

Journal of the Senate

SECOND REGULAR SESSION

FORTY-FOURTH DAY—WEDNESDAY, APRIL 6, 2022

The Senate met pursuant to adjournment.

President Kehoe in the Chair.

The Reverend Carl Gauck offered the following prayer:

“Hear a just cause, O Lord; give heed to my cry; listen to my prayer...” (Psalm 17:1)

Heavenly Father, we ask that You free us from paradigms that no longer serve Your people. And we ask that You help us to imagine new ways of working with one another, so that fresh ways of looking at what we are able to do may produce beneficial results for all Your people. And fill us with Your knowledge that brings power to our words and actions. 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

Arthur	Bean	Beck	Bernskoetter	Brattin	Brown	Burlison
Cierpiot	Crawford	Eigel	Eslinger	Gannon	Hegeman	Hoskins
Hough	Koenig	Luetkemeyer	May	Moon	Mosley	O’Laughlin
Onder	Razer	Rizzo	Roberts	Rowden	Schatz	Schupp
Thompson Rehder	Washington	White	Wieland	Williams—33		

Absent—Senators—None

Absent with leave—Senator Riddle—1

Vacancies—None

The Lieutenant Governor was present.

RESOLUTIONS

Senator Rowden offered Senate Resolution No. 732, regarding the death of John Clifton Cleek, Columbia, which was adopted.

Senator Bernskoetter offered Senate Resolution No. 733, regarding Jefferson City High School, which was adopted.

THIRD READING OF SENATE BILLS

SB 845, introduced by Senator Eslinger, entitled:

An Act to repeal sections 50.800, 50.810, 50.815, and 50.820, RSMo, and to enact in lieu thereof two new sections relating to county financial statements, with existing penalty provisions.

Was called from the Consent Calendar and taken up.

On motion of Senator Eslinger, **SB 845** was read the 3rd time and passed by the following vote:

YEAS—Senators

Arthur	Bean	Beck	Brown	Burlison	Cierpiot	Crawford
Eigel	Eslinger	Gannon	Hegeman	Hoskins	Hough	Koenig
Luetkemeyer	Moon	Mosley	O’Laughlin	Onder	Rizzo	Roberts
Rowden	Schatz	Schupp	Thompson Rehder	Washington	White	Wieland

Williams—29

NAYS—Senators—None

Absent—Senators

Bernskoetter	Brattin	May	Razer—4
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Absent with leave—Senator Riddle—1

Vacancies—None

The President declared the bill passed.

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

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

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

SB 718, introduced by Senators Washington and Mosley, entitled:

An Act to amend chapter 9, RSMo, by adding thereto one new section relating to historically black college and university week.

Was called from the Consent Calendar and taken up.

On motion of Senator Washington, **SB 718** was read the 3rd time and passed by the following vote:

YEAS—Senators

Arthur	Bean	Beck	Brattin	Brown	Burlison	Cierpiot
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Crawford	Eigel	Eslinger	Gannon	Hegeman	Hoskins	Hough
Koenig	Luetkemeyer	Moon	Mosley	O’Laughlin	Onder	Razer
Rizzo	Roberts	Rowden	Schatz	Schupp	Thompson Rehder	Washington
White	Wieland	Williams—31				

NAYS—Senators—None

Absent—Senators

Bernskoetter May—2

Absent with leave—Senator Riddle—1

Vacancies—None

The President declared the bill passed.

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

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

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

SB 908, with **SCS**, introduced by Senator Koenig, entitled:

An Act to repeal sections 67.457, 67.461, 67.1421, 67.1431, 67.1471, 99.825, 99.830, 99.865, 238.212, and 238.222, RSMo, and to enact in lieu thereof ten new sections relating to certain special taxing districts.

Was called from the Consent Calendar and taken up.

SCS for **SB 908**, entitled:

SENATE COMMITTEE SUBSTITUTE FOR
SENATE BILL NO. 908

An Act to repeal sections 67.457, 67.461, 67.1421, 67.1431, 67.1471, 99.825, 99.830, 99.865, 238.212, and 238.222, RSMo, and to enact in lieu thereof ten new sections relating to certain special taxing districts.

Was taken up.

Senator Koenig moved that **SCS** for **SB 908** be adopted, which motion prevailed.

Senator Bernskoetter assumed the Chair.

On motion of Senator Koenig, **SCS** for **SB 908** was read the 3rd time and passed by the following vote:

YEAS—Senators

Arthur	Bean	Beck	Bernskoetter	Brattin	Brown	Burlison
Cierpiot	Crawford	Eigel	Eslinger	Gannon	Hegeman	Hoskins
Hough	Koenig	Luetkemeyer	May	Moon	Mosley	O’Laughlin
Onder	Razer	Rizzo	Roberts	Rowden	Schatz	Schupp
Thompson Rehder	Washington	White	Wieland	Williams—33		

NAYS—Senators—None

Absent—Senators—None

Absent with leave—Senator Riddle—1

Vacancies—None

The President declared the bill passed.

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

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

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

SB 982, with **SCS**, introduced by Senator Arthur, entitled:

An Act to repeal sections 208.044, 208.046, 208.053, 210.027, 210.102, 210.199, 210.203, 210.211, 210.221, 210.223, 210.231, 210.241, 210.245, 210.251, 210.252, 210.254, 210.255, 210.256, 210.258, 210.275, 210.1007, and 210.1080, RSMo, and to enact in lieu thereof twenty-one new sections relating to child care, with existing penalty provisions.

Was called from the Consent Calendar and taken up.

SCS for **SB 982**, entitled:

SENATE COMMITTEE SUBSTITUTE FOR
SENATE BILL NO. 982

An Act to repeal sections 208.044, 208.046, 208.053, 210.027, 210.102, 210.199, 210.203, 210.211, 210.221, 210.223, 210.231, 210.241, 210.245, 210.251, 210.252, 210.254, 210.255, 210.256, 210.258, 210.275, 210.1007, and 210.1080, RSMo, and to enact in lieu thereof twenty-one new sections relating to child care, with existing penalty provisions.

Was taken up.

Senator Arthur moved that **SCS** for **SB 982** be adopted, which motion prevailed.

On motion of Senator Arthur, **SCS** for **SB 982** was read the 3rd time and passed by the following vote:

YEAS—Senators

Arthur	Bean	Beck	Bernskoetter	Brattin	Brown	Burlison
Cierpiot	Crawford	Eigel	Eslinger	Gannon	Hegeman	Hoskins
Hough	Koenig	Luetkemeyer	May	Moon	Mosley	O’Laughlin
Onder	Razer	Rizzo	Roberts	Rowden	Schatz	Schupp
Thompson Rehder	Washington	White	Wieland	Williams—33		

NAYS—Senators—None

Absent—Senators—None

Absent with leave—Senator Riddle—1

Vacancies—None

The President declared the bill passed.

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

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

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

SB 886, with **SCS**, introduced by Senator Luetkemeyer, entitled:

An Act to repeal section 456.4-419, RSMo, and to enact in lieu thereof two new sections relating to trusts.

Was called from the Consent Calendar and taken up.

SCS for **SB 886**, entitled:

SENATE COMMITTEE SUBSTITUTE FOR
SENATE BILL NO. 886

An Act to repeal sections 456.4-419, 456.5-504, and 456.5-505, RSMo, and to enact in lieu thereof five new sections relating to trusts.

Was taken up.

Senator Luetkemeyer moved that **SCS** for **SB 886** be adopted, which motion prevailed.

On motion of Senator Luetkemeyer, **SCS** for **SB 886** was read the 3rd time and passed by the following vote:

YEAS—Senators

Arthur	Bean	Beck	Bernskoetter	Brattin	Brown	Burlison
Cierpiot	Crawford	Eigel	Eslinger	Gannon	Hegeman	Hoskins
Hough	Koenig	Luetkemeyer	May	Moon	Mosley	O’Laughlin
Onder	Razer	Rizzo	Roberts	Rowden	Schatz	Schupp
Thompson Rehder	Washington	White	Wieland	Williams—33		

NAYS—Senators—None

Absent—Senators—None

Absent with leave—Senator Riddle—1

Vacancies—None

The President declared the bill passed.

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

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

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

MESSAGES FROM THE HOUSE

The following message was received from the House of Representatives through its Chief Clerk:

Mr. President: I am instructed by the House of Representatives to inform the Senate that the House has taken up and passed **HCS** for **HB 2120**, entitled:

An Act to repeal section 575.095, RSMo, and to enact in lieu thereof three new sections relating to disclosure of personal information to public agencies, with penalty provisions.

In which the concurrence of the Senate is respectfully requested.

Read 1st time.

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

RECESS

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

SENATE BILLS FOR PERFECTION

Senator Koenig moved that **SB 931**, with **SCS**, be called from the Informal Calendar and taken up for perfection, which motion prevailed.

SCS for **SB 931**, entitled:

SENATE COMMITTEE SUBSTITUTE FOR
SENATE BILL NO. 931

An Act to repeal sections 130.029 and 143.081, RSMo, and to enact in lieu thereof three new sections relating to corporations.

Was taken up.

Senator Koenig moved that **SCS** for **SB 931** be adopted.

Senator Koenig offered **SS** for **SCS** for **SB 931**, entitled:

SENATE SUBSTITUTE FOR
SENATE COMMITTEE SUBSTITUTE FOR
SENATE BILL NO. 931

An Act to repeal sections 44.032, 130.029, 143.081, 143.121, 347.020, 347.143, 347.179, 347.183, 347.186, 358.460, and 358.470, RSMo, and to enact in lieu thereof fifteen new sections relating to corporations, with penalty provisions.

Senator Koenig moved that **SS** for **SCS** for **SB 931** be adopted.

Senator Hough assumed the Chair.

Senator Luetkemeyer offered **SA 1**:

SENATE AMENDMENT NO. 1

Amend Senate Substitute for Senate Committee Substitute for Senate Bill No. 931, Page 7, Section

130.029, Line 33, by striking “and any S corporation”; and further amend line 34 by striking “or S corporation”; and further amend line 39-40 by striking “or S corporation”; and further amend line 44 by striking “and S corporations”; and further amend lines 49-55 by striking all of said lines.

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

Senator Luetkemeyer offered SA 2:

SENATE AMENDMENT NO. 2

Amend Senate Substitute for Senate Committee Substitute for Senate Bill No. 931, Page 55, Section 407.475, Line 18, by inserting after all of said line the following:

“431.201. As used in section 431.202, unless the context otherwise requires, the following terms mean:

(1) “Business entity”, any natural person, business, corporation, limited liability company, series limited liability company, partnership, sole or other proprietorship, professional practice, or any other business organization or commercial enterprise, whether for profit or not for profit, including, without limitation, any successor in interest to an entity who conducts business or who, directly or indirectly, owns any equity interest, ownership, or profit participation in the entity;

(2) “Customers with whom the employee dealt”, each customer or prospective customer:

(a) Who was serviced, directly or indirectly, by an employee of a business entity;

(b) Whose business or other dealings with a business entity were supervised, coordinated, or otherwise worked on, directly or indirectly, by an employee;

(c) Who was solicited, produced, induced, persuaded, encouraged, or otherwise dealt with, directly or indirectly, by an employee;

(d) About whom an employee, directly or indirectly, obtained, had knowledge of, had access to, or is in possession of confidential business or proprietary information or trade secrets in the course of or as a result of the employee’s relationship with the business entity;

(e) Who has purchased or otherwise obtained products or services from a business entity and the sale or provision of which resulted in compensation, commissions, earnings, or profits to or for the employee within two years prior to the end of the employee’s employment or business relationship with the business entity; or

(f) With whom an employee had contact, directly or indirectly, of sufficient quality, frequency, and duration during the employee’s employment or other business relationship with the business entity such that the employee had influence over the customer;

(3) “Employee”:

(a) A natural person currently or formerly employed or retained by a business entity in any capacity, or who has performed work for a business entity, including, but not limited to, a member of a board of directors, an officer, a supervisor, an independent contractor, or a vendor;

(b) A natural person who, by reason of having been employed by or having a business relationship with a business entity:

a. Obtained specialized skills, training, learning, or abilities; or

b. Obtained, had knowledge of, had access to, or is in possession of confidential or proprietary business information or trade secrets of the business entity, including, but not limited to, customer contact information or information of or belonging to customers of the business entity; or

(c) A current or former owner or seller of all or any part of the assets of a business entity or of any interest in a business entity, including, but not limited to, all or any part of the shares of a corporation, a partnership interest, a membership or membership interest in a limited liability company or a series limited liability company, or an equity interest, ownership, profit participation, or other interest of any type in any business entity;

(d) The term “employee” set forth in this subdivision shall be applicable only with respect to section 431.202 and shall have no application in any other context. The term “employee” is not intended, and shall not be relied upon, to create, change, or affect the employment status of any natural person or the meaning of the terms “employee”, “employment”, or “employer” that may be applicable in any other context or pursuant to any other provision of law.

