considered the same and recommends that the bill do pass.

PRIVILEGED MOTIONS

Senator Stouffer moved that the Senate refuse to concur in **HCS** for **SCS** for **SB 71**, as amended, and request the House to recede from its position and take up and pass **SCS** for **SB 71**, which motion prevailed.

SIGNING OF BILLS

The President Pro Tem announced that all other business would be suspended and **SCS** for **HCS** for **HB 236**, 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.

President Kinder assumed the Chair.

PRIVILEGED MOTIONS

Senator Pearce moved that the Senate refuse to concur in **HCS** for **SB 485**, as amended, and request the

House to recede from its position and take up and pass **SB 485**, which motion prevailed.

Senator Griesheimer moved that the Senate refuse to recede from its position on **SCS** for **HCS** for **HB 1075**, as amended, and grant the House a conference thereon, which motion prevailed.

CONFERENCE COMMITTEE APPOINTMENTS

President Pro Tem Shields appointed the following conference committee to act with a like committee from the House on **SCS** for **HCS** for **HB 1075**, as amended: Senators Griesheimer, Rupp, Dempsey, Callahan and Justus.

PRIVILEGED MOTIONS

Senator Mayer moved that the Senate refuse to recede from its position on **SS** for **HCS** for **HBs 46** and **434**, and request the House take up and pass **SS** for **HCS** for **HBs 46** and **434**, which motion prevailed.

Senator Stouffer assumed the Chair.

Senator Rupp moved that the Senate refuse to recede from its position on **SS** for **SCS** for **HCS** for **HB 390**, and grant the House a conference thereon, which motion prevailed.

CONFERENCE COMMITTEE APPOINTMENTS

President Pro Tem Shields appointed the following conference committee to act with a like committee from the House on **SS** for **SCS** for **HCS** for **HB 390**: Senators Rupp, Schaefer, Schmitt, McKenna and Green.

PRIVILEGED MOTIONS

Senator Shields moved that **SS** for **SB 291**, with **HCS No. 2**, as amended, be taken up for 3rd reading and final passage, which motion prevailed.

HCS No. 2 for **SS** for **SB 291**, as amended, entitled:

HOUSE COMMITTEE SUBSTITUTE NO. 2 FOR SENATE SUBSTITUTE FOR SENATE BILL NO. 291

An Act to repeal sections 115.121, 160.011, 160.041, 160.254, 160.400, 160.405, 160.410, 160.534, 160.730, 161.072, 161.122, 162.431, 162.492, 163.011, 163.031, 163.043, 167.031, 167.126, 167.275, 168.021, 168.133, 168.221, 168.251, 171.031, 171.033, 177.088, 313.775, 313.778, and 313.822, RSMo, and to enact in lieu thereof fifty-five new sections relating to education, with an effective date for a certain section and an emergency clause for certain sections.

Was taken up.

Senator Shields moved that **HCS No. 2** for **SS** for **SB 291**, as amended, be adopted, which motion prevailed by the following vote:

YEAS—Senators

Barnitz	Bray	Callahan	Champion	Clemens	Cunningham	Days	Dempsey
Engler	Goodman	Green	Justus	Lager	Lembke	Mayer	McKenna
Nodler	Pearce	Ridgeway	Rupp	Schaefer	Schmitt	Shields	Shoemyer
Smith	Stouffer	Vogel	Wilson	Wright-Jones—29			

NAYS—Senators

Bartle Crowell Purgason—3

Absent—Senators

Griesheimer Scott—2

Absent with leave—Senators—None

Vacancies—None

On motion of Senator Shields, **HCS No. 2** for **SS** for **SB 291**, as amended, was read the 3rd time and passed by the following vote:

YEAS—Senators

Barnitz	Bray	Callahan	Champion	Clemens	Cunningham	Days	Dempsey
Engler	Goodman	Green	Justus	Lager	Lembke	Mayer	McKenna
Nodler	Pearce	Ridgeway	Rupp	Schaefer	Schmitt	Shields	Shoemyer
Smith	Stouffer	Vogel	Wilson	Wright-Jones—29			

NAYS—Senators

Bartle Crowell Purgason—3

Absent—Senators

Griesheimer Scott—2

Absent with leave—Senators—None

Vacancies—None

The President declared the bill passed.

The emergency clause was adopted by the following vote:

YEAS—Senators

Barnitz	Bray	Callahan	Champion	Clemens	Crowell	Cunningham	Days
Dempsey	Engler	Goodman	Justus	Lager	Lembke	Mayer	McKenna
Nodler	Pearce	Purgason	Ridgeway	Rupp	Schaefer	Schmitt	Shields
Shoemyer	Smith	Stouffer	Vogel	Wilson	Wright-Jones—30		

NAYS—Senator Bartle—1

Absent—Senators

Green Griesheimer Scott—3

Absent with leave—Senators—None

Vacancies—None

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

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

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

Bill ordered enrolled.

Senator Shoemyer moved that **SB 480**, with **HCS**, be taken up for 3rd reading and final passage, which motion prevailed.

HCS for **SB 480**, entitled:

HOUSE COMMITTEE SUBSTITUTE FOR
SENATE BILL NO. 480

An Act to repeal sections 8.001, 8.003, and 8.007, RSMo, and to enact in lieu thereof four new sections relating to state boards and commissions.

Was taken up.

