

**PROPOSED AMENDMENTS TO  
SENATE BILL 307**

1 On page 1 of the printed bill, line 2, after “ORS” delete the rest of the  
2 line and line 3 and insert “314.606; repealing ORS 305.655; and prescribing  
3 an effective date.”.

4 Delete lines 5 through 29 and delete pages 2 and 3 and insert:

5 **“SECTION 1. Section 2 of this 2013 Act is added to and made a part  
6 of ORS chapter 305.**

7 **“SECTION 2. The Multistate Tax Compact is hereby enacted into  
8 law and entered into on behalf of this state with all other jurisdictions  
9 legally joining therein in a form substantially as follows:**

10 “ \_\_\_\_\_

11 **ARTICLE I**  
12 **PURPOSES**

13  
14 **The purposes of this compact are to:**

15 **1. Facilitate proper determination of state and local tax liability of**  
16 **multistate taxpayers, including the equitable apportionment of tax**  
17 **bases and settlement of apportionment disputes.**

18 **2. Promote uniformity or compatibility in significant components**  
19 **of tax systems.**

20 **3. Facilitate taxpayer convenience and compliance in the filing of**  
21 **tax returns and in other phases of tax administration.**

22 **4. Avoid duplicative taxation.**

**ARTICLE II**  
**DEFINITIONS**

**As used in this compact:**

**1. “State” means a state of the United States, the District of Columbia, the Commonwealth of Puerto Rico, or any territory or possession of the United States.**

**2. “Subdivision” means any governmental unit or special district of a state.**

**3. “Taxpayer” means any corporation, partnership, firm, association, governmental unit or agency or person acting as a business entity in more than one state.**

**4. “Income tax” means a tax imposed on or measured by net income including any tax imposed on or measured by an amount arrived at by deducting expenses from gross income, one or more forms of which expenses are not specifically and directly related to particular transactions.**

**5. “Capital stock tax” means a tax measured in any way by the capital of a corporation considered in its entirety.**

**6. “Gross receipts tax” means a tax, other than a sales tax, which is imposed on or measured by the gross volume of business, in terms of gross receipts or in other terms, and in the determination of which no deduction is allowed which would constitute the tax an income tax.**

**7. “Sales tax” means a tax imposed with respect to the transfer for a consideration of ownership, possession or custody of tangible personal property or the rendering of services measured by the price of the tangible personal property transferred or services rendered and which is required by state or local law to be separately stated from the sales price by the seller, or which is customarily separately stated from the sales price, but does not include a tax imposed exclusively**

1 on the sale of a specifically identified commodity or article or class  
2 of commodities or articles.

3 8. "Use tax" means a nonrecurring tax, other than a sales tax,  
4 which (a) is imposed on or with respect to the exercise or enjoyment  
5 of any right or power over tangible personal property incident to the  
6 ownership, possession or custody of that property or the leasing of  
7 that property from another including any consumption, keeping, re-  
8 tention, or other use of tangible personal property and (b) is comple-  
9 mentary to a sales tax.

10 9. "Tax" means an income tax, capital stock tax, gross receipts tax,  
11 sales tax, use tax, and any other tax which has a multistate impact,  
12 except that the provisions of Article V of this compact shall apply only  
13 to the taxes specifically designated therein.

14

### 15 ARTICLE III

#### 16 ELEMENTS OF INCOME TAX LAWS (Intentionally omitted)

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### 19 ARTICLE IV

#### 20 DIVISION OF INCOME (Intentionally omitted)

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### 23 ARTICLE V

#### 24 ELEMENTS OF SALES AND 25 USE TAX LAWS

26

27 1. Tax credit. Each purchaser liable for a use tax on tangible per-  
28 sonal property shall be entitled to full credit for the combined amount  
29 or amounts of legally imposed sales or use taxes paid by him with re-  
30 spect to the same property to another state and any subdivision

1 **thereof. The credit shall be applied first against the amount of any use**  
2 **tax due the state, and any unused portion of the credit shall then be**  
3 **applied against the amount of any use tax due a subdivision.**

4 **2. Exemption certificates, vendors may rely. Whenever a vendor**  
5 **receives and accepts in good faith from a purchaser a resale or other**  
6 **exemption certificate or other written evidence of exemption author-**  
7 **ized by the appropriate state or subdivision taxing authority, the ven-**  
8 **dor shall be relieved of liability for a sales or use tax with respect to**  
9 **the transaction.**