431.202. 1. A reasonable covenant in writing promising not to solicit, recruit, hire, **induce, persuade, encourage**, or otherwise interfere with, **directly or indirectly**, the employment or other business relationship of one or more employees of a business entity shall be enforceable and not a restraint of trade pursuant to subsection 1 of section 416.031 if:

(1) Between two or more [corporations or other] business entities seeking to preserve workforce stability (which shall be deemed to be among the protectable interests of each [corporation or] **such** business entity) during, and for a reasonable period following, negotiations between such [corporations or] **business** entities for the acquisition of all or a part of one or more of such [corporations or] **business** entities;

(2) Between two or more [corporations or] business entities engaged in a joint venture or other legally permissible business arrangement where such covenant seeks to protect against possible misuse of confidential **business or proprietary information** or trade [secret business information] **secrets** shared or to be shared between or among such [corporations or] entities;

(3) Between [an employer] **a business entity** and one or more employees **of such business entity** seeking on the part of the [employer] **business entity** to protect:

(a) Confidential **business or proprietary information** or trade [secret business information] **secrets**;
or

(b) Customer or supplier relationships, goodwill or loyalty, which shall be deemed to be among the protectable interests of the [employer] **business entity**; or

(4) Between [an employer] **a business entity** and one or more employees **of such business entity**, notwithstanding the absence of the protectable interests described in subdivision (3) of this subsection, so long as such covenant does not continue for more than [one year] **two years** following the employee’s employment **or business relationship with the business entity**; provided, however, that this subdivision shall not apply to covenants signed by employees who provide only secretarial or clerical services **and who own no shares, partnership interest, membership or membership interest in a limited liability company or series limited liability company, or equity interest, ownership, profit participation, or other interest of any type in the business entity.**

2. Whether a covenant covered by **subsection 1** of this section is reasonable shall be determined based upon the facts and circumstances pertaining to such covenant, but a covenant covered exclusively by subdivision (3) or (4) of subsection 1 of this section shall be conclusively presumed to be reasonable if its postemployment or **postbusiness** duration is no more than [one year] **two years**.

3. A reasonable covenant in writing promising not to solicit, induce, persuade, encourage, service, accept business from, or otherwise interfere with, directly or indirectly, a business entity's customers, including, without limitation, any reduction, termination, or transfer of any customer's business, in whole or in part, for purposes of providing any product or any service that is competitive with those provided by the business entity, shall be enforceable, and not a restraint of trade pursuant to subsection 1 of section 416.031, if the covenant is limited to customers with whom the employee dealt during the employee's employment or other business relationship with the business entity, and if:

(1) The covenant is between a business entity and one or more current or former employees of the business entity and is not associated with the sale or ownership of all or any part of:

(a) The assets of a business entity; or

(b) Any interest in a business entity, including, but not limited to, all or any part of the shares of a corporation, a partnership interest, a membership or membership interest in a limited liability company or series limited liability company, or an equity interest, ownership, profit participation, or other interest of any type in any business entity;

so long as the covenant does not continue for more than two years following the end of the employee's employment or business relationship with the business entity. Notwithstanding the foregoing, this subdivision shall not apply to covenants with current or former distributors, dealers, franchisees, lessees of real or personal property, or licensees of a trademark, trade dress, or service mark;

(2) The covenant is between a business entity and a current or former distributor, dealer, franchisee, lessee of real or personal property, or licensee of a trademark, trade dress, or service mark, and is not associated with the sale or ownership of all or any part of any of the items provided in paragraphs (a) or (b) of subdivision (1) of this subsection, so long as such covenant does not continue for more than three years following the end of the business relationship; or

(3) The covenant is between a business entity and the owner or seller of all or any part of any of the items provided in paragraphs (a) or (b) of subdivision (1) of this subsection, so long as the covenant does not continue for more than the longer of five years in duration or the period of time during which payments are being made to the owner or seller as a result of any sale measured from the date of termination, closing, or disposition of such items.

(a) A breach or threatened breach of a covenant described in this subdivision shall create a conclusive presumption of irreparable harm in the absence of an issuance of injunctive relief in connection with the enforcement of the covenant, without the necessity of establishing by prima facie evidence any actual or threatened damages or harm. Nothing in this paragraph shall be construed to change any other applicable evidentiary standard or other standards necessary for obtaining temporary, preliminary, or permanent injunctive relief relating to the enforcement of covenants.

(b) A provision in writing by which an employee promises to provide prior notice to a business

entity of the employee's intent to terminate, sell, or otherwise dispose of all or any part of any of the items covered by this subdivision shall be conclusively presumed to be enforceable, and not a restraint of trade pursuant to subsection 1 of section 416.031, if the specified notice period is no longer than thirty days in duration and the business entity agrees in writing to pay the employee at the employee's regular rate of pay and to provide the employee with the employee's regular benefits during the applicable notice period even if the business entity does not require the employee to provide services during the notice period.

4. Whether a covenant covered by subsection 3 of this section is reasonable shall be determined based upon the facts and circumstances pertaining to the covenant, but a covenant covered by subdivisions (1) to (3) of subsection 3 of this section shall be conclusively presumed to be reasonable if its postemployment, posttermination, postbusiness relationship, postsale, or postdisposition duration is consistent with the applicable duration set forth in subdivisions (1) to (3) of subsection 3 of this section.

5. No express reference to geographic area shall be required for a covenant described in this section to be enforceable.

6. If a covenant is overbroad, overlong, or otherwise not reasonably necessary to protect the legitimate business interests of the person seeking enforcement of the covenant, a court shall modify the covenant, enforce the covenant as modified, and grant only the relief reasonably necessary to protect such interests.

7. Nothing in subdivision (3) or (4) of subsection 1 or subdivisions (1) to (3) of subsection 3 of this section is intended to create, or to affect the validity or enforceability of, [employer-employee] covenants not to compete, other types of covenants, or nondisclosure or confidentiality agreements, except as expressly provided in this section.

[4.] 8. Nothing in this section shall preclude a covenant described in subsection 1 of this section from being enforceable in circumstances other than those described in subdivisions (1) to (4) of subsection 1 of this section, or a covenant described in subsection 3 of this section from being enforceable in circumstances other than those described in subdivisions (1) to (3) of subsection 3 of this section, where such covenant is reasonably necessary to protect a party's legally permissible business interests.

[5.] 9. Except as otherwise expressly provided in this section, nothing [is] in this section shall be construed to limit an employee's ability to seek or accept employment with another employer immediately upon, or at any time subsequent to, termination of employment, whether said termination was voluntary or nonvoluntary.

[6.] 10. This section shall have retrospective as well as prospective effect.”; and

Further amend the title and enacting clause accordingly.

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

Senator Wieland offered SA 3:

SENATE AMENDMENT NO. 3

Amend Senate Substitute for Senate Committee Substitute for Senate Bill No. 931, Page 1, Section A, Line 7, by inserting after all of said line the following:

“30.267. 1. In order to ensure that taxpayer money does not support any nation that has acted by means of aggression towards the global community, the state of Missouri, its political subdivisions, and any retirement system established by the state of Missouri or any political subdivision shall not contract with or invest in stocks, bonds, or any direct holdings in companies that have active business operations in strategic industries with the Russian Federation.

2. Existing contracts or investments shall not be renewed, and shall be cancelled or divested at the earliest prudent opportunity. Under no circumstance shall such contracts or investments be in force beyond December 31, 2022.”; and

Further amend the title and enacting clause accordingly.

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

Senator Williams offered SA 4:

SENATE AMENDMENT NO. 4

Amend Senate Substitute for Senate Committee Substitute for Senate Bill No. 931, Page 55, Section 407.475, Line 18, by inserting after all of said line the following:

“620.1039. 1. As used in this section, the [term] **following terms shall mean:**

(1) “Additional qualified research expenses”, the difference between qualified research expenses, as certified by the director of economic development, incurred in a tax year subtracted by the average of the taxpayer’s qualified research expenses incurred in the three immediately preceding tax years;

(2) “Minority business enterprise”, a business that is:

(a) A sole proprietorship owned and controlled by a minority;

(b) A partnership or joint venture owned and controlled by minorities in which at least fifty-one percent of the ownership interest is held by minorities and the management and daily business operations of which are controlled by one or more of the minorities who own it; or

(c) A corporation or other entity whose management and daily business operations are controlled by one or more minorities who own it and that is at least fifty-one percent owned by one or more minorities or, if stock is issued, at least fifty-one percent of the stock is owned by one or more minorities;

(3) “Missouri qualified research and development equipment”, tangible personal property that has not previously been used in this state for any purpose and is acquired by the purchaser for the purpose of research and development activities devoted to experimental or laboratory research and development for new products, new uses of existing products, or improving or testing existing products;

(4) “Qualified research expenses”, for expenses within this state, the same meaning as prescribed in 26 U.S.C. 41;

(5) “Small business”, a corporation, partnership, sole proprietorship or other business entity, including its affiliates, that:

(a) Is independently owned and operated; and

(b) Employs fifty or fewer full-time employees;

(6) “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, or a corporation as described in section 143.441 or 143.471, or section 148.370[, and the term “qualified research expenses” has the same meaning as prescribed in 26 U.S.C. 41];

(7) “Women’s business enterprise”, a business that is:

(a) A sole proprietorship owned and controlled by a woman;

(b) A partnership or joint venture owned and controlled by women in which at least fifty-one percent of the ownership interest is held by women and the management and daily business operations of which are controlled by one or more of the women who own it; or

(c) A corporation or other entity whose management and daily business operations are controlled by one or more women who own it and that is at least fifty-one percent owned by women or, if stock is issued, at least fifty-one percent of the stock is owned by one or more women.

2. **(1)** For tax years beginning on or after January 1, 2001, **and ending before January 1, 2005**, the director of the department of economic development may authorize a taxpayer to receive a tax credit against the tax otherwise due pursuant to chapter 143, or chapter 148, other than the taxes withheld pursuant to sections 143.191 to 143.265, in an amount up to six and one-half percent of the excess 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.

(2) For all tax years beginning on or after January 1, 2023, the director of economic development may authorize a taxpayer to receive a tax credit against the tax otherwise due under chapters 143 and 148, other than the taxes withheld under sections 143.191 to 143.265 in an amount equal to the greater of:

(a) Fifteen percent of the taxpayer’s additional qualified research expenses; or

(b) If such qualified research expenses relate to research conducted in conjunction with a public or private college or university located in this state, twenty percent of the taxpayer’s additional qualified research expenses.

