



**Associated Industries of Missouri**  
**Legislative Wrap-up 2014**



**Associated  
Industries  
of Missouri**

*The Voice of Missouri Business.*

*Photo by Tim Bommel*

# Associated Industries of Missouri praises legislature for history making session

Associated Industries of Missouri president Ray McCarty says the 2014 session of the Missouri legislature will go down in history as one of the most important ever for Missouri businesses and taxpayers.



Not only did the legislature stand strong in overriding the governor's veto of Senate Bill 509, but it followed that triumph up with important legislation that changed the burden of proof in tax disputes to the Department of Revenue, provided state tax exemptions on transmission and distribution of electricity and cancer treatment items, allowed interstate businesses to take advantage of all three choices of determining how much income is taxed in Missouri, continued the Shared Work program, and made important changes to the unemployment system.

"We can say this legislative session, we won many victories for Missouri businesses," said McCarty. "The legislative leadership promised us before the beginning of the session that we would get down to business this session, and they came through on their promises."

McCarty thanked and applauded the efforts of Senate President

Pro Tem Tom Dempsey, Speaker of the House Tim Jones, Senate President Pro Tem Tom Dempsey, House Majority Floor Leader John Diehl, Senate Majority Floor Leader Ron Richard, House Speaker Pro Tem Denny Hoskins, Senate Ways

and Means Chairman Sen. Will Kraus, Sen. Eric Schmitt, House Ways and Means Chairman Rep. Andrew Koenig,

Senators Bob Dixon and Reps. T.J. Berry and Eric Burlison for their efforts in carrying important legislation through the twists and turns of the legislative process.

"We saw during this session what true leadership is all about," said McCarty. "These senators and representatives worked tirelessly on behalf of their constituents, both individuals and businesses, and



Missouri is a better place today because of them."

Of course, the 2014 session will go down in history as the first to reduce income taxes since the 1920's. The business income tax deduction

passed in Senate Bill 509 was the brainchild of McCarty and AIM.

The deduction will help more than 95 percent of Missouri businesses. State services are protected because the tax cuts and deductions are paid for through growth in state revenues beginning in 2017.



"With the passage of the tax cut alone, I can say this was truly an historic session of the Missouri General Assembly," said McCarty. "But to continue to pass bill after bill to make the Department of Revenue more responsive to taxpayers, to take away burdensome taxes and regulations, to act quickly to keep important programs in place, legislative action this session has been bold and decisive."



*The Voice of Missouri Business.*

# AIM wins many tax battles

While the broad-based tax cuts in SB 509 and the battle to override the governor's veto drew the most attention during the session, there were a myriad of smaller bills that will do many things to help the business climate in the state of Missouri.

The watershed bill for tax issues was **Senate Bill 584**. In an exercise not unlike herding cats, State Reps. Eric Burlison (R-Springfield) and Andrew Koenig (R-St. Louis), and Senate sponsor Sen. Bob Dixon (R-Springfield), somehow listened to many voices and came up with one piece of legislation with many brilliant ideas.

**SB 584** now includes:

- Clean-up language to ensure the Department of Revenue charges sales tax on admissions to entertainment, not businesses that offer athletic training, or dance lessons, or other services;
- Apportionment language that allows service industries an additional choice of formulas used to determine Missouri income for tax purposes;
- The Associated Industries version of concise data center sales tax exemption language;
- Language that shifts the burden of proof in nearly all tax dispute cases to the Department of Revenue;
- Boat motor fuel tax exemption on fuel purchased from a marina;
- A sales tax exemption on the sale of used manufactured homes;

- Sales tax exemptions on cancer treatment drugs and devices;
- Clarification that utilities, machinery and equipment used to transmit and distribute electricity is exempt from sales and use taxes;
- Language that allows retailers to advertise that a price includes state sales taxes; and,
- Language that helps ensure the Department of Revenue gives tax refunds to deserving taxpayers.

This impressive list of legislation was assembled as a House Committee Substitute by Rep. Koenig and held together during a conference between Senators and Representatives Thursday evening.

Most of the language in the bill comes from AIM priorities and legislation, some of which has been around for many sessions. For instance, concise language on the tax exemption for the infrastructure for data centers. AIM president Ray McCarty says he started trying to pass nearly the same language seven years ago, but this is the first time it has been included in a truly agreed and finally passed bill.

Another topic that stirred controversy and spurred legislation during the session was the Department of Revenue's auditing of businesses that provided DOR's definition of entertainment.

With DOR demanding back sales taxes from businesses that provide services such as dance lessons and workouts, the legislature

stepped in with a definition that sales taxes may only be collected on admission to entertainment performances.

**Shifting the burden of proof in tax dispute cases** was also a priority issue among legislators during the session. Under current law, when the Department of Revenue alleges a taxpayer owes more tax than has been paid, it is up to the taxpayer to prove themselves innocent.