Senator Shoemyer moved that **HCS** for **SB 480** be adopted, which motion prevailed by the following vote:

YEAS—Senators

Barnitz	Bartle	Bray	Callahan	Clemens	Crowell	Cunningham	Days
Dempsey	Engler	Goodman	Griesheimer	Justus	Lager	Lembke	Mayer
McKenna	Nodler	Pearce	Purgason	Ridgeway	Rupp	Schaefer	Schmitt
Shields	Shoemyer	Smith	Stouffer	Vogel	Wilson	Wright-Jones—31	

NAYS—Senators—None

Absent—Senators

Champion	Green	Scott—3
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Absent with leave—Senators—None

Vacancies—None

On motion of Senator Shoemyer, **HCS** for **SB 480** was read the 3rd time and passed by the following vote:

YEAS—Senators

Barnitz	Bartle	Bray	Callahan	Clemens	Crowell	Cunningham	Days
Dempsey	Engler	Goodman	Griesheimer	Justus	Lager	Lembke	Mayer
McKenna	Nodler	Pearce	Purgason	Rupp	Schaefer	Schmitt	Shields
Shoemyer	Smith	Stouffer	Vogel	Wilson	Wright-Jones—30		

NAYS—Senators—None

Absent—Senators

Champion	Green	Ridgeway	Scott—4
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Absent with leave—Senators—None

Vacancies—None

The President declared the bill passed.

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

Senator Shoemyer 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.

Senator Pearce assumed the Chair.

Senator Clemens, on behalf of the conference committee appointed to act with a like committee from the House on **SCS** for **HB 745**, as amended, moved that the following conference committee report be taken up, which motion prevailed.

CONFERENCE COMMITTEE REPORT ON
SENATE COMMITTEE SUBSTITUTE FOR
HOUSE BILL NO. 745

The Conference Committee appointed on Senate Committee Substitute for House Bill No. 745, with Senate Amendment No. 1, Senate Amendment No. 2, Senate Amendment No. 1 to Senate Amendment No. 3, and Senate Amendment No. 3 as amended, begs leave to report that we, after free and fair discussion of the differences, have agreed to recommend and do recommend to the respective bodies as follows:

1. That the Senate recede from its position on Senate Committee Substitute for House Bill No. 745, as amended;
2. That the House recede from its position on House Bill No. 745;
3. That the attached Conference Committee Substitute for Senate Committee Substitute for House Bill No. 745, be Third Read and Finally Passed.

FOR THE HOUSE:

/s/ Tom Loehner
/s/ Billy Pat Wright
/s/ Rodney Schad
/s/ Terry L. Witte
/s/ Belinda Harris

FOR THE SENATE:

/s/ Dan Clemens
/s/ Chuck Purgason
/s/ Robert Mayer
/s/ Victor E. Callahan
/s/ Rita Heard Days

Under the provisions of Senate Rule 91, Senators Shoemyer, Barnitz and Stouffer were excused from voting on the adoption of the conference committee report and 3rd reading of the bill.

Senator Clemens moved that the above conference committee report be adopted, which motion prevailed by the following vote:

YEAS—Senators

Bartle	Bray	Callahan	Clemens	Crowell	Cunningham	Days	Dempsey
Engler	Goodman	Green	Griesheimer	Justus	Lager	Lembke	Mayer
McKenna	Nodler	Pearce	Purgason	Ridgeway	Rupp	Schaefer	Schmitt
Shields	Smith	Vogel	Wilson	Wright-Jones—29			

NAYS—Senators—None

Absent—Senators

Champion Scott—2

Absent with leave—Senators—None

Excused from voting—Senators

Barnitz Shoemyer Stouffer—3

Vacancies—None

On motion of Senator Clemens, **CCS** for **SCS** for **HB 745**, entitled:

CONFERENCE COMMITTEE SUBSTITUTE FOR
SENATE COMMITTEE SUBSTITUTE FOR
HOUSE BILL NO. 745

An Act to repeal section 34.070, RSMo, and to enact in lieu thereof one new section relating to state purchasing.

Was read the 3rd time and passed by the following vote:

YEAS—Senators

Bartle	Bray	Callahan	Clemens	Crowell	Cunningham	Days	Dempsey
Engler	Goodman	Green	Griesheimer	Justus	Lager	Lembke	Mayer
McKenna	Nodler	Pearce	Purgason	Ridgeway	Rupp	Schaefer	Schmitt
Shields	Smith	Vogel	Wilson	Wright-Jones—29			

NAYS—Senators—None

Absent—Senators

Champion Scott—2

Absent with leave—Senators—None

Excused from voting—Senators

Barnitz Shoemyer Stouffer—3

Vacancies—None

The President declared the bill passed.

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

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

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

Senator Stouffer assumed the Chair.

CONCURRENT RESOLUTIONS

Senator Clemens moved that **SCR 21** be taken up for adoption, which motion prevailed.

On motion of Senator Clemens, **SCR 21** was adopted by the following vote:

YEAS—Senators

Barnitz	Bartle	Bray	Callahan	Champion	Clemens	Crowell	Cunningham
Days	Dempsey	Engler	Goodman	Green	Griesheimer	Justus	Lager
Lembke	Mayer	McKenna	Nodler	Pearce	Ridgeway	Rupp	Schaefer
Schmitt	Shields	Shoemyer	Smith	Stouffer	Vogel	Wilson	Wright-Jones—32

NAYS—Senators—None

Absent—Senators

Purgason	Scott—2
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Absent with leave—Senators—None

Vacancies—None

HOUSE BILLS ON THIRD READING

At the request of Senator Schmitt, **HCS** for **HB 316**, with **SCS**, was placed on the Informal Calendar.