However, in no case shall a tax credit be allowed for any portion of qualified research expenses that exceed two hundred percent of the taxpayer’s average qualified research expenses incurred during the three immediately preceding tax years.

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 or chapter 148 that becomes due in the tax year during which such qualified research expenses were incurred. **For tax years ending before January 1, 2005**, 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. **For all tax years beginning on or after January 1, 2023, 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 twelve succeeding tax years or until the full credit has been claimed, whichever occurs first.** 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. **(1)** 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, and ending not later than December 31, 1999. Such taxpayer shall file, by December 31, 2001, 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.

(2) Up to one hundred percent of tax credits provided under this program may be transferred, sold, or assigned by filing a notarized endorsement thereof with the department that names the transferee, the amount of tax credit transferred, and the value received for the credit, as well as any other information reasonably requested by the department. For a taxpayer with flow-through tax treatment to its members, partners, or shareholders, the tax credit shall be allowed to members, partners, or shareholders in proportion to their share of ownership on the last day of the taxpayer's tax period.

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. 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. The provisions of this section and chapter 536 are nonseverable and if any of the powers vested with the general assembly pursuant to chapter 536, 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.] **Purchases of Missouri qualified research and development equipment are hereby specifically exempted from all state and local sales and use tax including, but not limited to, sales and use tax authorized or imposed under section 32.085 and chapter 144.**

6. **The department may adopt such rules, statements of policy, procedures, forms, and guidelines as may be necessary to carry out the provisions of this section. Any rule or portion of a rule, as that term is defined in section 536.010, that is created under the authority delegated in this section shall**

become effective only if it complies with and is subject to all of the provisions of chapter 536 and, if applicable, section 536.028. This section and chapter 536 are nonseverable and if any of the powers vested with the general assembly pursuant to chapter 536 to review, to delay the effective date, or to disapprove and annul a rule are subsequently held unconstitutional, then the grant of rulemaking authority and any rule proposed or adopted after August 28, 2022, shall be invalid and void.

7. (1) For tax years ending before January 1, 2005, the aggregate of all tax credits authorized pursuant to this section shall not exceed nine million seven hundred thousand dollars in any year.

(2) (a) For all tax years beginning on or after January 1, 2023, the aggregate of all tax credits authorized under this section shall not exceed ten million dollars in any year.

(b) Five million dollars of such ten million dollars shall be reserved for minority business enterprises, women's business enterprises, and small businesses. Any reserved amount not issued or awarded to a minority business enterprise, women's business enterprise, or small business by November first of the tax year may be issued to any taxpayer otherwise eligible for a tax credit under this section.

(c) No single taxpayer shall be issued or awarded more than three hundred thousand dollars in tax credits under this section in any year.

(d) In the event that total eligible claims for credits received in a calendar year exceed the annual cap, each eligible claimant shall be issued credits based upon a pro-rata basis, given that all new businesses, defined as a business less than five years old, are issued full tax credits first.

[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.]

8. Under section 23.253 of the Missouri sunset act:

(1) The provisions of the program authorized under this section shall automatically sunset December thirty-first, six years after the effective date of this section;

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

(3) This section shall terminate on December thirty-first of the calendar year immediately following the calendar year in which the program authorized under this section is sunset.”; and

Further amend the title and enacting clause accordingly.

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

Senator Koenig moved that SS for SCS for SB 931, as amended, be adopted, which motion prevailed.

On motion of Senator Koenig, SS for SCS for SB 931, as amended, was declared perfected and ordered printed.

CONCURRENT RESOLUTIONS

SCR 24, introduced by Senator Roberts, entitled:

Relating to Victims of Communism Memorial Day.

Was taken up.

On motion of Senator Roberts, **SCR 24** was read the 3rd time and passed by the following vote:

YEAS—Senators

Arthur	Bean	Beck	Bernskoetter	Brattin	Brown	Burlison
Cierpiot	Crawford	Eigel	Eslinger	Gannon	Hegeman	Hoskins
Hough	Koenig	Luetkemeyer	May	Moon	Mosley	O’Laughlin
Onder	Razer	Rizzo	Roberts	Rowden	Schatz	Schupp
Washington	White	Wieland	Williams—32			

NAYS—Senators—None

Absent—Senator Thompson Rehder—1

Absent with leave—Senator Riddle—1

Vacancies—None

The President declared the concurrent resolution passed.

On motion of Senator Roberts, title to the concurrent resolution was agreed to.

Senator Roberts moved that the vote by which the concurrent resolution passed be reconsidered.

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

Senator May moved that **SCR 27** be taken up for adoption, which motion prevailed.

On motion of Senator May, **SCR 27** was adopted by the following vote:

YEAS—Senators

Arthur	Bean	Beck	Bernskoetter	Brown	Burlison	Crawford
Eigel	Gannon	Hegeman	Hoskins	Hough	Koenig	Luetkemeyer
May	Moon	Mosley	O’Laughlin	Onder	Razer	Rizzo
Roberts	Rowden	Schatz	Schupp	Washington	White	Wieland
Williams—29						

NAYS—Senators—None

Absent—Senators

Brattin	Cierpiot	Eslinger	Thompson Rehder—4
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Absent with leave—Senator Riddle—1

Vacancies—None

Senator White moved that **SCR 28** be taken up for adoption, which motion prevailed.

On motion of Senator White, **SCR 28** was adopted by the following vote:

YEAS—Senators

Arthur	Bean	Beck	Bernskoetter	Brown	Burlison	Cierpiot
Crawford	Eigel	Eslinger	Gannon	Hegeman	Hoskins	Hough

Koenig	Luetkemeyer	May	Moon	Mosley	O'Laughlin	Onder
Razer	Rizzo	Roberts	Rowden	Schatz	Schupp	Thompson Rehder
Washington	White	Wieland	Williams—32			

NAYS—Senators—None

Absent—Senator Brattin—1

Absent with leave—Senator Riddle—1

Vacancies—None

SCR 29, introduced by Senator Hegeman, entitled:

Relating to Certified Registered Nurse Anesthetists Week.

Was taken up.

On motion of Senator Hegeman, **SCR 29** was read the 3rd time and passed by the following vote:

YEAS—Senators

Arthur	Bean	Beck	Bernskoetter	Brown	Burlison	Cierpiot
Crawford	Eigel	Eslinger	Hegeman	Hoskins	Hough	Koenig
Luetkemeyer	May	Moon	Mosley	O'Laughlin	Onder	Razer
Rizzo	Roberts	Rowden	Schatz	Thompson Rehder	Washington	White
Wieland	Williams—30					

NAYS—Senators—None

Absent—Senators

Brattin	Gannon	Schupp—3
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Absent with leave—Senator Riddle—1

Vacancies—None

The President declared the concurrent resolution passed.

On motion of Senator Hegeman, title to the concurrent resolution was agreed to.

Senator Hegeman moved that the vote by which the concurrent resolution passed be reconsidered.

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

SCR 31, introduced by Senator Bean, entitled:

Relating to approval of the Missouri Water Resources Plan.

Was taken up.

President Kehoe assumed the Chair.

On motion of Senator Bean, **SCR 31** was read the 3rd time and passed by the following vote:

YEAS—Senators

Arthur	Bean	Beck	Bernskoetter	Brown	Cierpiot	Crawford
Eslinger	Gannon	Hegeman	Hoskins	Hough	Koenig	May
Mosley	O’Laughlin	Onder	Razer	Rizzo	Roberts	Rowden
Schatz	Thompson Rehder	White	Wieland	Williams—26		

NAYS—Senators

Burlison Eigel—2

Absent—Senators

Brattin Luetkemeyer Moon Schupp Washington—5

Absent with leave—Senator Riddle—1

Vacancies—None

The President declared the concurrent resolution passed.

On motion of Senator Bean, title to the concurrent resolution was agreed to.

Senator Bean moved that the vote by which the concurrent resolution passed be reconsidered.

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

Senator Hough assumed the Chair.

President Kehoe assumed the Chair.

Senator Bean moved that **SCR 33** be taken up for adoption, which motion prevailed.

On motion of Senator Bean, **SCR 33** was adopted by the following vote:

YEAS—Senators

Arthur	Bean	Beck	Bernskoetter	Brown	Burlison	Cierpiot
Crawford	Eigel	Eslinger	Gannon	Hegeman	Hough	Koenig
Luetkemeyer	May	Moon	Mosley	O’Laughlin	Onder	Razer
Rizzo	Roberts	Rowden	Schatz	Schupp	Thompson Rehder	Washington
White	Wieland	Williams—31				

NAYS—Senators—None

Absent—Senators

Brattin Hoskins—2

Absent with leave—Senator Riddle—1

Vacancies—None

Senator White moved that **SCR 34** be taken up for adoption, which motion prevailed.

Senator Hough assumed the Chair.

President Kehoe assumed the Chair.

On motion of Senator White, **SCR 34** was adopted by the following vote:

YEAS—Senators

Arthur	Bean	Beck	Bernskoetter	Brown	Burlison	Cierpiot
Crawford	Eigel	Eslinger	Gannon	Hegeman	Hoskins	Hough
Koenig	Luetkemeyer	May	Moon	Mosley	O’Laughlin	Onder
Razer	Rizzo	Roberts	Rowden	Schatz	Thompson Rehder	Washington
White	Wieland	Williams—31				

NAYS—Senators—None

Absent—Senators

Brattin Schupp—2

Absent with leave—Senator Riddle—1

Vacancies—None

SCR 36, introduced by Senator Bernskoetter, entitled:

Relating to the Missouri USA Semiquincentennial Commission.

Was taken up.

Senator Bernskoetter offered **SS** for **SCR 36**, entitled:

SENATE SUBSTITUTE FOR
SENATE CONCURRENT RESOLUTION NO. 36
Relating to the America 250 Missouri Commission

Whereas, the 250th anniversary of the Declaration of Independence and 250th anniversary of the United States of America are approaching in the coming years; and

Whereas, such anniversaries are worthy of celebration at both the federal and state levels; and

Whereas, in order to effect such a celebration in Missouri, there needs to be a coordinated effort at the state level:

Now, Therefore, Be It Resolved that the members of the Missouri Senate, One Hundred First General Assembly, Second Regular Session, the House of Representatives concurring therein, hereby create the America 250 Missouri Commission; and

Be it Further Resolved that the principal purpose of the Commission shall be to plan, promote, and implement where appropriate public celebrations and commemorations of the 250th anniversary of the Declaration of Independence on July 4, 2026, and the 250th anniversary of the United States of America; and

Be it Further Resolved that the Commission is authorized to cooperate with the United States Semiquincentennial Commission created by Public Law 114-196, other national and state organizations engaged in commemoration and celebration of the United States Semiquincentennial, and other national, regional, state, and local public and private organizations having compatible purposes. It shall encourage various state agencies and organizations to work cooperatively to promote the Semiquincentennial; and

Be it Further Resolved that the Commission shall consider promoting and encouraging as part of its celebratory and commemorative events, electronic media, printed products, symposia, and educational outreach all of the following:

(1) Awareness and understanding of the principles of the Declaration of Independence, of the winning of American independence in the American Revolutionary War, and of the establishment of America’s system of constitutional self-government;

(2) Teaching students and increasing public knowledge and appreciation of the breadth of American history and the centuries-long quest for “liberty and justice for all”. This includes sharing the stories and contributions of the various people who have populated the land, from

indigenous peoples, explorers, British colonists, seekers of religious freedom, enslaved African Americans, and many others who are part of America’s stories. This should also include the commemoration of events that occurred in Missouri during the American Revolutionary War period, such as the Battle of Fort San Carlos in what is now the city of St. Louis in 1780;