Wording in bills such as **SB 584**, **SB 829**, and **HB 1455** shifts the burden of proof to the Department of Revenue.

**Senate Bill 860** also turned into a great bill for tax legislation. It includes a **sales tax exemption for manufactured homes**, **AIM refund language** that makes it easier for taxpayers due a refund to get that refund, **including graphing calculators in the back-to-school sales tax holiday items**, and **withholding filing frequency language** that allows small businesses to file fewer withholding tax returns.

Other bills included these and other important issues:

**Apportionment:** SB 693, SB 662, SB 612, HB 1296, HB 1865

**Notification of sales tax law changes:** SB 612, SB 662

**Tax exemption on used manufactured homes:** SB 584, SB 693

**Sales tax included in price:** HB 1296, SB 662

Other important bills on taxation passing the legislature this year include:

**SB 612 (Schaaf)** – Includes the non-resident entertainer and athlete tax extension.

**SB 727 (Chapelle-Nadal)** – Sales tax exemptions for farmers' markets.

**HB 1865 (Redmon)** – Provides an exemption for equipment and utilities used to provide food service.

## Economic Development

When you hear these words in the State Capitol, unfortunately you often hear "tax credits" in nearly the same breath.

Again, the divisive issue of what to do about tax credits came and went without any progress, and so victories here were fairly few and far between.

One tax credit that did make it across the finish line of the legislative session was **SB 729** which creates tax credits for donations to Innovation Campuses around Missouri, establishes rural regional development grants and reauthorizes tax credit programs for wood energy and alternative fuel refueling properties (subject to appropriation).

**SB 723**, a long time project of veteran House member Rep. Chris Kelly (D-Columbia) allows for the selling of bonds for state owned building capital improvements. The bill increases the bonding authority by \$600 million.

## Transportation

A priority piece of legislation for the Missouri Transportation Development Council (MTD) is **House Joint Resolution 68**.

What started as a one cent dedicated sales tax for transportation wound up as a  $\frac{3}{4}$  cent sales tax for transportation. Missourians will get to vote on this plan to fix roads and bridges across Missouri on the upcoming November statewide ballot.

The plan would provide \$5.4 billion over ten years to help MoDOT bridge the upcoming funding gap caused by the lack of gas tax revenues and help from the federal government. MoDOT officials say a dedicated funding stream like the sales tax is the only way to keep transportation moving forward in Missouri.

The legislature also gave final approval to **HB 2141** on modifications to the measurement standards and tax rates for compressed natural gas and liquefied natural gas. As these fuels become more prevalent in cars of today and into the future, this legislation will help codify how the fuel is taxed and measured. The compressed and liquefied natural gas would be taxed on a "per gallon equivalent" basis. An exemption is provided if a company puts in their own refueling station and only refuels their own vehicles. Such companies would continue paying the current placard fee.

And **SB 506** requires the Department of Agriculture to issue regulations on the sale of E-15 blended fuel and the labeling of pumps before allowing them to be sold to consumers.

## Human Resources

A big win for Missouri business here, as the legislature gave final passage to **SB 510**, legislation that redefines "misconduct" and "good cause" in alignment with federal language for the purposes of disqualification from unemployment benefits. This bill passed the legislature last year, but was vetoed by Governor Nixon. This year, language in the bill was cleared by the federal Department of Labor before final votes were taken.

The Shared Work Program, **SB 844**, crossed the wire just in time. The bill allows the continuation of the federal program that allows employers to soften the blow of layoffs by divvying up federal unemployment hours between several employees, allowing the employees to stay on the job, but with diminished hours. Although AIM was pushing for expansion of the program that would have allowed employers more flexibility in the program, the final bill keeps many of the current terms in place and at least allows the program to continue.

**SB 673** ties the number of weeks laid off workers can get unemployment benefits to the rate of unemployment in the state. Currently, workers get 20 weeks of benefits, regardless of unemployment figures. The new sliding scale would allow benefits from 20 weeks in hard times, all the way down to 13 weeks in periods of high employment.

AIM's efforts to pass legislation that would reign in **false whistleblower claims** failed again this year as the trial attorneys ramped up their opposition. But AIM defeated efforts by the trial attorneys

to establish new lines of lawsuits against employers by making new protected classes of employees for lesbian, gay, transgendered and bisexual employees and domestic violence victims.

## Environment

The House and Senate passed several pieces of legislation aimed at mitigating the power of the EPA to establish air quality standards in Missouri.

**HCR 30 and HCR 38** are similar resolutions calling on congress to decrease the EPA's authority on fossil fuel emissions. **HB 1631** mandates that the EPA must use case-by-case analysis, working with the Missouri Department of Natural Resources, when designing regulations for existing electricity generating facilities.