10  
11 **ARTICLE VI**  
12 **THE COMMISSION**

13  
14 **1. Organization and management. (a) The Multistate Tax Commis-**  
15 **sion is hereby established. It shall be composed of one “member” from**  
16 **each party state who shall be the head of the state agency charged**  
17 **with the administration of the types of taxes to which this compact**  
18 **applies. If there is more than one such agency the state shall provide**  
19 **by law for the selection of the commission member from the heads of**  
20 **the relevant agencies. State law may provide that a member of the**  
21 **commission be represented by an alternate but only if there is on file**  
22 **with the commission written notification of the designation and iden-**  
23 **tity of the alternate. The Attorney General of each party state or his**  
24 **designee, or other counsel if the laws of the party state specifically**  
25 **provide, shall be entitled to attend the meetings of the commission,**  
26 **but shall not vote. Such Attorneys General, designees or other counsel**  
27 **shall receive all notices of meetings required under paragraph 1 (e) of**  
28 **this Article.**

29 **(b) Each party state shall provide by law for the selection of repre-**  
30 **sentatives from its subdivisions affected by this compact to consult**

1 with the commission member from that state.

2 (c) Each member shall be entitled to one vote. The commission  
3 shall not act unless a majority of the members are present, and no  
4 action shall be binding unless approved by a majority of the total  
5 number of members.

6 (d) The commission shall adopt an official seal to be used as it may  
7 provide.

8 (e) The commission shall hold an annual meeting and such other  
9 regular meetings as its bylaws may provide and such special meetings  
10 as its Executive Committee may determine. The commission bylaws  
11 shall specify the dates of the annual and any other regular meetings,  
12 and shall provide for the giving of notice of annual, regular and special  
13 meetings. Notices of special meetings shall include the reasons there-  
14 for and an agenda of the items to be considered.

15 (f) The commission shall elect annually, from among its members,  
16 a Chairman, a Vice Chairman and a Treasurer. The commission shall  
17 appoint an Executive Director who shall serve at its pleasure, and it  
18 shall fix his duties and compensation. The Executive Director shall be  
19 secretary of the commission. The commission shall make provision for  
20 the bonding of such of its officers and employees as it may deem ap-  
21 propriate.

22 (g) Irrespective of the civil service, personnel or other merit system  
23 laws of any party state, the Executive Director shall appoint or dis-  
24 charge such personnel as may be necessary for the performance of the  
25 functions of the commission and shall fix their duties and compen-  
26 sation. The commission bylaws shall provide for personnel policies and  
27 programs.

28 (h) The commission may borrow, accept or contract for the services  
29 of personnel from any state, the United States or any other govern-  
30 mental entity.

1 (i) The commission may accept for any of its purposes and func-  
2 tions any and all donations and grants of money, equipment, supplies,  
3 materials and services, conditional or otherwise, from any govern-  
4 mental entity, and may utilize and dispose of the same.

5 (j) The commission may establish one or more offices for the  
6 transacting of its business.

7 (k) The commission shall adopt bylaws for the conduct of its busi-  
8 ness. The commission shall publish its bylaws in convenient form, and  
9 shall file a copy of the bylaws and any amendments thereto with the  
10 appropriate agency or officer in each of the party states.

11 (L) The commission annually shall make to the Governor and leg-  
12 islature of each party state a report covering its activities for the  
13 preceding year. Any donation or grant accepted by the commission or  
14 services borrowed shall be reported in the annual report of the com-  
15 mission, and shall include the nature, amount and conditions, if any,  
16 of the donation, gift, grant or services borrowed and the identity of  
17 the donor or lender. The commission may make additional reports as  
18 it may deem desirable.

19 **2. Committees.** (a) To assist in the conduct of its business when the  
20 full commission is not meeting, the commission shall have an Execu-  
21 tive Committee of seven members, including the Chairman, Vice  
22 Chairman, Treasurer and four other members elected annually by the  
23 commission. The Executive Committee, subject to the provisions of  
24 this compact and consistent with the policies of the commission, shall  
25 function as provided in the bylaws of the commission.