HCS for **HBs 620** and **671**, entitled:

An Act to repeal sections 313.010, 313.015, 313.040, 313.045, 313.050, 313.055, and 313.057, RSMo, and to enact in lieu thereof six new sections relating to bingo, with penalty provisions.

Was taken up by Senator Pearce.

Senator Pearce offered **SA 1**:

SENATE AMENDMENT NO. 1

Amend House Committee Substitute for House Bills Nos. 620 and 671, Page 5, Section 313.040, Lines 104-108, by striking all opening and closing brackets on said lines and all underlined words on said lines.

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

On motion of Senator Pearce, **HCS** for **HBs 620** and **671**, as amended, was read the 3rd time and passed by the following vote:

YEAS—Senators

Bray	Callahan	Champion	Clemens	Crowell	Cunningham	Days	Dempsey
Engler	Justus	Lager	Lembke	Mayer	McKenna	Nodler	Pearce
Purgason	Rupp	Schaefer	Schmitt	Shields	Shoemyer	Smith	Vogel
Wilson	Wright-Jones—26						

NAYS—Senators

Bartle	Goodman	Stouffer—3
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Absent—Senators

Barnitz Green Griesheimer Ridgeway Scott—5

Absent with leave—Senators—None

Vacancies—None

The President declared the bill passed.

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

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

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

On motion of Senator Engler, the Senate recessed until 8:00 p.m.

RECESS

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

RESOLUTIONS

Senator Pearce offered Senate Resolution No. 1187, regarding the One Hundredth Anniversary of Community of Christ, Warrensburg, which was adopted.

MESSAGES FROM THE HOUSE

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

Mr. President: I am instructed by the House of Representatives to inform the Senate that the Speaker has appointed the following conference committee to act with a like committee from the Senate on **SS** for **SCS** for **HCS** for **HB 390**. Representatives: Nolte, Parkinson, Wilson (130), Chappelle-Nadal and Schoemehl.

Also,

Mr. President: I am instructed by the House of Representatives to inform the Senate that the Speaker has appointed the following conference committee to act with a like committee from the Senate on **SCS** for **HCS** for **HB 1075**, as amended. Representatives: Fisher (125), Jones (89), Funderburk, Walsh and Frame.

HOUSE BILLS ON THIRD READING

Senator Griesheimer moved that **HCS** for **HB 191**, with **SCS**, **SS No. 2** for **SCS** and **SA 2** (pending), be called from the Informal Calendar and again taken up for 3rd reading and final passage, which motion prevailed.

SA 2 was again taken up.

At the request of Senator Smith, the above amendment was withdrawn.

Senator Lager offered **SA 3**, which was read:

SENATE AMENDMENT NO. 3

Amend Senate Substitute No. 2 for Senate Committee Substitute for House Committee Substitute for

House Bill No. 191, Pages 47-52, Section 135.535, by striking all of said section from the bill; and
Further amend the title and enacting clause accordingly.

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

Senator Crowell offered **SA 4**:

SENATE AMENDMENT NO. 4

Amend Senate Substitute No. 2 for Senate Committee Substitute for House Committee Substitute for House Bill No. 191, Page 121, Section 620.472, Line 19, by inserting immediately after all of said line the following:

“620.1039. 1. As used in this section, the term “taxpayer” means an individual, a partnership, or any charitable organization which is exempt from federal income tax and whose Missouri unrelated business taxable income, if any, would be subject to the state income tax imposed under chapter 143, RSMo, or a corporation as described in section 143.441 or 143.471, RSMo, or section 148.370, RSMo, and the term “qualified research expenses” has the same meaning as prescribed in 26 U.S.C. 41. **The term “taxpayer” shall not include any individual, partnership, or charitable organization which receives tax credits under the provisions of section 620.1041.**

2. For tax years beginning on or after January 1, 2001, the director of the department of economic development may, **subject to appropriation**, authorize a taxpayer to receive a tax credit against the tax otherwise due pursuant to chapter 143, RSMo, or chapter 148, RSMo, other than the taxes withheld pursuant to sections 143.191 to 143.265, RSMo, in an amount up to [six and one-half] **ten** percent of the [excess] **amount** of the taxpayer's qualified research expenses, as certified by the director of the department of economic development, within this state during the taxable year [over the average of the taxpayer's qualified research expenses within this state over the immediately preceding three taxable years; except that, no tax credit shall be allowed on that portion of the taxpayer's qualified research expenses incurred within this state during the taxable year in which the credit is being claimed, to the extent such expenses exceed two hundred percent of the taxpayer's average qualified research expenses incurred during the immediately preceding three taxable years], **or in the case of qualified research expenses incurred in a distressed community as defined under section 135.530, RSMo, in an amount equal to twenty-five percent of the amount of the qualified research expenses. In order to receive tax credits provided under this section, a taxpayer shall:**

(1) Employ no more than two hundred twenty-five employees, with at least seventy-five percent of such employees based within the state; and

(2) Be engaged on a for-profit basis in the development of medical instruments and devices, medical diagnostics or therapeutics, plant science products, pharmaceutical, or veterinary products with agricultural applications.

3. The director of economic development shall prescribe the manner in which the tax credit may be applied for. The tax credit authorized by this section may be claimed by the taxpayer to offset the tax liability imposed by chapter 143, RSMo, or chapter 148, RSMo, that becomes due in the tax year during which such qualified research expenses were incurred. Where the amount of the credit exceeds the tax liability, the difference between the credit and the tax liability may only be carried forward for the next five succeeding taxable years or until the full credit has been claimed, whichever first occurs. The application

for tax credits authorized by the director pursuant to subsection 2 of this section shall be made no later than the end of the taxpayer's tax period immediately following the tax period for which the credits are being claimed.