Other legislation includes:

**SB 601** reauthorizes a deduction for energy efficiency audits and projects for tax years 2014 to 2020.

**SB 642** became one of the omnibus environmental bills at the end of the session. It contains some interesting language that bypasses circuit courts for the court of appeals when surface mining permits are judicially reviewed. This and other provisions could be applied to other Department of Natural Resources (DNR) programs by future legislators. Other provisions extend the 50-cent new tire fee until 1/1/20; require the filing of rules by commissions when hazardous waste, water or air fees are increased under the new consensus structure passed last session and extend the current fee structure until 2024; extend radioactive waste

monitoring until 2014; extend safe drinking water permits until 2017; prohibit DNR from regulating wood burning heaters or appliances; specify that only DNR can administer the federal clean water act; modify when a water pollution construction permit may be required while removing overreaching authority passed last session; further restrict criteria for making site-specific wastewater permit decisions; and define "finding of affordability" for public waste water treatment. **HB 1201** contained the same provisions regarding surface mining operations as **SB 642**.

**SB 664** modified the authority of the Clean Water Commission so that it may only modify water quality standards for certain permits upon the completion of an independent study commissioned by the Department of Natural Resources finding that there is an environmental and economic need for such modifications. Also contains some provisions of **SB 642** and **HB 1631** which requires the Air Conservation Commission to develop carbon dioxide emission standards for existing generation plants.

**SB 672 and SB 693**, among numerous provisions, these acts make it a violation of the Merchandising Practices Act to accumulate asphalt shingles in the City of St. Louis without showing that at least 75% of the material will be recycled for other use in a calendar year.

**SB 731** modifies provisions relating to nuisance ordinances and actions by stating an action cannot be brought if the property owner who is the subject of the action is in good faith compliance with any order issued by the Department of Natural Resources, the United

States Environmental Protection Agency, or the Office of the Attorney General.

**SCR 17** extends the Joint Committee on Solid Waste Management District Operations.

**SCR 19** establishes the Missouri Lead Industry Employment, Economic Development and Environmental Remediation task force.

**HB 1302** specifies that Missourians have the right to heat their homes and businesses using wood-burning furnaces, stoves, fireplaces, and heaters prohibits DNR from regulating wood burning heaters or appliances.

**HB 1631** specifies that the Air Conservation Commission shall develop emissions standards and compliance schedules under federal law through a unit-by-unit analysis of each existing source of a designated pollutant.

**HCR 4** calls upon President Obama to support the TransCanada Keystone XL pipeline and the permitting for oil production off the coast of Alaska.

**HCR 5** urges Congress to support importation of Canadian oil sands and ask for the approval of the TransCanada Keystone Coast Expansion pipeline.

**HCR 30** strongly urges the Environmental Protection Agency to reject any federal fossil fuel emission regulations that remove coal as a viable fuel option for new and existing electric generation and **HCR 38** urges the U.S. Congress to decrease the Environmental Protection Agency's authority to regulate water quality and the use

of coal and wood as energy.

The House and Senate also established a Joint Committee on Solid Waste Management District Operations in **SCR 17**. But another overall omnibus environmental bill (SB 968) died in the final hours of the session.

## Utilities

Legislation on utilities was understated compared to 2013's various ISRS legislation. Two water ISRS bills died with little fanfare. The legislature did pass **SB 601**, which reauthorizes the deduction for energy efficiency audits and projects until tax year 2020. Also making final passage was **HB 1867** on underground facility safety.

## Education

Most of the talk in the realm of education, outside of the transfer issue in St. Louis and Kansas City, centered on the so-called Common Core curriculum. Out of several bills finally came a compromise in **HB 1490**.

The bill started as legislation to outlaw the new curriculum and tests, but after several months of hearings and tinkering, the bill now calls for Common Core to remain in schools for two years while educators around the state meet to draw up new curricula guidelines and testing standards.

## Government

Missouri voters will get a chance to vote on reigning in the power of governors to withhold state funds in the budget in order to make political points.

**HJR 72**, if approved by voters, requires the sitting governor to notify the state legislature when and

how they plan to withhold funding from state programs. Legislators will be given a chance to override such decisions in the same manner as if such expenditures had been vetoed. In recent years, governors have used the "power of the purse strings" in order to exert political pressure rather than to exercise fiscal restraint.

Continuing on the open government theme, **SB 504** mandates state agencies publish new rules on their websites before they take effect.

## Miscellaneous

And try as we might...we just can't make all bills fit snugly into some category we make up here, so...

**SB 689 and HB 1304** allow retailers to sell bottles of malt liquor individually.

**SB 529** modifies the Missouri Public Prompt Payment Act and the law relating to public works projects.

**SB 706** outlaws the practice known as "patent trolling." AIM worked with our members on this language to protect valid patent holders.

**HCR 13** is a non-binding resolution calling on congress to support the A-10 Thunderbolt program. The A-10 is based primarily at Whiteman Air Force Base in Knob Noster.