26 (b) The commission may establish advisory and technical commit-  
27 tees, membership on which may include private persons and public  
28 officials, in furthering any of its activities. Such committees may  
29 consider any matter of concern to the commission, including problems  
30 of special interest to any party state and problems dealing with par-

1 **ticular types of taxes.**

2 **(c) The commission may establish such additional committees as its**  
3 **bylaws may provide.**

4 **3. Powers. In addition to powers conferred elsewhere in this com-**  
5 **compact, the commission shall have power to:**

6 **(a) Study state and local tax systems and particular types of state**  
7 **and local taxes.**

8 **(b) Develop and recommend proposals for an increase in uniformity**  
9 **or compatibility of state and local tax laws with a view toward en-**  
10 **couraging the simplification and improvement of state and local tax**  
11 **law and administration.**

12 **(c) Compile and publish information as in its judgment would assist**  
13 **the party states in implementation of the compact and taxpayers in**  
14 **complying with state and local tax laws.**

15 **(d) Do all things necessary and incidental to the administration of**  
16 **its functions pursuant to this compact.**

17 **4. Finance. (a) The commission shall submit to the Governor or**  
18 **designated officer or officers of each party state a budget of its esti-**  
19 **imated expenditures for such period as may be required by the laws of**  
20 **that state for presentation to the legislature thereof.**

21 **(b) Each of the commission's budgets of estimated expenditures**  
22 **shall contain specific recommendations of the amounts to be appro-**  
23 **priated by each of the party states. The total amount of appropriations**  
24 **requested under any such budget shall be apportioned among the party**  
25 **states as follows: one-tenth in equal shares; and the remainder in**  
26 **proportion to the amount of revenue collected by each party state and**  
27 **its subdivisions from income taxes, capital stock taxes, gross receipts**  
28 **taxes, sales and use taxes. In determining such amounts, the com-**  
29 **mission shall employ such available public sources of information as,**  
30 **in its judgment, present the most equitable and accurate comparisons**

1 among the party states. Each of the commission's budgets of esti-  
2 mated expenditures and requests for appropriations shall indicate the  
3 sources used in obtaining information employed in applying the for-  
4 mula contained in this paragraph.

5 (c) The commission shall not pledge the credit of any party state.  
6 The commission may meet any of its obligations in whole or in part  
7 with funds available to it under paragraph 1 (i) of this Article: pro-  
8 vided that the commission takes specific action setting aside such  
9 funds prior to incurring any obligation to be met in whole or in part  
10 in such manner. Except where the commission makes use of funds  
11 available to it under paragraph 1 (i), the commission shall not incur  
12 any obligation prior to the allotment of funds by the party states ad-  
13 equate to meet the same.

14 (d) The commission shall keep accurate accounts of all receipts and  
15 disbursements. The receipts and disbursements of the commission  
16 shall be subject to the audit and accounting procedures established  
17 under its bylaws. All receipts and disbursements of funds handled by  
18 the commission shall be audited yearly by a certified or licensed public  
19 accountant and the report of the audit shall be included in and become  
20 part of the annual report of the commission.

21 (e) The accounts of the commission shall be open at any reasonable  
22 time for inspection by duly constituted officers of the party states and  
23 by any persons authorized by the commission.

24 (f) Nothing contained in this Article shall be construed to prevent  
25 commission compliance with laws relating to audit or inspection of  
26 accounts by or on behalf of any government contributing to the sup-  
27 port of the commission.

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**ARTICLE VII**  
**UNIFORM REGULATIONS AND**



1 **FORMS**

2  
3 **1. Whenever any two or more party states, or subdivisions of party**  
4 **states, have uniform or similar provisions of law relating to an income**  
5 **tax, capital stock tax, gross receipts tax, sales or use tax, the com-**  
6 **mission may adopt uniform regulations for any phase of the adminis-**  
7 **tration of such law, including assertion of jurisdiction to tax, or**  
8 **prescribing uniform tax forms.**

9 **2. Prior to the adoption of any regulation, the commission shall:**

10 **(a) As provided in its bylaws, hold at least one public hearing on**  
11 **due notice to all affected party states and subdivisions thereof and to**  
12 **all taxpayers and other persons who have made timely request of the**  
13 **commission for advance notice of its regulation-making proceedings.**