(3) Advancing the cause of liberty and American self-government and of the meaning of “E Pluribus Unum” (“From many, one”), through promoting civic knowledge and practice, including America’s “Charters of Freedom” (the Declaration of Independence, the Constitution, and the Bill of Rights), and the constitutional features of self-government which emphasize the roles of active and engaged good citizens;

(4) Emphasizing the service and sacrifices of veterans of all generations who have secured and preserved American independence and freedom and encouraging Missourians to honor them;

(5) Celebratory and commemorative events and activities throughout the State of Missouri; and

Be it Further Resolved that the membership of the Commission shall consist of thirteen voting members as follows:

(1) The Governor of Missouri who shall serve as chair of the commission;

(2) Two members appointed by the Lieutenant Governor;

(3) Two members appointed by the President Pro Tempore of the Senate and two members appointed by the Speaker of the House of Representatives;

(4) Two members who are Missourians serving on the United States Semiquincentennial Commission as certified by the executive officer of that Commission;

(5) One member who is a representative of the Missouri Society of the Sons of the American Revolution appointed by the Governor;

(6) One member who is a representative of the Missouri State Society Daughters of the American Revolution appointed by the Governor;

(7) Two citizens at large, appointed by the Governor; and

Be it Further Resolved that members shall serve for the life of the Commission, provided any public official’s expiration of his or her term shall create a vacancy, and all vacancies shall be filled in the same manner as originally appointed; and

Be it Further Resolved that the appointing authorities shall coordinate their appointments so that diversity of gender, race, and geographical areas is reflective of the makeup of this state; and

Be it Further Resolved that the Commission shall elect its chair, vice chair and any other officers it deems necessary. A majority of the members shall constitute a quorum to conduct business; and

Be it Further Resolved that the Office of Administration shall provide administrative support for the Commission; and

Be it Further Resolved that the Commission, its members, and any staff assigned to the Commission shall receive reimbursement for their actual and necessary expenses in attending meetings of the Commission, with such reimbursement for the legislative members only coming from the Joint Contingent Fund; and

Be it Further Resolved that the Commission shall terminate by either a majority of the members voting for termination, or by December 31, 2027, whichever occurs first; and

Be It Further Resolved that the Secretary of the Senate be instructed to send a properly inscribed copy of this resolution to the Governor for his approval or rejection pursuant to the Missouri Constitution.

Senator Bernskoetter moved that **SS** for **SCR 36** be adopted, which motion prevailed.

On motion of Senator Bernskoetter, **SS** for **SCR 36** was read the 3rd time and passed by the following vote:

YEAS—Senators

Arthur	Bean	Beck	Bernskoetter	Brown	Burlison	Cierpiot
Crawford	Eigel	Eslinger	Gannon	Hegeman	Hoskins	Hough
Koenig	Luetkemeyer	May	Moon	Mosley	O’Laughlin	Onder
Razer	Rizzo	Roberts	Rowden	Schatz	Schupp	Thompson Rehder
Washington	White	Wieland	Williams—32			

NAYS—Senators—None

Absent—Senator Brattin—1

Absent with leave—Senator Riddle—1

Vacancies—None

The President declared the concurrent resolution passed.

On motion of Senator Bernskoetter, title to the concurrent resolution was agreed to.

Senator Bernskoetter moved that the vote by which the concurrent resolution passed be reconsidered.

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

On motion of Senator Rowden, the Senate recessed until 6:00 p.m.

RECESS

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

HOUSE BILLS ON THIRD READING

HCS for **HB 1552**, with **SCS**, entitled:

An Act to repeal sections 160.415 and 167.151, RSMo, and to enact in lieu thereof two new sections relating to funding for schools.

Was taken up by Senator Koenig.

SCS for **HCS** for **HB 1552**, entitled:

SENATE COMMITTEE SUBSTITUTE FOR HOUSE COMMITTEE SUBSTITUTE FOR HOUSE BILL NO. 1552

An Act to repeal section 160.415, RSMo, and to enact in lieu thereof one new section relating to funding for charter schools.

Was taken up.

Senator Koenig moved that **SCS** for **HCS** for **HB 1552** be adopted.

Senator Koenig offered **SS** for **SCS** for **HCS** for **HB 1552**, entitled:

SENATE SUBSTITUTE FOR SENATE COMMITTEE SUBSTITUTE FOR HOUSE COMMITTEE SUBSTITUTE FOR HOUSE BILL NO. 1552

An Act to repeal sections 160.415, 160.425, and 161.670, RSMo, and to enact in lieu thereof three new sections relating to alternative education programs.

Senator Koenig moved that **SS** for **SCS** for **HCS** for **HB 1552** be adopted, which motion prevailed.

Senator Koenig moved that **SS** for **SCS** for **HCS** for **HB 1552** be read the 3rd time and passed and was recognized to close.

President Pro Tem Schatz referred **SS** for **SCS** for **HCS** for **HB 1552** to the Committee on Governmental Accountability and Fiscal Oversight.

SENATE BILLS FOR PERFECTION

Senator Hegeman moved that **SB 631**, with **SCS**, be called from the Informal Calendar and taken up for perfection, which motion prevailed.

SCS for **SB 631**, entitled:

SENATE COMMITTEE SUBSTITUTE FOR
SENATE BILL NO. 631

An Act to repeal sections 516.120, 516.140, and 537.1035, RSMo, and to enact in lieu thereof three new sections relating to civil actions.

Was taken up.

Senator Hegeman moved that **SCS** for **SB 631** be adopted.

Senator Hegeman offered **SS** for **SCS** for **SB 631**, entitled:

SENATE SUBSTITUTE FOR
SENATE COMMITTEE SUBSTITUTE FOR
SENATE BILL NO. 631

An Act to repeal sections 516.120 and 556.036, RSMo, and to enact in lieu thereof three new sections relating to statutes of limitations.

Senator Hegeman moved that **SS** for **SCS** for **SB 631** be adopted.

Senator Roberts offered **SA 1**:

SENATE AMENDMENT NO. 1

Amend Senate Substitute for Senate Committee Substitute for Senate Bill No. 631, Page 1, In the Title, Line 4, by striking all of said line and inserting in lieu thereof the following: “civil actions.”; and

Further amend said bill and page, section A, line 4, by inserting after all of said line the following:

“213.010. As used in this chapter, the following terms shall mean:

(1) “Age”, an age of forty or more years but less than seventy years, except that it shall not be an unlawful employment practice for an employer to require the compulsory retirement of any person who has attained the age of sixty-five and who, for the two-year period immediately before retirement, is employed in a bona fide executive or high policy-making position, if such person is entitled to an immediate nonforfeitable annual retirement benefit from a pension, profit sharing, savings or deferred compensation plan, or any combination of such plans, of the employer, which equals, in the aggregate, at least forty-four thousand dollars;

(2) “Because” or “because of”, as it relates to the adverse decision or action, [the] a protected criterion was [the] a motivating factor;

(3) “Commission”, the Missouri commission on human rights;

(4) “Complainant”, a person who has filed a complaint with the commission alleging that another person has engaged in a prohibited discriminatory practice;

(5) “Disability”, a physical or mental impairment which substantially limits one or more of a person’s major life activities, being regarded as having such an impairment, or a record of having such an impairment, which with or without reasonable accommodation does not interfere with performing the job, utilizing the place of public accommodation, or occupying the dwelling in question. For purposes of this chapter, the term “disability” does not include current, illegal use of or addiction to a controlled substance as such term is defined by section 195.010; however, a person may be considered to have a disability if that person:

(a) Has successfully completed a supervised drug rehabilitation program and is no longer engaging in the illegal use of, and is not currently addicted to, a controlled substance or has otherwise been rehabilitated successfully and is no longer engaging in such use and is not currently addicted;

(b) Is participating in a supervised rehabilitation program and is no longer engaging in illegal use of controlled substances; or

(c) Is erroneously regarded as currently illegally using, or being addicted to, a controlled substance;

(6) “Discrimination”, conduct proscribed herein, taken because of race, color, religion, national origin, ancestry, sex, or age as it relates to employment, disability, or familial status as it relates to housing. **Discrimination includes any unfair treatment based on a person’s presumed or assumed race, color, religion, national origin, ancestry, sex, sexual orientation, gender identity, age as it relates to employment, disability, or familial status as it relates to housing, regardless of whether the presumption or assumption as to such characteristic is correct;**

(7) “Dwelling”, any building, structure or portion thereof which is occupied as, or designed or intended for occupancy as, a residence by one or more families, and any vacant land which is offered for sale or lease for the construction or location thereon of any such building, structure or portion thereof;

(8) “Employer”, a person engaged in an industry affecting commerce who has six or more employees for each working day in each of twenty or more calendar weeks in the current or preceding calendar year, and shall include the state, or any political or civil subdivision thereof, or any person employing six or more persons within the state but does not include corporations and associations owned or operated by religious or sectarian organizations. “Employer” shall not include:

(a) The United States;

(b) A corporation wholly owned by the government of the United States;

(c) An individual employed by an employer;

(d) An Indian tribe;

(e) Any department or agency of the District of Columbia subject by statute to procedures of the competitive service, as defined in 5 U.S.C. Section 2101; or

(f) A bona fide private membership club, other than a labor organization, that is exempt from taxation under 26 U.S.C. Section 501(c);

(9) “Employment agency” includes any person or agency, public or private, regularly undertaking with or without compensation to procure employees for an employer or to procure for employees opportunities to work for an employer;

(10) “Executive director”, the executive director of the Missouri commission on human rights;

(11) “Familial status”, one or more individuals who have not attained the age of eighteen years being domiciled with:

(a) A parent or another person having legal custody of such individual; or

(b) The designee of such parent or other person having such custody, with the written permission of such parent or other person. The protections afforded against discrimination because of familial status shall apply to any person who is pregnant or is in the process of securing legal custody of any individual who has not attained the age of eighteen years;

(12) “Human rights fund”, a fund established to receive civil penalties as required by federal regulations and as set forth by subdivision (2) of subsection 11 of section 213.075, and which will be disbursed to offset additional expenses related to compliance with the Department of Housing and Urban Development regulations;

(13) “Labor organization” includes any organization which exists for the purpose, in whole or in part, of collective bargaining or of dealing with employers concerning grievances, terms or conditions of employment, or for other mutual aid or protection in relation to employment;

(14) “Local commissions”, any commission or agency established prior to August 13, 1986, by an ordinance or order adopted by the governing body of any city, constitutional charter city, town, village, or county;

(15) **“Motivating factor”, the employee’s protected classification played a role in the adverse action or decision and had an influence on the adverse decision or action;**

(16) “Person” includes one or more individuals, corporations, partnerships, associations, organizations, labor organizations, legal representatives, mutual companies, joint stock companies, trusts, trustees, trustees in bankruptcy, receivers, fiduciaries, or other organized groups of persons;

[(16)] (17) “Places of public accommodation”, all places or businesses offering or holding out to the general public, goods, services, privileges, facilities, advantages or accommodations for the peace, comfort, health, welfare and safety of the general public or such public places providing food, shelter, recreation and amusement, including, but not limited to:

(a) Any inn, hotel, motel, or other establishment which provides lodging to transient guests, other than an establishment located within a building which contains not more than five rooms for rent or hire and which is actually occupied by the proprietor of such establishment as [his] **the proprietor’s** residence;

(b) Any restaurant, cafeteria, lunchroom, lunch counter, soda fountain, or other facility principally engaged in selling food for consumption on the premises, including, but not limited to, any such facility located on the premises of any retail establishment;

(c) Any gasoline station, including all facilities located on the premises of such gasoline station and made available to the patrons thereof;

(d) Any motion picture house, theater, concert hall, sports arena, stadium, or other place of exhibition or entertainment;

(e) Any public facility owned, operated, or managed by or on behalf of this state or any agency or subdivision thereof, or any public corporation; and any such facility supported in whole or in part by public funds;

(f) Any establishment which is physically located within the premises of any establishment otherwise covered by this section or within the premises of which is physically located any such covered establishment, and which holds itself out as serving patrons of such covered establishment;

[(17)] (18) “Rent” includes to lease, to sublease, to let and otherwise to grant for consideration the right to occupy premises not owned by the occupant;

[(18)] (19) “Respondent”, a person who is alleged to have engaged in a prohibited discriminatory practice in a complaint filed with the commission;

[(19) “The motivating factor”, the employee’s protected classification actually played a role in the adverse action or decision and had a determinative influence on the adverse decision or action;]

(20) “Unlawful discriminatory practice”, any act that is unlawful under this chapter.