4. Certificates of tax credit issued pursuant to this section may be transferred, sold or assigned by filing a notarized endorsement thereof with the department which names the transferee and the amount of tax credit transferred. The director of economic development may allow a taxpayer to transfer, sell or assign up to forty percent of the amount of the certificates of tax credit issued to and not claimed by such taxpayer pursuant to this section during any tax year commencing on or after January 1, [1996] **2010**, and ending not later than December 31, [1999] **2016**. Such taxpayer shall file, by December 31, [2001] **2018**, an application with the department which names the transferee, the amount of tax credit desired to be transferred, and a certification that the funds received by the applicant as a result of the transfer, sale or assignment of the tax credit shall be expended within three years at the state university for the sole purpose of conducting research activities agreed upon by the department, the taxpayer and the state university. Failure to expend such funds in the manner prescribed pursuant to this section shall cause the applicant to be subject to the provisions of section 620.017.

5. No rule or portion of a rule promulgated under the authority of this section shall become effective unless it has been promulgated pursuant to the provisions of chapter 536, RSMo. All rulemaking authority delegated prior to June 27, 1997, is of no force and effect and repealed; however, nothing in this section shall be interpreted to repeal or affect the validity of any rule filed or adopted prior to June 27, 1997, if such rule complied with the provisions of chapter 536, RSMo. The provisions of this section and chapter 536, RSMo, are nonseverable and if any of the powers vested with the general assembly pursuant to chapter 536, RSMo, including the ability to review, to delay the effective date, or to disapprove and annul a rule or portion of a rule, are subsequently held unconstitutional, then the purported grant of rulemaking authority and any rule so proposed and contained in the order of rulemaking shall be invalid and void.

6. [The aggregate of all tax credits authorized pursuant to this section shall not exceed nine million seven hundred thousand dollars in any year

7. For all tax years beginning on or after January 1, 2005, no tax credits shall be approved, awarded, or issued to any person or entity claiming any tax credit under this section.] **The total amount of tax credits provided under this section, which may be authorized in fiscal year 2010 and each fiscal year thereafter, shall not exceed the lesser of the amount appropriated by the general assembly or three million dollars. No tax credits provided under the provisions of this section shall be authorized after June 30, 2015. The provisions of this subsection shall not be construed to limit or in any way impair the department's ability to issue tax credits authorized prior to June 30, 2015, or a taxpayer's ability to redeem such tax credits.**

7. For fiscal year 2010 and each fiscal year thereafter, no more than one million dollars in tax credits shall be made available for qualified research expenses incurred outside a distressed community. No more than five hundred thousand dollars in tax credits shall be issued annually under this section to any taxpayer for qualified research expenses, unless such research expenses are incurred by a taxpayer in a distressed area, in which case no more than one million dollars in tax credits may be issued to such taxpayer annually. No taxpayer shall simultaneously receive tax credits under the provisions of this section and section 620.1041.

8. Authorization for all or a part of the tax credits reserved for expenses incurred in a distressed

community, under the provisions of subsection 7 of this section, shall not restrict eligibility of a taxpayer to receive remaining credits for other qualified research expenses incurred in a distressed community.

620.1041. 1. As used in this section, the term “taxpayer” means an individual, a partnership, or any charitable organization which is exempt from federal income tax and whose Missouri unrelated business taxable income, if any, would be subject to the state income tax imposed under chapter 143, RSMo, or a corporation as described in section 143.441 or 143.471, RSMo, or section 148.370, RSMo, and the term “qualified research expenses” has the same meaning as prescribed in 26 U.S.C. 41, except that such qualified research expenses shall be limited to those incurred in the research and development of agricultural biotechnology, plant genomics products, diagnostic and therapeutic medical devices, prescription pharmaceuticals consumed by humans or animals, electronic patient health record technology, or qualified research expenses incurred in the research, development or manufacture of power system technology for aerospace, space, defense, alternative energy, alternative energy vehicles, or implantable or wearable medical devices. The term “taxpayer” shall not include any individual, partnership, or charitable organization which receives tax credits under the provisions of section 620.1039.

2. For tax years ending after January 1, 2009, the director of the department of economic development may, subject to appropriation, authorize a taxpayer to receive a tax credit against the tax otherwise due pursuant to chapter 143, RSMo, or chapter 148, RSMo, other than the taxes withheld pursuant to sections 143.191 to 143.265, RSMo, based upon the amount by which the taxpayer's qualified research expenses exceed the average, as certified by the director of the department of economic development, of the taxpayer's qualified research expenses within this state over the immediately preceding three taxable years, as follows:

(1) Three percent of the amount of increase in qualified research expenses paid or incurred during the taxable year which does not exceed two million five hundred thousand dollars;

(2) Five percent of the amount of increase in qualified research expenses paid or incurred during the taxable year which exceeds two million five hundred thousand dollars but does not exceed five million dollars; and

(3) Seven and one-half percent of the amount of increase in qualified research expenses paid or incurred during the taxable year which exceeds five million dollars.

Provisions of this subsection to the contrary notwithstanding, no tax credit shall be allowed on that portion of the taxpayer's qualified research expenses incurred within this state during the taxable year in which the credit is being claimed, to the extent such expenses exceed two hundred percent of the taxpayer's average qualified research expenses incurred during the immediately preceding three taxable years.