14 **(b) Afford all affected party states and subdivisions and interested**  
15 **persons an opportunity to submit relevant written data and views,**  
16 **which shall be considered fully by the commission.**

17 **3. The commission shall submit any regulations adopted by it to the**  
18 **appropriate officials of all party states and subdivisions to which they**  
19 **might apply. Each such state and subdivision shall consider any such**  
20 **regulation for adoption in accordance with its own laws and proce-**  
21 **dures.**

22  
23 **ARTICLE VIII**  
24 **INTERSTATE AUDITS**

25  
26 **1. This Article shall be in force only in those party states that spe-**  
27 **cifically provide therefor by statute.**

28 **2. Any party state or subdivision thereof desiring to make or par-**  
29 **ticipate in an audit of any accounts, books, papers, records or other**  
30 **documents may request the commission to perform the audit on its**

1 **behalf. In responding to the request, the commission shall have access**  
2 **to and may examine, at any reasonable time, such accounts, books,**  
3 **papers, records, and other documents and any relevant property or**  
4 **stock of merchandise. The commission may enter into agreements**  
5 **with party states or their subdivisions for assistance in performance**  
6 **of the audit. The commission shall make charges, to be paid by the**  
7 **state or local government or governments for which it performs the**  
8 **service, for any audits performed by it in order to reimburse itself for**  
9 **the actual costs incurred in making the audit.**

10 **3. The commission may require the attendance of any person within**  
11 **the state where it is conducting an audit or part thereof at a time and**  
12 **place fixed by it within such state for the purpose of giving testimony**  
13 **with respect to any account, book, paper, document, other record,**  
14 **property or stock of merchandise being examined in connection with**  
15 **the audit. If the person is not within the jurisdiction, he may be re-**  
16 **quired to attend for such purpose at any time and place fixed by the**  
17 **commission within the state of which he is a resident: provided that**  
18 **such state has adopted this Article.**

19 **4. The commission may apply to any court having power to issue**  
20 **compulsory process for orders in aid of its powers and responsibilities**  
21 **pursuant to this Article and any and all such courts shall have juris-**  
22 **isdiction to issue such orders. Failure of any person to obey any such**  
23 **order shall be punishable as contempt of the issuing court. If the party**  
24 **or subject matter on account of which the commission seeks an order**  
25 **is within the jurisdiction of the court to which application is made,**  
26 **such application may be to a court in the state or subdivision on be-**  
27 **half of which the audit is being made or a court in the state in which**  
28 **the object of the order being sought is situated. The provisions of this**  
29 **paragraph apply only to courts in a state that has adopted this Article.**

30 **5. The commission may decline to perform any audit requested if**

1 it finds that its available personnel or other resources are insufficient  
2 for the purpose or that, in the terms requested, the audit is impracti-  
3 cable of satisfactory performance. If the commission, on the basis of  
4 its experience, has reason to believe that an audit of a particular tax-  
5 payer, either at a particular time or on a particular schedule, would  
6 be of interest to a number of party states or their subdivisions, it may  
7 offer to make the audit or audits, the offer to be contingent on suffi-  
8 cient participation therein as determined by the commission.

9 **6. Information obtained by any audit pursuant to this Article shall**  
10 **be confidential and available only for tax purposes to party states,**  
11 **their subdivisions or the United States. Availability of information**  
12 **shall be in accordance with the laws of the states or subdivisions on**  
13 **whose account the commission performs the audit, and only through**  
14 **the appropriate agencies or officers of such states or subdivisions.**  
15 **Nothing in this Article shall be construed to require any taxpayer to**  
16 **keep records for any period not otherwise required by law.**

17 **7. Other arrangements made or authorized pursuant to law for co-**  
18 **operative audit by or on behalf of the party states or any of their**  
19 **subdivisions are not superseded or invalidated by this Article.**

20 **8. In no event shall the commission make any charge against a**  
21 **taxpayer for an audit.**

22 **9. As used in this Article, "tax," in addition to the meaning ascribed**  
23 **to it in Article II, means any tax or license fee imposed in whole or**  
24 **in part for revenue purposes.**

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26

## ARTICLE IX

27

## ARBITRATION

28

29 **1. Whenever the commission finds a need for settling disputes con-**  
30 **cerning apportionment and allocations by arbitration, it may adopt a**

1 regulation placing this Article in effect, notwithstanding the pro-  
2 visions of Article VII.