213.111. 1. If, after one hundred eighty days from the filing of a complaint alleging an unlawful discriminatory practice pursuant to section 213.055, 213.065 or 213.070 to the extent that the alleged violation of section 213.070 relates to or involves a violation of section 213.055 or 213.065, or subdivision (3) of subsection 1 of section 213.070 as it relates to employment and public accommodations, the commission has not completed its administrative processing and the person aggrieved so requests in writing, the commission shall issue to the person claiming to be aggrieved a letter indicating his or her right to bring a civil action within ninety days of such notice against the respondent named in the complaint. [If, after the filing of a complaint] **Any person alleging an unlawful discriminatory practice** pursuant to sections 213.040, 213.045, 213.050 and 213.070, to the extent that the alleged violation of section 213.070 relates to or involves a violation of sections 213.040, 213.045 and 213.050, or subdivision (3) of subsection 1 of section 213.070 as it relates to housing, [and the person aggrieved so requests in writing, the commission shall issue to the person claiming to be aggrieved a letter indicating his or her right to bring a civil action within ninety days of such notice against the respondent named in the complaint] **may file a petition in the circuit court of the county in which the alleged unlawful discriminatory practice occurred without first filing a complaint with the commission.** The commission may not at any other time or for any other reason issue a letter indicating a complainant’s right to bring a civil action. Such an action may be brought in any circuit court in any county in which the unlawful discriminatory practice is alleged to have been committed, either before a circuit or associate circuit judge. Upon issuance of this notice, the commission shall terminate all proceedings relating to the complaint. No person may file or reinstate a complaint with the commission after the issuance of a notice under this section relating to the same practice or act. Any action brought in court under this section shall be filed within ninety days from the date of the commission’s notification letter to the individual but no later than two years after the alleged cause occurred or its reasonable discovery by the alleged injured party.

2. The court may grant as relief, as it deems appropriate, any permanent or temporary injunction, temporary restraining order, or other order, and may award to the plaintiff actual and punitive damages, and may award court costs and reasonable attorney fees to the prevailing party, other than a state agency or

commission or a local commission; except that, a prevailing respondent may be awarded reasonable attorney fees only upon a showing that the case was without foundation.

3. Any party to any action initiated under this section has a right to a trial by jury.

4. The sum of the amount of actual damages, including damages for future pecuniary losses, emotional pain, suffering, inconvenience, mental anguish, loss of enjoyment of life, and other nonpecuniary losses, and punitive damages awarded under this section **for an unlawful discriminatory practice related to employment** shall not exceed for each complaining party:

(1) Actual back pay and interest on back pay; and

(2) (a) In the case of a respondent who has more than five and fewer than one hundred one employees in each of twenty or more calendar weeks in the current or preceding calendar year, fifty thousand dollars;

(b) In the case of a respondent who has more than one hundred and fewer than two hundred one employees in each of twenty or more calendar weeks in the current or preceding calendar year, one hundred thousand dollars;

(c) In the case of a respondent who has more than two hundred and fewer than five hundred one employees in each of twenty or more calendar weeks in the current or preceding calendar year, two hundred thousand dollars; or

(d) In the case of a respondent who has more than five hundred employees in each of twenty or more calendar weeks in the current or preceding calendar year, five hundred thousand dollars.

[5. In any employment-related civil action brought under this chapter, the plaintiff shall bear the burden of proving the alleged unlawful decision or action was made or taken because of his or her protected classification and was the direct proximate cause of the claimed damages.]

285.575. 1. This section shall be known and may be cited as the “Whistleblower’s Protection Act”.

2. As used in this section, the following terms shall mean:

(1) “Because” or “because of”, as it relates to the adverse decision or action, the person’s status as a protected person was [the] a motivating factor;

(2) “Employer”, an entity that has six or more employees for each working day in each of twenty or more calendar weeks in the current or preceding calendar year. “Employer” shall not include the state of Missouri or its agencies, instrumentalities, or political subdivisions, including but not limited to any public institution of higher education, a corporation wholly owned by the state of Missouri, an individual employed by an employer, or corporations and associations owned or operated by religious or sectarian organizations;

(3) **“Motivating factor”, the employee’s protected classification played a role in the adverse decision or action and had an influence on the adverse decision or action;**

(4) “Proper authorities”, a governmental or law enforcement agency, an officer of an employee’s employer, the employee’s supervisor employed by the employer, or the employee’s human resources representative employed by the employer;

[(4)] (5) “Protected person”, an employee of an employer who has reported to the proper authorities an

unlawful act of his or her employer; an employee of an employer who reports to his or her employer serious misconduct of the employer that violates a clear mandate of public policy as articulated in a constitutional provision, statute, or regulation promulgated under statute; or an employee of an employer who has refused to carry out a directive issued by his or her employer that if completed would be a violation of the law. An employee of an employer is not a protected person if:

(a) The employee is a supervisory, managerial, or executive employee or an officer of his or her employer and the unlawful act or serious misconduct reported concerns matters upon which the employee is employed to report or provide professional opinion; or

(b) The proper authority or person to whom the employee makes his or her report is the person whom the employee claims to have committed the unlawful act or violation of a clear mandate of public policy];

(5) “The motivating factor”, the employee’s protected classification actually played a role in the adverse decision or action and had a determinative influence on the adverse decision or action].

3. This section is intended to codify the existing common law exceptions to the at-will employment doctrine and to limit their future expansion by the courts. This section, in addition to chapter 213 and chapter 287, shall provide the exclusive remedy for any and all claims of unlawful employment practices.

4. It shall be an unlawful employment practice for an employer to discharge an individual defined as a protected person in this section because of that person’s status as a protected person.

5. A protected person aggrieved by a violation of this section shall have a private right of action for actual damages for violations of this section but not for punitive damages. However, if a private right of action for damages exists under another statutory or regulatory scheme, whether under state or federal law, no private right of action shall exist under this statute.

6. Any party to any action initiated under this section may demand a trial by jury.

7. A protected person aggrieved by a violation of this section shall have a private right of action that may be filed in a court of competent jurisdiction. The only remedies available in such an action shall be:

(1) Back pay;

(2) Reimbursement of medical bills directly related to a violation of this section; and

(3) Additionally, if a protected person proves, by clear and convincing evidence, that the conduct of the employer was outrageous because of the employer’s evil motive or reckless indifference to the rights of others, then, such person may receive double the amount awarded under subdivisions (1) and (2) of this subsection, as liquidated damages. In applying this subdivision, the provisions of section 510.263 shall be applied as though liquidated damages were punitive damages and as though the amounts referenced in subdivisions (1) and (2) of this subsection were compensatory damages.

8. The court, in addition to the damages set forth in subsection 7 of this section, may award the prevailing party court costs and reasonable attorney fees; except that a prevailing respondent may be awarded reasonable attorney fees only upon a showing that the case was without foundation.”; and

Further amend the title and enacting clause accordingly.

Senator Roberts moved that the above amendment be adopted.

Senator Razer offered SA 1 to SA 1:

SENATE AMENDMENT NO. 1 TO
SENATE AMENDMENT NO. 1

Amend Senate Amendment No. 1 to Senate Substitute for Senate Committee Substitute for Senate Bill No. 631, Page 2, Line 53, by striking the first instance of the word “or” and inserting in lieu thereof the following: **“sexual orientation, gender identity,”**; and further amend said line, by inserting after the word “age” the following: **“;”**; and

Further amend said amendment, page 3, line 83, by striking “2101” and inserting in lieu thereof the following: **“2102”**; and

Further amend said amendment, page 4, line 105, by inserting after “(12)” the following: **““Gender identity”, the gender-related identity, appearance, mannerisms, or other gender-related characteristics of an individual, with or without regard to the individual’s assigned sex at birth;**

(13)”; and

Further amend said amendment, page 6, line 174, by inserting after “(20)” the following: **““Sexual orientation”, one’s actual or perceived emotional or physical attraction to, or romantic or physical relationships with, members of the same gender, members of a different gender, or members of any gender; or the lack of any emotional or physical attraction to, or romantic or physical relationships with, anyone. The term “sexual orientation” includes a history of such attraction or relationship or a history of no such attraction or relationship;**

(21)”; and further renumber the subdivisions accordingly; and further amend line 175, by inserting after all of said line the following:

“213.030. 1. The powers and duties of the commission shall be:

(1) To seek to eliminate and prevent discrimination because of race, color, religion, national origin, ancestry, sex, **sexual orientation, gender identity**, age, as it relates to employment, disability, or familial status as it relates to housing and to take other actions against discrimination because of race, color, religion, national origin, ancestry, sex, **sexual orientation, gender identity**, age, disability, or familial status as provided by law; and the commission is hereby given general jurisdiction and power for such purposes;

(2) To implement the purposes of this chapter first by conference, conciliation and persuasion so that persons may be guaranteed their civil rights and goodwill be fostered;

(3) To formulate policies to implement the purposes of this chapter and to make recommendations to agencies and officers of the state and political subdivisions in aid of such policies and purposes;

(4) To appoint such employees as it may deem necessary, fix their compensation within the appropriations provided and in accordance with the wage structure established for other state agencies, and prescribe their duties;

(5) To obtain upon request and utilize the services of all governmental departments and agencies to be paid from appropriations to this commission;

(6) To adopt, promulgate, amend, and rescind suitable rules and regulations to carry out the provisions of this chapter and the policies and practices of the commission in connection therewith;

(7) To receive, investigate, initiate, and pass upon complaints alleging discrimination in employment, housing or in places of public accommodations because of race, color, religion, national origin, ancestry, sex, **sexual orientation, gender identity**, age, as it relates to employment, disability, or familial status as it relates to housing and to require the production for examination of any books, papers, records, or other materials relating to any matter under investigation;

(8) To hold hearings, subpoena witnesses, compel their attendance, administer oaths, to take the testimony of any person under oath, and, in connection therewith, to require the production for examination of any books, papers or other materials relating to any matter under investigation or in question before the commission;

(9) To issue publications and the results of studies and research which will tend to promote goodwill and minimize or eliminate discrimination in housing, employment or in places of public accommodation because of race, color, religion, national origin, ancestry, sex, **sexual orientation, gender identity**, age, as it relates to employment, disability, or familial status as it relates to housing;

(10) To provide each year to the governor and to the general assembly a full written report of all its activities and of its recommendations;

(11) To adopt an official seal;

(12) To cooperate, act jointly, enter into cooperative or work-sharing agreements with the United States Equal Employment Opportunity Commission, the United States Department of Housing and Urban Development, and other federal agencies and local commissions or agencies to achieve the purposes of this chapter;

(13) To accept grants, private gifts, bequests, and establish funds to dispose of such moneys so long as the conditions of the grant, gift, or bequest are not inconsistent with the purposes of this chapter and are used to achieve the purposes of this chapter;

(14) To establish a human rights fund as defined in section 213.010, for the purposes of administering sections 213.040, 213.045, 213.050, 213.070, 213.075, and 213.076.