3. The director of economic development shall prescribe the manner in which the taxpayer may apply for the tax credit. The tax credit authorized by this section may be claimed by the taxpayer to offset the tax liability imposed by chapter 143, RSMo, or chapter 148, RSMo, that becomes due in the tax year during which such qualified research expenses were incurred; provided that if the return required to be filed pursuant to section 143.511, RSMo, or section 148.050, RSMo, for such tax year has already been filed, the taxpayer may claim the tax credit authorized by this section by claiming

the tax credit against the tax liability imposed by chapter 143, RSMo, or chapter 148, RSMo, in the tax year following the tax year in which such qualified research expenses were incurred. Where the amount of the credit exceeds the tax liability, the difference between the credit and the tax liability may only be carried forward for the next five succeeding taxable years after the tax year in which the credit was first claimed or until the full credit has been claimed, whichever first occurs. The application for tax credits authorized by the director pursuant to subsection 2 of this section shall be made no earlier than January first and no later than July first of the calendar year immediately following the calendar year in which the taxpayer's tax period for which the credits are being claimed ended. The director shall act on any such application for tax credits no sooner than August first but no later than August fifteenth of each year for applications filed in that calendar year.

4. Certificates of tax credit issued pursuant to this section may be transferred, sold, or assigned by filing a notarized endorsement thereof with the department which names the transferee and the amount of tax credit transferred. The director of economic development may allow a taxpayer to transfer, sell, or assign up to forty percent of the amount of the certificates of tax credit issued to and not claimed by such taxpayer pursuant to this section during any tax year commencing on or after January 1, 2010, and ending not later than December 31, 2016. Such taxpayer shall file, by December 31, 2018, an application with the department which names the transferee, the amount of tax credit desired to be transferred, and a certification that the funds received by the applicant as a result of the transfer, sale, or assignment of the tax credit shall be expended within three years at the state university for the sole purpose of conducting research activities agreed upon by the department, the taxpayer, and the state university. Failure to expend such funds in the manner prescribed pursuant to this section shall cause the applicant to be subject to the provisions of section 620.017.

5. No rule or portion of a rule promulgated under the authority of this section shall become effective unless it has been promulgated pursuant to the provisions of chapter 536, RSMo. All rulemaking authority delegated prior to August 28, 2009, is of no force and effect and repealed; however, nothing in this section shall be interpreted to repeal or affect the validity of any rule filed or adopted prior to August 28, 2009, if such rule complied with the provisions of chapter 536, RSMo. The provisions of this section and chapter 536, RSMo, are nonseverable and if any of the powers vested with the general assembly pursuant to chapter 536, RSMo, including the ability to review, to delay the effective date, or to disapprove and annul a rule or portion of a rule, are subsequently held unconstitutional, then the purported grant of rulemaking authority and any rule so proposed and contained in the order of rulemaking shall be invalid and void.

6. The total amount of tax credits provided under this section, which may be authorized in fiscal year 2010 and each fiscal year thereafter, shall not exceed the lesser of the amount appropriated by the general assembly or seven million dollars. No tax credits provided under this section shall be authorized after June 30, 2015. The provisions of this subsection shall not be construed to limit or in any way impair the department's ability to issue tax credits authorized prior to June 30, 2015, or a taxpayer's ability to redeem such tax credits. In the event that total eligible claims for credits received in a fiscal year exceed the amount of tax credits available for authorization in such fiscal year, as provided under the provisions of this section, each eligible claimant shall be issued credits based upon the following formula: the eligible credits if the amount allocated had not been exceeded multiplied by the ratio of the allocation divided by the total of all eligible claims for credits filed in that fiscal year.

7. No one taxpayer shall be issued more than thirty percent of the aggregate of all tax credits authorized under this section in any calendar year. No taxpayer shall simultaneously receive tax credits under the provisions of this section and section 620.1039.”; and

Further amend the title and enacting clause accordingly.

Senator Crowell moved that the above amendment be adopted and requested a roll call vote be taken. He was joined in his request by Senators Bray, McKenna, Nodler and Smith.

SA 4 was adopted by the following vote:

YEAS—Senators

Barnitz	Clemens	Crowell	Days	Dempsey	Goodman	Mayer	McKenna
Nodler	Pearce	Schaefer	Schmitt	Shoemyer	Smith	Vogel	Wilson
Wright-Jones—17							

NAYS—Senators

Bartle	Bray	Champion	Cunningham	Engler	Griesheimer	Justus	Lager
Lembke	Purgason	Ridgeway	Rupp	Scott	Shields	Stouffer—15	

Absent—Senators

Callahan	Green—2
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Absent with leave—Senators—None

Vacancies—None

Senator Crowell offered **SA 5**:

SENATE AMENDMENT NO. 5

Amend Senate Substitute No. 2 for Senate Committee Substitute for House Committee Substitute for House Bill No. 191, Page 99, Section 338.337, Line 20, by inserting immediately after all of said line the following:

“348.273. As used in sections 348.273 and 348.274, the following terms shall mean:

(1) “Department”, the Missouri department of economic development;

(2) “Distressed community”, as defined in section 135.530, RSMo;

(3) “Equity investment”, money or money equivalent in consideration for qualified securities. An equity investment shall be deemed to have been made on the date of acquisition of the qualified security, as such date is determined in accordance with the provisions of the Internal Revenue Code;

(4) “Investor”:

(a) An individual who is an accredited investor, as defined in 17 CFR 230.501(a) as in effect on August 28, 2009; or

(b) Any partnership, corporation, trust, limited liability company, or not-for-profit entity that was established and is operated for the purpose of making preseed and seed stage investments in start-up companies, and is approved by the department;

(5) “Qualified Missouri business”, an independently owned and operated business which is headquartered and located in this state and which is in need of venture capital. Such business shall have no more than two hundred employees, eighty percent of which are employed in this state. Such business shall be involved in commerce for the purpose of manufacturing, processing, or assembling products, conducting research and development, or providing services in interstate commerce but excluding retail, real estate, real estate development, insurance, and professional services provided by accountants, lawyers, or physicians. At the time approval is sought, such business shall be a small business concern that meets the requirements of the United States Small Business Administration's qualification size standards for its venture capital program, as defined in the Small Business Investment Act of 1958, as amended, and rules promulgated in 13 CFR 121.301(c), as amended;

(6) “Qualified securities”, securities that are not redeemable or repayable within seven years of issuance and that have been approved in form and substance by the department. Forms of such equity securities include:

(a) A general or limited partnership interest;

(b) Common stock;

(c) Preferred stock, with or without voting rights, without regard to seniority position, and whether or not convertible into common stock; or

(d) Convertible debt;

(7) “Rural area”, any city, town, or village with fewer than fifteen thousand inhabitants and located in any county that is not part of a standard metropolitan statistical area as defined by the United States Department of Commerce or its successor agency. However, any such city, town, or village located in any county so defined as a standard metropolitan statistical area may be designated a rural area by the department if:

(a) A substantial number of persons in such county derive their income from agriculture;

(b) The county has only one city within the county having a population of more than fifteen thousand and is classified as a standard metropolitan statistical area; and

(c) All other cities, towns, and villages in that county have a population of less than fifteen thousand.

348.274. 1. The department may, subject to appropriation, authorize tax credits to encourage equity investment into technology-based early stage Missouri companies.

2. If a qualified Missouri business is approved by the department, the investors who contribute the first five hundred thousand dollars in equity investment in the qualified Missouri business may be issued a tax credit in the year the equity investment is made. The tax credit shall be in a total amount equal to thirty percent of such investors' equity investment in any qualified Missouri business, subject to the limitations set forth in subsection 5 of this section. However, if the qualified Missouri business invested in is located in a rural area or a distressed community, the investors may be issued a tax credit for forty percent of such investment, subject to the limitations set forth in subsection 5 of this section.

3. (1) Before an investor may be entitled to receive tax credits, as authorized by this section, such investor shall have made an equity investment in a qualified security of a qualified Missouri business.

This business shall have been approved by the department as a qualified Missouri business prior to the date on which the cash investment was made. To be designated as a qualified Missouri business, a business shall make application to the department in accordance with the provisions of this section. Such application shall be in form and substance as required by the department but shall include at least the following:

- (a) The name of the business and certified copies of the organizational documents of the business;**
- (b) A business plan, including a description of the business and the management, product, market, and financial plan of the business;**
- (c) A statement of the business innovative and proprietary technology, product, or service;**
- (d) A statement of the potential economic impact of the enterprise including the number, location, and types of jobs expected to be created;**
- (e) A description of the qualified securities to be issued, the consideration to be paid for the qualified securities, the amount of any tax credits requested, and the earliest year in which the tax credits may be redeemed;**
- (f) A statement of the amount, timing, and projected use of the proceeds to be raised from the proposed sale of qualified securities; and**
- (g) Other information as the department may request, such as the names, addresses, and taxpayer identification numbers of all investors who may qualify for the tax credit. Such list of investors who may qualify for the tax credits shall be amended as new qualified securities are sold or as any information on the list changes.**

(2) No business shall be designated as a qualified Missouri business unless such business meets all of the following criteria:

- (a) The business shall not have had annual gross revenues of more than three million dollars in the most recent tax year of the business;**
- (b) The business shall not have ownership interests including, but not limited to, common or preferred shares of stock that can be traded by the public via a stock exchange, electronic exchange, bulletin board, or other public market place on or before the date that a qualifying investment is made;**
- (c) The business shall not be engaged primarily in any one or more of the following enterprises:
 - a. The business of banking, savings and loan or lending institutions, credit or finance, or financial brokerage or investments;**
 - b. Professional services, such as legal, accounting or engineering services;**
 - c. Governmental, charitable, religious or trade organizations;**
 - d. The ownership, development, brokerage, sales, or leasing of real estate;**
 - e. Insurance;**
 - f. Construction or construction management or contracting;**
 - g. Business consulting or brokerage;****

h. Any business engaged primarily as a passive business, having irregular or noncontinuous operations, or deriving substantially all of the income of the business from passive investments that generate interest, dividends, royalties, or capital gains, or any business arrangements the effect of which is to immunize an investor from risk of loss;

i. Any Missouri certified capital formation company;

j. Any activity that is in violation of the law; and

k. Any business raising money primarily to purchase real estate, land, or fixtures;

(d) The business shall satisfy all other requirements of this section.

(3) The portions of documents and other materials submitted to the department that contain trade secrets shall be kept confidential and shall be maintained in a secured environment by the director of the department. For the purposes of this section, such portions of documents and other materials shall mean any customer list, any formula, compound, production data, or compilation of information certain individuals within a commercial concern using such portions of documents and other material means to fabricate, produce, or compound an article of trade, or, any service having commercial value, which gives the user an opportunity to obtain a business advantage over competitors who do not know or use such service.