2. No rule or portion of a rule promulgated under the authority of this chapter shall become effective unless it has been promulgated pursuant to the provisions of [section 536.024] **chapter 536**.

213.040. 1. It shall be an unlawful housing practice:

(1) To refuse to sell or rent after the making of a bona fide offer, to refuse to negotiate for the sale or rental of, to deny or otherwise make unavailable, a dwelling to any person because of race, color, religion, national origin, ancestry, sex, **sexual orientation, gender identity**, disability, or familial status;

(2) To discriminate against any person in the terms, conditions, or privileges of sale or rental of a dwelling, or in the provision of services or facilities in connection therewith, because of race, color, religion, national origin, ancestry, sex, **sexual orientation, gender identity**, disability, or familial status;

(3) To make, print, or publish, or cause to be made, printed, or published any notice, statement or advertisement, with respect to the sale or rental of a dwelling that indicates any preference, limitation, or discrimination because of race, color, religion, national origin, ancestry, sex, **sexual orientation, gender identity**, disability, or familial status, or an intention to make any such preference, limitation, or discrimination;

(4) To represent to any person because of race, color, religion, national origin, ancestry, sex, **sexual orientation, gender identity**, disability, or familial status that any dwelling is not available for inspection, sale, or rental when such dwelling is in fact so available;

(5) To induce or attempt to induce any person to sell or rent any dwelling by representations regarding the entry or prospective entry into the neighborhood of a person or persons because of a particular race, color, religion, national origin, ancestry, sex, **sexual orientation, gender identity**, disability, or familial status;

(6) To discriminate in the sale or rental of, or to otherwise make unavailable or deny, a dwelling to any buyer or renter because of a disability of:

(a) That buyer or renter;

(b) A person residing in or intending to reside in that dwelling after it is so sold, rented, or made available; or

(c) Any person associated with that buyer or renter;

(7) To discriminate against any person in the terms, conditions, or privileges of sale or rental of a dwelling, or in the provision of services or facilities in connection with such dwelling, because of a disability of:

(a) That person;

(b) A person residing in or intending to reside in that dwelling after it is so sold, rented, or made available; or

(c) Any person associated with that person.

2. For purposes of this section and sections 213.045 and 213.050, discrimination includes:

(1) A refusal to permit, at the expense of the person with the disability, reasonable modifications of existing premises occupied or to be occupied by such person if such modifications may be necessary to afford such person full enjoyment of the premises, except that, in the case of a rental, the landlord may, where it is reasonable to do so, condition permission for a modification on the renter's agreeing to restore the interior of the premises to the condition that existed before the modification, reasonable wear and tear excepted;

(2) A refusal to make reasonable accommodations in rules, policies, practices, or services, when such accommodations may be necessary to afford such person equal opportunity to use and enjoy a dwelling; or

(3) In connection with the design and construction of covered multifamily dwellings for first occupancy after March 13, 1991, a failure to design and construct those dwellings in such a manner that:

(a) The public use and common use portions of such dwellings are readily accessible to and usable by persons with a disability;

(b) All the doors designed to allow passage into and within all premises within such dwellings are sufficiently wide to allow passage by persons with a disability in wheelchairs; and

(c) All premises within such dwellings contain the following features of adaptive design:

a. An accessible route into and through the dwelling;

b. Light switches, electrical outlets, thermostats, and other environmental controls in accessible locations;

c. Reinforcements in bathroom walls to allow later installation of grab bars; and

d. Usable kitchens and bathrooms such that an individual in a wheelchair can maneuver about the space.

3. As used in subdivision (3) of subsection 2 of this section, the term “covered multifamily dwelling” means:

(1) Buildings consisting of four or more units if such buildings have one or more elevators; and

(2) Ground floor units in other buildings consisting of four or more units.

4. Compliance with the appropriate requirements of the American National Standard for Buildings and Facilities providing accessibility and usability for people with physical disabilities, commonly cited as “ANSI A117.1”, suffices to satisfy the requirements of paragraph (a) of subdivision (3) of subsection 2 of this section.

5. Where a unit of general local government has incorporated into its laws the requirements set forth in subdivision (3) of subsection 2 of this section, compliance with such laws shall be deemed to satisfy the requirements of that subdivision. Such compliance shall be subject to the following provisions:

(1) A unit of general local government may review and approve newly constructed covered multifamily dwellings for the purpose of making determinations as to whether the design and construction requirements of subdivision (3) of subsection 2 of this section are met;

(2) The commission shall encourage, but may not require, the units of local government to include in their existing procedures for the review and approval of newly constructed covered multifamily dwellings, determinations as to whether the design and construction of such dwellings are consistent with subdivision (3) of subsection 2 of this section, and shall provide technical assistance to units of local government and other persons to implement the requirements of subdivision (3) of subsection 2 of this section;

(3) Nothing in this chapter shall be construed to require the commission to review or approve the plans, designs or construction of all covered dwellings, to determine whether the design and construction of such dwellings are consistent with the requirements of subdivision (3) of subsection 2 of this section.

6. Nothing in this chapter shall be construed to invalidate or limit any law of the state or political subdivision of the state, or other jurisdiction in which this chapter shall be effective, that requires dwellings to be designed and constructed in a manner that affords persons with disabilities greater access than is required by this chapter.

7. Nothing in this section and sections 213.045 and 213.050 requires that a dwelling be made available to an individual whose tenancy would constitute a direct threat to the health or safety of other individuals or whose tenancy would result in substantial physical damage to the property of others.

8. Nothing in this section and sections 213.045 and 213.050 limits the applicability of any reasonable local or state restriction regarding the maximum number of occupants permitted to occupy a dwelling, nor does any provision in this section and sections 213.045 and 213.050 regarding familial status apply with respect to housing for older persons.

9. As used in this section and sections 213.045 and 213.050, “housing for older persons” means housing:

(1) Provided under any state or federal program that the commission determines is specifically designed and operated to assist elderly persons, as defined in the state or federal program;

(2) Intended for, and solely occupied by, persons sixty-two years of age or older; or

(3) Intended and operated for occupancy by at least one person fifty-five years of age or older per unit. In determining whether housing qualifies as housing for older persons under this subsection, the commission shall develop regulations which require at least the following factors:

(a) The existence of significant facilities and services specifically designed to meet the physical or social needs of older persons, or if the provision of such facilities and services is not practicable, that such housing is necessary to provide important housing opportunities for older persons; and

(b) That at least eighty percent of the units are occupied by at least one person fifty-five years of age or older per unit; and

(c) The publication of, and adherence to, policies and procedures which demonstrate an intent by the owner or manager to provide housing for persons fifty-five years of age or older.

10. Housing shall not fail to meet the requirements for housing for older persons by reason of:

(1) Persons residing in such housing as of August 28, 1992, who do not meet the age requirements of subdivision (2) or (3) of subsection 9 of this section, provided that new occupants of such housing meet the age requirements of subdivision (2) or (3) of subsection 9 of this section; or

(2) Unoccupied units, provided that such units are reserved for occupancy by persons who meet the age requirements of subdivision (2) or (3) of subsection 9 of this section.

11. Nothing in this section or section 213.045 or 213.050 shall prohibit conduct against a person because such person has been convicted by any court of competent jurisdiction of the illegal manufacture or distribution of a controlled substance, as defined by section 195.010.

12. Nothing in this chapter shall prohibit a religious organization, association, or society, or any nonprofit institution or organization operated, supervised or controlled by or in conjunction with a religious organization, association, or society, from limiting the sale, rental or occupancy of dwellings which it owns or operates for other than a commercial purpose to persons of the same religion, or from giving preference to such persons, unless membership in such religion is restricted on account of race, color, or national origin. Nor shall anything in this chapter prohibit a private club not in fact open to the public, which as an incident to its primary purpose or purposes provides lodging which it owns or operates for other than a commercial purpose, from limiting the rental or occupancy of such lodging to its members or from giving preference to its members.

13. Nothing in this chapter, other than the prohibitions against discriminatory advertising in subdivision (3) of subsection 1 of this section, shall apply to:

(1) The sale or rental of any single family house by a private individual owner, provided the following conditions are met:

(a) The private individual owner does not own or have any interest in more than three single family houses at any one time; and

(b) The house is sold or rented without the use of a real estate broker, agent or salesperson or the

facilities of any person in the business of selling or renting dwellings and without publication, posting or mailing of any advertisement. If the owner selling the house does not reside in it at the time of the sale or was not the most recent resident of the house prior to such sale, the exemption in this section applies to only one such sale in any twenty-four-month period; or

(2) Rooms or units in dwellings containing living quarters occupied or intended to be occupied by no more than four families living independently of each other, if the owner actually maintains and occupies one of such living quarters as his or her residence.

213.045. It shall be unlawful for any bank, building and loan association, insurance company or other corporation, association, firm or enterprise whose business consists in whole or in part in the making of commercial real estate loans, to deny a loan or other financial assistance because of race, color, religion, national origin, ancestry, sex, **sexual orientation, gender identity**, disability, or familial status to a person applying therefor for the purpose of purchasing, construction, improving, repairing, or maintaining a dwelling, or to discriminate against [him] **such person** in fixing of the amount, interest rate, duration or other terms or conditions of such loan or other financial assistance, because of the race, color, religion, national origin, ancestry, sex, **sexual orientation, gender identity**, disability, or familial status of such person or of any person associated with [him] **such person** in connection with such loan or other financial assistance, or of the present or prospective owners, lessees, tenants, or occupants, of the dwellings in relation to which such loan or other financial assistance is to be made or given.

213.050. It shall be unlawful to deny any person access to or membership or participation in any multiple listing service, real estate brokers' organization or other service organization, or facility relating to the business of selling or renting dwellings, because of race, color, religion, national origin, ancestry, sex, **sexual orientation, gender identity**, disability, or familial status.

213.055. 1. It shall be an unlawful employment practice:

(1) For an employer, because of the race, color, religion, national origin, sex, **sexual orientation, gender identity**, ancestry, age, or disability of any individual:

(a) To fail or refuse to hire or to discharge any individual, or otherwise to discriminate against any individual with respect to [his] **such individual's** compensation, terms, conditions, or privileges of employment, because of such individual's race, color, religion, national origin, sex, **sexual orientation, gender identity**, ancestry, age, or disability;

(b) To limit, segregate, or classify [his] employees or [his] employment applicants in any way which would deprive or tend to deprive any individual of employment opportunities or otherwise adversely affect [his] **such individual's** status as an employee, because of such individual's race, color, religion, national origin, sex, **sexual orientation, gender identity**, ancestry, age, or disability;

(2) For a labor organization to exclude or to expel from its membership any individual or to discriminate in any way against any of its members or against any employer or any individual employed by an employer because of race, color, religion, national origin, sex, **sexual orientation, gender identity**, ancestry, age, or disability of any individual; or to limit, segregate, or classify its membership, or to classify or fail or refuse to refer for employment any individual, in any way which would deprive or tend to deprive any individual of employment opportunities, or would limit such employment opportunities or otherwise adversely affect [his] **such individual's** status as an employee or as an applicant for employment, because of such individual's race, color, religion, national origin, sex, **sexual orientation, gender identity**, ancestry, age,

or disability; or for any employer, labor organization, or joint labor-management committee controlling apprenticeship or other training or retraining, including on-the-job training programs to discriminate against any individual because of [his] **such individual's** race, color, religion, national origin, sex, **sexual orientation, gender identity**, ancestry, age, or disability in admission to, or employment in, any program established to provide apprenticeship or other training;

(3) For any employer or employment agency to print or circulate or cause to be printed or circulated any statement, advertisement or publication, or to use any form of application for employment or to make any inquiry in connection with prospective employment, which expresses, directly or indirectly, any limitation, specification, or discrimination, because of race, color, religion, national origin, sex, **sexual orientation, gender identity**, ancestry, age, or disability unless based upon a bona fide occupational qualification or for an employment agency to fail or refuse to refer for employment, or otherwise to discriminate against, any individual because of his or her race, color, religion, national origin, sex, **sexual orientation, gender identity**, ancestry, age, as it relates to employment, or disability, or to classify or refer for employment any individual because of [his or her] **such individual's** race, color, religion, national origin, sex, **sexual orientation, gender identity**, ancestry, age, or disability.