(4) A qualified Missouri business shall have the burden of proof to demonstrate to the department the qualifications of the business under this section and shall have the obligation to notify the department in a timely manner of any changes in the qualifications of the business or in the eligibility of investors to claim a tax credit for cash investment in a qualified security.

4. The designation of a business as a qualified Missouri business shall be made by the department, and such designation shall be renewed annually. A business shall be so designated if the department determines, based upon the application submitted by the business and any additional investigation the staff of the department shall make, that the following criteria have been or shall be satisfied:

(1) The business has a reasonable chance of success;

(2) The ability of investors in the business to receive tax credits for cash investments in qualified securities of the business is necessary because funding otherwise available for the business is not available on commercially reasonable terms;

(3) The business has the reasonable potential to create measurable employment within the state;

(4) The business has an innovative and proprietary technology, product, and service;

(5) The existing owners of the business and other founders have made or are committed to make a substantial financial and time commitment to the business;

(6) The securities to be issued and purchased are qualified securities; and

(7) Binding commitments have been made by the business to the department for adequate reporting of financial data, including a requirement for an annual report, or, if required by the department, an annual audit of the financial and operational records of the business, the right of access to the financial records of the business, and the right of the department to record and publish normal and customary data and information related to the issuance of tax credits that are not otherwise determined to be trade or business secrets.

5. The department shall not issue tax credits of more than fifty thousand dollars to an investor per investment into a single, qualified Missouri company, or for tax credits totaling more than one hundred thousand dollars in a single year per investor. The total amount of tax credits provided under the provisions of this section and section 348.273, which may be authorized in fiscal year 2010 and each fiscal year thereafter, shall not exceed the lesser of the amount appropriated by the general assembly or five million dollars. No tax credits provided under the provisions of this section and section 348.273, RSMo, shall be authorized after June 30, 2015. The provisions of this subsection shall not be construed to limit or in any way impair the department's ability to issue tax credits authorized prior to June 30, 2015, or a taxpayer's ability to redeem such tax credits.

6. This tax credit may be used in its entirety in the taxable year in which the equity investment is made or the credit may be carried forward for use in any of the next three consecutive tax years until the total amount of the credit is used. The tax credits may be sold, assigned, exchanged, or otherwise transferred.

7. Tax credits may be used against the tax otherwise due under chapter 143, RSMo, not including sections 143.191 to 143.265, RSMo.

8. A qualified Missouri business for which credits have been issued that, within seven years of receiving tax credits under this section, relocates its headquarters out of Missouri, ceases to employ at least eighty percent of its employees in Missouri, alters the principal nature of its operations, or divests itself of key assets shall upon demand by the department pay the state of Missouri an amount equal to the amount of credits issued to its contributors.

9. In addition to reports by the businesses to the department, the department shall also provide in its annual report information on the marketing and use of the investor tax credits. This report shall include the following:

(1) The amount of tax credits used in the previous fiscal year, including what percentage was claimed by individuals and what percentage was claimed by firms and other entities;

(2) The types of businesses that benefited from the tax credits; and

(3) Any aggregate job creation or capital investment in Missouri that resulted from the use of the tax credits for a period of five years beginning from the date on which the tax credits were awarded.

In addition, the annual report shall provide information regarding what businesses deriving a benefit from the tax credits remained in Missouri, what businesses ceased doing business, what businesses were purchased, and what businesses may have moved out-of-state and the reason for such move.”; and

Further amend the title and enacting clause accordingly.

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

PRIVILEGED MOTIONS

Having voted on the prevailing side, Senator Schaefer moved that the vote by which SA 4 was adopted be reconsidered, which motion prevailed by the following vote:

YEAS—Senators

Barnitz

Bartle

Bray

Callahan

Champion

Cunningham

Days

Dempsey

Engler	Goodman	Griesheimer	Justus	Lager	Lembke	McKenna	Nodler
Pearce	Purgason	Ridgeway	Rupp	Schaefer	Schmitt	Scott	Shields
Stouffer	Wilson	Wright-Jones—27					

NAYS—Senators

Clemens	Crowell	Mayer	Shoemyer	Smith	Vogel—6
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Absent—Senator Green—1

Absent with leave—Senators—None

Vacancies—None

SA 4 was again taken up.

At the request of Senator Griesheimer, **HCS** for **HB 191**, with **SCS**, **SS No. 2** for **SCS** and **SA 4** (pending), was placed on the Informal Calendar.

INTRODUCTIONS OF GUESTS

Senator Rupp introduced to the Senate, twenty-two fourth grade students from St. Ann Catholic School, St. Louis; and Michael Novak was made an honorary page.

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

SENATE CALENDAR

SEVENTY-SECOND DAY—FRIDAY, MAY 15, 2009

FORMAL CALENDAR

THIRD READING OF SENATE BILLS

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

SENATE BILLS FOR PERFECTION

SB 546-Schmitt, et al
SB 545-Schmitt

SB 222-Goodman, with SCS
SB 391-Schaefer, with SCS

HOUSE BILLS ON THIRD READING

HB 65-Wilson (119), et al (Pearce)
(In Fiscal Oversight)

HCS for HBs 320, 39 & 662 (Mayer)
(In Fiscal Oversight)

HB 86-Sutherland (Lager)
(In Fiscal Oversight)
HCS for HB 681 (Pearce)
(In Fiscal Oversight)

HCS for HBs 187 & 235, with SCS
(Bartle) (In Fiscal Oversight)
HB 156-Nance and Ruestman (Dempsey)
(In Fiscal Oversight)