2. Notwithstanding any other provision of this chapter, it shall not be an unlawful employment practice for an employer to apply different standards of compensation, or different terms, conditions or privileges of employment pursuant to a bona fide seniority or merit system, or a system which measures earnings by quantity or quality of production or to employees who work in different locations, provided that such differences or such systems are not the result of an intention or a design to discriminate, and are not used to discriminate, because of race, color, religion, sex, **sexual orientation, gender identity**, national origin, ancestry, age, or disability, nor shall it be an unlawful employment practice for an employer to give and to act upon the results of any professionally developed ability test, provided that such test, its administration, or action upon the results thereof, is not designed, intended or used to discriminate because of race, color, religion, national origin, sex, **sexual orientation, gender identity**, ancestry, age, or disability.

3. Nothing contained in this chapter shall be interpreted to require any employer, employment agency, labor organization, or joint labor-management committee subject to this chapter to grant preferential treatment to any individual or to any group because of the race, color, religion, national origin, sex, **sexual orientation, gender identity**, ancestry, age, or disability of such individual or group on account of an imbalance which may exist with respect to the total number or percentage of persons of any race, color, religion, national origin, sex, **sexual orientation, gender identity**, ancestry, age, or disability employed by any employer, referred or classified for employment by any employment agency or labor organization, admitted to membership or classified by any labor organization, or admitted to or employed in any apprenticeship or other training program, in comparison with the total number or percentage of persons of such race, color, religion, national origin, sex, **sexual orientation, gender identity**, ancestry, age, or disability in any community, state, section, or other area, or in the available workforce in any community, state, section, or other area.

4. Notwithstanding any other provision of this chapter, it shall not be an unlawful employment practice for the state or any political subdivision of the state to comply with the provisions of 29 U.S.C. Section 623 relating to employment as firefighters or law enforcement officers.

213.065. 1. All persons within the jurisdiction of the state of Missouri are free and equal and shall be entitled to the full and equal use and enjoyment within this state of any place of public accommodation, as hereinafter defined, without discrimination or segregation because of race, color, religion, national origin,

sex, **sexual orientation, gender identity**, ancestry, or disability.

2. It is an unlawful discriminatory practice for any person, directly or indirectly, to refuse, withhold from or deny any other person, or to attempt to refuse, withhold from or deny any other person, any of the accommodations, advantages, facilities, services, or privileges made available in any place of public accommodation, as defined in section 213.010 and this section, or to segregate or discriminate against any such person in the use thereof because of race, color, religion, national origin, sex, **sexual orientation, gender identity**, ancestry, or disability.

3. The provisions of this section shall not apply to a private club, a place of accommodation owned by or operated on behalf of a religious corporation, association or society, or other establishment which is not in fact open to the public, unless the facilities of such establishments are made available to the customers or patrons of a place of public accommodation as defined in section 213.010 and this section.

213.070. 1. It shall be an unlawful discriminatory practice for an employer, employment agency, labor organization, or place of public accommodation:

(1) To aid, abet, incite, compel, or coerce the commission of acts prohibited under this chapter or to attempt to do so;

(2) To retaliate or discriminate in any manner against any other person because such person has opposed any practice prohibited by this chapter or because such person has filed a complaint, testified, assisted, or participated in any manner in any investigation, proceeding or hearing conducted pursuant to this chapter;

(3) For the state or any political subdivision of this state to discriminate on the basis of race, color, religion, national origin, sex, **sexual orientation, gender identity**, ancestry, age, as it relates to employment, disability, or familial status as it relates to housing; or

(4) To discriminate in any manner against any other person because of such person's association with any person protected by this chapter.

2. This chapter, in addition to chapter 285 and chapter 287, shall provide the exclusive remedy for any and all claims for injury or damages arising out of an employment relationship.

213.101. 1. The provisions of this chapter shall be construed to accomplish the purposes thereof and any law inconsistent with any provision of this chapter shall not apply. Nothing contained in this chapter shall be deemed to repeal any of the provisions of any law of this state relating to discrimination because of race, color, religion, national origin, sex, **sexual orientation, gender identity**, ancestry, age, disability, or familial status.

2. The general assembly hereby expressly abrogates the case of *McBryde v. Ritenour School District*, 207 S.W.3d 162 (Mo.App. E.D. 2006), and its progeny as it relates to the necessity and appropriateness of the issuance of a business judgment instruction. In all civil actions brought under this chapter, a jury shall be given an instruction expressing the business judgment rule.

3. If an employer in a case brought under this chapter files a motion pursuant to rule 74.04 of the Missouri rules of civil procedure, the court shall consider the burden-shifting analysis of *McDonnell Douglas Corp. v. Green*, 411 U.S. 792 (1973), and its progeny to be highly persuasive for analysis in cases not involving direct evidence of discrimination.

4. The general assembly hereby expressly abrogates by this statute the cases of *Daugherty v. City of*

Maryland Heights, 231 S.W.3d 814 (Mo. 2007) and its progeny as they relate to the contributing factor standard and abandonment of the burden-shifting framework established in *McDonnell Douglas Corp. v. Green*, 411 U.S. 792 (1973).

5. The general assembly hereby expressly abrogates by this statute the holding in *Hurst v. Kansas City Mo. School District*, 437 S.W.3d 327 (Mo.App. W.D. 2014), that Missouri Approved Instruction 19.01 may be applied to actions brought pursuant to this chapter, and the holding in *Thomas v. McKeever's Enterprises, Inc.*, 388 S.W.3d 206 (Mo.App. W.D. 2012), that juries shall not be instructed that plaintiffs bear the burden of establishing “but for” causation in actions brought pursuant to this chapter.

6. The general assembly hereby abrogates all Missouri-approved jury instructions specifically addressing civil actions brought under this chapter which were in effect prior to August 28, 2017.”.

Senator Razer moved that the above amendment be adopted.

Senator Eslinger assumed the Chair.

Senator Hegeman raised the point of order that **SA 1** is out of order as it goes beyond the scope of the underlying bill.

The point of order was referred to the President Pro Tem, who ruled it well taken, rendering **SA 1** to **SA 1** moot.

Senator May offered **SA 2**:

SENATE AMENDMENT NO. 2

Amend Senate Substitute for Senate Committee Substitute for Senate Bill No. 631, Pages 2-4, Section 556.036, by striking all of said section from the bill; and

Further amend the title and enacting clause accordingly.

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

Senator Washington offered **SA 3**:

SENATE AMENDMENT NO. 3

Amend Senate Substitute for Senate Committee Substitute for Senate Bill No. 631, Page 1, Section A, Line 4, by inserting after all of said line the following:

“516.110. Within ten years:

(1) An action upon any writing, whether sealed or unsealed, for the payment of money or property;

(2) Actions brought on any covenant of warranty contained in any deed of conveyance of land shall be brought within ten years next after there shall have been a final decision against the title of the covenantor in such deed, and actions on any covenant of seizin contained in any such deed shall be brought within ten years after the cause of such action shall accrue;

(3) Actions for relief, not herein otherwise provided for;

(4) All actions upon contracts, obligations or liabilities, express or implied, except those mentioned in section 516.110, and except upon judgments or decrees of a court of record, and except where a different time is herein limited;

(5) An action upon a liability created by a statute other than a penalty or forfeiture;

(6) An action for trespass on real estate;

(7) An action for taking, detaining or injuring any goods or chattels, including actions for the recovery of specific personal property, or for any other injury to the person or rights of another, not arising on contract and not herein otherwise enumerated;

(8) An action for relief on the ground of fraud, the cause of action in such case to be deemed not to have accrued until the discovery by the aggrieved party, at any time within ten years, of the facts constituting the fraud;

(9) An action against a sheriff, coroner or other officer, upon a liability incurred by the doing of an act in his official capacity and in virtue of his office, or by the omission of an official duty, including the nonpayment of money collected upon an execution or otherwise;

(10) An action upon a statute for a penalty or forfeiture, where the action is given to the party aggrieved, or to such party and the state;

(11) An action under section 290.300;

(12) An action for libel, slander, injurious falsehood, assault, battery, false imprisonment, criminal conversation, malicious prosecution or actions brought under section 290.140;

(13) An action by an employee for the payment of unpaid minimum wages, unpaid overtime compensation or liquidated damages by reason of the nonpayment of minimum wages or overtime compensation, and for the recovery of any amount under and by virtue of the provisions of the Fair Labor Standards Act of 1938 and amendments thereto; or

(14) All actions brought by an offender, as defined in section 217.010, against the department of corrections or any entity or division thereof, or any employee or former employee for an act in an official capacity, or by the omission of an official duty.”; and

Further amend said bill, pages 1-2, section 516.120, by striking all of said section; and

Further amend said bill, page 2, section 516.125, by striking all of said section; and

Further amend said bill, page 4, section 556.036, line 76, by inserting after all of said line the following:

“[516.120. Within five years:

(1) All actions upon contracts, obligations or liabilities, express or implied, except those mentioned in section 516.110, and except upon judgments or decrees of a court of record, and except where a different time is herein limited;

(2) An action upon a liability created by a statute other than a penalty or forfeiture;

(3) An action for trespass on real estate;

(4) An action for taking, detaining or injuring any goods or chattels, including actions for the recovery of specific personal property, or for any other injury to the person or rights of another, not arising on contract and not herein otherwise enumerated;

(5) An action for relief on the ground of fraud, the cause of action in such case to be deemed not to have accrued until the discovery by the aggrieved party, at any time within ten years, of the facts constituting the fraud.]

[516.130. Within three years:

(1) An action against a sheriff, coroner or other officer, upon a liability incurred by the doing of an act in his official capacity and in virtue of his office, or by the omission of an official duty, including the nonpayment of money collected upon an execution or otherwise;

(2) An action upon a statute for a penalty or forfeiture, where the action is given to the party aggrieved, or to such party and the state;

(3) An action under section 290.300.]

[516.140. Within two years: an action for libel, slander, injurious falsehood, assault, battery, false imprisonment, criminal conversation, malicious prosecution or actions brought under section 290.140. An action by an employee for the payment of unpaid minimum wages, unpaid overtime compensation or liquidated damages by reason of the nonpayment of minimum wages or overtime compensation, and for the recovery of any amount under and by virtue of the provisions of the Fair Labor Standards Act of 1938 and amendments thereto, such act being an act of Congress, shall be brought within two years after the cause accrued.]

[516.145. Within one year: all actions brought by an offender, as defined in section 217.010, against the department of corrections or any entity or division thereof, or any employee or former employee for an act in an official capacity, or by the omission of an official duty.]”; and Further amend the title and enacting clause accordingly.

Senator Washington moved that the above amendment be adopted.

Senator Bean assumed the Chair.

Senator Hegeman requested a roll call vote be taken and was joined in his request by Senators Bernskoetter, Rowden, Thompson Rehder and White.

SA 3 failed of adoption by the following vote:

YEAS—Senators

Arthur	Beck	May	Moon	Mosley	Razer	Rizzo
Roberts	Schupp	Washington	Williams—11			

NAYS—Senators

Bean	Bernskoetter	Brattin	Brown	Burlison	Cierpiot	Crawford
Eigel	Eslinger	Gannon	Hegeman	Hough	Koenig	Luetkemeyer
O’Laughlin	Onder	Rowden	Schatz	Thompson Rehder	White	Wieland—21

Absent—Senator Hoskins—1

Absent with leave—Senator Riddle—1

Vacancies—None

Senator Moon offered **SA 4**:

SENATE AMENDMENT NO. 4

Amend Senate Substitute for Senate Committee Substitute for Senate Bill No. 631, Page 1, Section 516.120, Line 18, by striking the semicolon “;” on said line and inserting in lieu thereof the following: “.”; and

Further amend said bill and section, page 2, lines 19-25, by striking all of said lines; and

Further amend said bill and page, section 516.125, line 10, by inserting after all of said line the following:

“516.371. **1.** Notwithstanding any provision of law to the contrary, there shall be a ten-year statute of limitation on any action for damages for personal injury caused to an individual by a person within the third degree of affinity or consanguinity who subjects such individual to sexual contact, as defined in section 566.010.

2. Notwithstanding the provisions of section 516.140 to the contrary, an action for assault, battery, or personal injury caused by the defendant committing an offense against the plaintiff of which an essential element is sexual conduct, as that term is defined in section 566.010, as provided in chapter 566, or an offense of incest or attempted incest, as provided in chapter 568, shall be brought within ten years if the cause accrued after January 1, 2023.”; and

Further amend the title and enacting clause accordingly.

Senator Moon moved that the above amendment be adopted.

Senator Eslinger assumed the Chair.

At the request of Senator Hegeman, **SB 631**, with **SCS**, **SS** for **SCS** and **SA 4** (pending), was placed on the Informal Calendar.

MESSAGES FROM THE HOUSE

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

Mr. President: I am instructed by the House of Representatives to inform the Senate that the House has taken up and passed **HCS** for **HB 2012**, entitled:

An Act to repeal sections 188.035, 188.036, 188.047, 188.220, 208.152, 208.153, 208.164, 208.659, 338.270, and 338.337, RSMo, and to enact in lieu thereof fourteen new sections relating to health care, with penalty provisions.

In which the concurrence of the Senate is respectfully requested.

Read 1st time.

Also,

Mr. President: I am instructed by the House of Representatives to inform the Senate that the House has taken up and passed **HJR 116**, entitled:

Joint Resolution submitting to the qualified voters of Missouri an amendment repealing Section 12 of Article IV of the Constitution of Missouri, and adopting two new sections in lieu thereof relating to the state department of the national guard.

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 **HJR 131**, entitled:

Joint Resolution submitting to the qualified voters of Missouri an amendment repealing Sections 2 and 3 of Article VIII of the Constitution of Missouri, and adopting four new sections in lieu thereof relating to elections.

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 1597**, entitled:

An Act to authorize the conveyance of certain state property.

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 1472**, entitled:

An Act to repeal section 574.105, RSMo, and to enact in lieu thereof one new section relating to the offense of money laundering, with penalty provisions.

In which the concurrence of the Senate is respectfully requested.

Read 1st time.

Also,

Mr. President: I am instructed by the House of Representatives to inform the Senate that the House has taken up and passed **HCS** for **HB 2587**, entitled:

An Act to amend chapter 620, RSMo, by adding thereto seven new sections relating to the regulatory sandbox act.

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 2289**, entitled:

An Act to repeal sections 8.250, 415.415, 493.050, and 493.070, RSMo, and to enact in lieu thereof four new sections relating to requirements for public notices.

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 1682**, entitled:

An Act to repeal section 442.404, RSMo, and to enact in lieu thereof three new sections relating to regulation of real property.

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 2697**, entitled:

An Act to amend chapters 407 and 570, RSMo, by adding thereto two new sections relating to the offense of organized retail theft, with penalty provisions and a delayed effective date for certain sections.

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 2607**, entitled:

An Act to repeal sections 313.800 and 313.805, RSMo, and to enact in lieu thereof two new sections relating to siting requirements for excursion gambling boat facilities.

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 1562**, entitled:

An Act to amend chapter 226, RSMo, by adding thereto one new section relating to the designation of a historic region.

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 2143**, entitled:

An Act to repeal section 214.160, RSMo, and to enact in lieu thereof one new section relating to cemetery trust funds.

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 2032**, entitled:

An Act to repeal sections 211.031, 567.020, 573.010, and 589.414, RSMo, and to enact in lieu thereof eight new sections relating to child trafficking, with penalty provisions.

In which the concurrence of the Senate is respectfully requested.

Read 1st time.

Also,

Mr. President: I am instructed by the House of Representatives to inform the Senate that the House has taken up and passed **HB 1954**, entitled:

An Act to amend chapter 454, RSMo, by adding thereto one new section relating to child maintenance orders for certain persons convicted of driving while intoxicated.

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 1684**, entitled:

An Act to repeal section 393.135, RSMo, and to enact in lieu thereof two new sections relating to the Missouri nuclear clean power act.

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 2088**, entitled:

An Act to repeal section 217.703, RSMo, and to enact in lieu thereof two new sections relating to sentence credits, with a delayed effective date.

In which the concurrence of the Senate is respectfully requested.

Read 1st time.

REPORTS OF STANDING COMMITTEES

Senator Rowden, Chairman of the Committee on Rules, Joint Rules, Resolutions and Ethics, submitted the following report:

Mr. President: Your Committee on Rules, Joint Rules, Resolutions and Ethics, to which was referred SS for SCS for **SB 931**, begs leave to report that it has examined the same and finds that the bill has been truly perfected and that the printed copies furnished the Senators are correct.

RESOLUTIONS

Senator Brown offered Senate Resolution No. 734, regarding Lucy Wortham James Elementary School, St. James, which was adopted.

Senator Arthur offered Senate Resolution No. 735, regarding South Valley Middle School, Liberty, which was adopted.

Senator Arthur offered Senate Resolution No. 736, regarding Heritage Middle School, Liberty, which was adopted.

Senator Eigel offered Senate Resolution No. 737, regarding Deborah L. Lammers, St. Charles, which was adopted.

Senator May offered Senate Resolution No. 738, regarding Mackenzie Twomey, St. Louis, which was adopted.

INTRODUCTION OF GUESTS

On behalf of Senator Riddle, the President introduced to the Senate, Madison Traction Team, Connor O'Bannon; Reed Layton; Heaven Bone; Jonathan Thomas; Logan Hubert; Madeline Wood; and Alex Harrison; teachers, Jennifer Ehrett; and Susan Purdy.

Senator Moon introduced to the Senate, Kathy Guerra; and Marie Moder, St. Louis.

Senator Burlison introduced to the Senate, Ken Teague; Benjamin Leviat; Jill Curter; Holly Oberhansley; Jared Young; Date Rodman; and the Pachyderm club.

Senator Gannon introduced to the Senate, Jaclyn Brown, Jefferson County.

Senator Schupp introduced to the Senate, American College of Physicians, Dr. Jacqueline Fairchild, Olivette; Dr. Ernie-Paul Barrette, Frontenac; and Dr. Shilpa Peddi, Creve Coeur.

Senator Williams introduced to the Senate, Samantha Williams, St. Louis.

Senator White introduced to the Senate, Carthage Technical Center, SkillsUSA, Joplin; and Young Republican Club, Webb City.

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

SENATE CALENDAR

FORTY-FIFTH DAY—THURSDAY, APRIL 7, 2022

FORMAL CALENDAR

HOUSE BILLS ON SECOND READING

HCS for HB 2120	HB 2697-Shaul
HCS for HB 2012	HB 2607-Rone
HJR 116-Schnelting	HCS for HB 1562
HCS for HJR 131	HB 2143-Kalberloh
HCS for HB 1597	HCS for HB 2032
HCS for HB 1472	HB 1954-Henderson
HCS for HB 2587	HB 1684-Black (137)
HCS for HB 2289	HB 2088-Grier
HCS for HB 1682	

THIRD READING OF SENATE BILLS

SS#2 for SCS for SB 649-Eigel (In Fiscal Oversight)	SS for SB 690-Thompson Rehder
SS#2 for SB 823-White	SS#3 for SCS for SB 758-Hough (In Fiscal Oversight)
SS for SCS for SB 783-Eslinger (In Fiscal Oversight)	SJR 46-Cierpiot (In Fiscal Oversight)
SS for SCS for SB 725-Hegeman	SS for SCS for SB 931-Koenig

SENATE BILLS FOR PERFECTION

1. SB 756-White, with SCS	8. SB 1153-Eslinger, with SCS
2. SB 968-Burlison, with SCS	9. SB 864-Hoskins, with SCS
3. SBs 777 & 808-Brattin, with SCS	10. SB 867-Koenig, with SCS
4. SB 683-O'Laughlin, with SCS	11. SB 654-Crawford, with SCS
5. SB 997-Bernskoetter	12. SB 812-Eigel
6. SB 650-Eigel	13. SB 742-Crawford
7. SB 723-Hegeman	14. SB 918-Burlison, with SCS

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| 15. SB 984-Hegeman | 19. SB 987-Bean |
| 16. SB 671-White, with SCS | 20. SB 713-Razer, with SCS |
| 17. SB 741-Crawford, with SCS | 21. SB 781-Moon, with SCS |
| 18. SB 674-Hough, with SCS | |

HOUSE BILLS ON THIRD READING

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| HCS for HB 1686 (Brown)
(In Fiscal Oversight) | HB 2149-Shields (Eslinger)
HB 1697-Baker (Burlison) |
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INFORMAL CALENDAR

SENATE BILLS FOR PERFECTION

- | | |
|---|--|
| SB 631-Hegeman, with SCS, SS for SCS &
SA 4 (pending) | SB 732-Hoskins, with SCS |
| SB 648-Rowden | SB 761-Brown, with SS & SA 2 (pending) |
| SB 657-Cierpiot, with SS (pending) | SB 762-Brown, with SS & SA 4 (pending) |
| SB 663-Bernskoetter, with SCS | SB 798-Mosley, with SA 1 & SA 1 to SA 1
(pending) |
| SB 664-Bernskoetter | SB 850-Bean, with SCS & SS for SCS
(pending) |
| SB 665-Bernskoetter, with SS (pending) | SB 869-Koenig, with SS (pending) |
| SB 667-Burlison, with SS (pending) | SB 938-White, with SCS & SS for SCS (pending) |
| SBs 698 & 639-Gannon, et al, with SCS,
SA 1 & SA 1 to SA 1 (pending) | SJR 39-Luetkemeyer |
| SBs 702, 636, 651, & 693-Eslinger, with SCS | SJR 41-Roberts and Mosley |
| SB 726-Onder, with SS & SA 6 (pending) | |

HOUSE BILLS ON THIRD READING

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|--|--|
| SS for SCS for HCS for HB 1552 (Koenig)
(In Fiscal Oversight) | SS for SCS for HCS for HB 1720 (Bean)
(In Fiscal Oversight) |
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BILLS IN CONFERENCE AND BILLS
CARRYING REQUEST MESSAGES

Requests to Recede or Grant Conference

- HCS for HB 2117, with SS#2, as amended (Bernskoetter)
(House requests Senate recede or grant conference)

RESOLUTIONS

SR 435-Schatz

SR 448-Eigel

SR 453-Eigel

SR 466-Eigel

SR 467-Eigel

SR 468-Hoskins

SR 469-Hoskins

SR 472-White

SR 496-Hoskins

HCR 52-Plocher (Rowden)

Reported from Committee

SR 594-Bernskoetter and Schupp

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