INFORMAL CALENDAR

SENATE BILLS FOR PERFECTION

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 and Smith, with SCS &
SS#3 for SCS (pending)
SB 57-Stouffer, with SCS & SA 1 (pending)
SB 72-Stouffer, with SCS
SB 94-Justus, et al, with SCS & SS for
SCS (pending)
SB 174-Griesheimer and Goodman, with
SCS, SS#2 for SCS & SA 2 (pending)
SCS for SB 189-Shields
SBs 223 & 226-Goodman and Nodler, with
SCS & SA 1 (pending)
SB 228-Scott, with SCS, SS for SCS, SA 12
SSA 1 for SA 12 & SA 1 to SSA 1
for SA 12 (pending)
SB 236-Lembke

SB 254-Barnitz, with SS (pending)
SBs 261, 159, 180 & 181-Bartle and
Goodman, with SCS & SS#3 for SCS
(pending)
SB 264-Mayer
SB 267-Mayer and Green, with SA 1
(pending)
SB 284-Lembke, et al, with SA 1 (pending)
SB 299-Griesheimer, with SCS & SS for
SCS (pending)
SB 321-Days, et al, with SCS (pending)
SB 364-Clemens and Schaefer
SB 409-Stouffer, with SCS (pending)
SB 477-Wright-Jones, with SS (pending)
SB 527-Nodler and Bray
SB 555-Lager, with SCS, SS for SCS &
SA 2 (pending)
SB 569-Lembke, with SCS
SB 572-Dempsey and Justus
SJR 12-Scott, with SCS (pending)

HOUSE BILLS ON THIRD READING

HB 30-Brandom, et al, with SCS & SS for
SCS (pending) (Goodman)
HB 69-Storch, with SCS (pending)
(Champion)
HCS for HB 96, with SCS (Mayer)
HCS for HBs 128 & 340, with SA 1
(pending) (Scott)
HB 170-Cox, et al, with SCS & SS for SCS
(pending) (Stouffer)
HCS for HB 191, with SCS, SS#2 for SCS &
SA 4 (pending) (Griesheimer)

HCS for HB 228, with SCS & SS for
SCS (pending) (Lembke)
HB 229-Ervin, with SCS, SS for SCS, SA 8
SSA 1 for SA 8 & SA 1 to SSA 1
for SA 8 (pending) (Dempsey)
HB 258-Jones (89), et al, with SCS &
SA 1 (pending) (Rupp)
HB 287-Day, et al, with SS (pending)
(Mayer)
HCS for HB 316, with SCS (Schmitt)
HCS for HB 481 (Lembke)

HB 488-Schad, et al, with SCS (pending)
 (Pearce)
 HCS for HB 495, with SCS, SS for SCS,
 SA 1, SSA 2 for SA 1 & SA 1 to SSA 2
 for SA 1 (pending) (Griesheimer)
 HCS for HBs 658 & 706 (Clemens)
 HB 659-Dusenberg, et al, with SCS & SA 1
 (pending) (Bartle)
 HCS for HB 795, with SCS & SA 1
 (pending) (Purgason)

HB 802-Tracy, et al (Crowell)
 HCS for HJR 10, with SS (pending)
 (Lembke)
 HJR 11-McGhee, et al, with SS (pending)
 (Scott)
 HCS for HJR 32, with SCA 1 & SA 1 to SCA 1
 (pending) (Schaefer)
 HJR 37-Cunningham, with SA 1 (pending)
 (Goodman)

CONSENT CALENDAR

House Bills

Reported 4/15

HCS for HBs 234 & 493 (Shoemyer)

SENATE BILLS WITH HOUSE AMENDMENTS

SCS for SB 176-Stouffer, with HCS
 SB 215-Shields, with HCS, as amended
 SB 263-Mayer, with HCS
 SB 377-Rupp, with HCS, as amended

SB 526-Clemens, with HA 1, HA 2, HA 3 &
 HA 4
 SCS for SB 563-Smith, with HCS

BILLS IN CONFERENCE AND BILLS CARRYING REQUEST MESSAGES

In Conference

SB 26-Ridgeway, with HCS, as amended
 SCS for SB 44-Pearce, with HCS
 SB 114-Crowell, with HCS#2, as amended
 SB 171-Griesheimer, with HCS, as amended
 SB 262-Bartle, with HCS, as amended
 SB 386-Lager, with HCS, as amended
 SS for SCS for SB 539-Schaefer, with
 HCS, as amended
 HCS for HB 62, with SS for SCS, as
 amended (Bartle)

HCS for HB 376-Hobbs, et al, with SS for
 SCS, as amended (Griesheimer)
 HCS for HB 390, with SS for SCS (Rupp)
 HCS for HB 577, with SS for SCS, as
 amended (Rupp)
 HB 734-Ruzicka and Hobbs, with SS for
 SCS, as amended (Lager)
 HCS for HB 1075, with SCS, as amended
 (Griesheimer)

Requests to Recede or Grant Conference

SCS for SB 71-Stouffer, with HCS, as amended (Senate requests House recede and take up and pass bill)
SS for SCS for SB 306-Dempsey, et al, with HCS, as amended (Senate requests House recede or grant conference)

SB 485-Pearce, with HCS, as amended (Senate requests House recede and take up and pass bill)
HCS for HBs 46 & 434, with SS (Mayer) (Senate refuses to recede and requests House take up and pass bill)

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 10-Rupp
SCR 18-Bartle and Rupp
SCR 23-Schmitt
HCS for HCR 4 (Lager)

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