3 2. The commission shall select and maintain an arbitration panel  
4 composed of officers and employees of state and local governments and  
5 private persons who shall be knowledgeable and experienced in matters  
6 of tax law and administration.

7 3. Whenever the laws of the party state or subdivision thereof are  
8 substantially identical with the relevant provisions of ORS 314.605 to  
9 314.675, the taxpayer, by written notice to the commission and to each  
10 party state or subdivision thereof that would be affected, may secure  
11 arbitration of an apportionment or allocation, if he is dissatisfied with  
12 the final administrative determination of the tax agency of the state  
13 or subdivision with respect thereto on the ground that it would subject  
14 him to double or multiple taxation by two or more party states or  
15 subdivisions thereof. Each party state and subdivision thereof hereby  
16 consents to the arbitration as provided herein, and agrees to be bound  
17 thereby.

18 4. The arbitration board shall be composed of one person selected  
19 by the taxpayer, one by the agency or agencies involved, and one  
20 member of the commission's arbitration panel. If the agencies in-  
21 volved are unable to agree on the person to be selected by them, such  
22 person shall be selected by lot from the total membership of the arbi-  
23 tration panel. The two persons selected for the board in the manner  
24 provided by the foregoing provisions of this paragraph shall jointly  
25 select the third member of the board. If they are unable to agree on  
26 the selection, the third member shall be selected by lot from among  
27 the total membership of the arbitration panel. No member of a board  
28 selected by lot shall be qualified to serve if he is an officer or employee  
29 or is otherwise affiliated with any party to the arbitration proceeding.  
30 Residence within the jurisdiction of a party to the arbitration pro-

1 ceeding shall not constitute affiliation within the meaning of this  
2 paragraph.

3 5. The board may sit in any state or subdivision party to the pro-  
4 ceeding, in the state of the taxpayer's incorporation, residence or  
5 domicile, in any state where the taxpayer does business, or in any  
6 place that it finds most appropriate for gaining access to evidence  
7 relevant to the matter before it.

8 6. The board shall give due notice of the times and places of its  
9 hearings. The parties shall be entitled to be heard, to present evidence,  
10 and to examine and cross-examine witnesses. The board shall act by  
11 majority vote.

12 7. The board shall have power to administer oaths, take testimony,  
13 subpoena and require the attendance of witnesses and the production  
14 of accounts, books, papers, records, and other documents, and issue  
15 commissions to take testimony. Subpoenas may be signed by any  
16 member of the board. In case of failure to obey a subpoena, and upon  
17 application by the board, any judge of a court of competent jurisdic-  
18 tion of the state in which the board is sitting or in which the person  
19 to whom the subpoena is directed may be found may make an order  
20 requiring compliance with the subpoena, and the court may punish  
21 failure to obey the order as a contempt. The provisions of this para-  
22 graph apply only in states that have adopted this Article.

23 8. Unless the parties otherwise agree the expenses and other costs  
24 of the arbitration shall be assessed and allocated among the parties  
25 by the board in such manner as it may determine. The commission  
26 shall fix a schedule of compensation for members of arbitration boards  
27 and of other allowable expenses and costs. No officer or employee of  
28 a state or local government who serves as a member of a board shall  
29 be entitled to compensation therefor unless he is required on account  
30 of his service to forego the regular compensation attaching to his

1 public employment, but any such board member shall be entitled to  
2 expenses.

3 9. The board shall determine the disputed apportionment or allo-  
4 cation and any matters necessary thereto. The determinations of the  
5 board shall be final for purposes of making the apportionment or al-  
6 location, but for no other purpose.

7 10. The board shall file with the commission and with each tax  
8 agency represented in the proceeding: the determination of the board;  
9 the board's written statement of its reasons therefor; the record of the  
10 board's proceedings; and any other documents required by the arbi-  
11 tration rules of the commission to be filed.

12 11. The commission shall publish the determinations of boards to-  
13 gether with the statements of the reasons therefor.

14 12. The commission shall adopt and publish rules of procedure and  
15 practice and shall file a copy of such rules and of any amendment  
16 thereto with the appropriate agency or officer in each of the party  
17 states.

18 13. Nothing contained herein shall prevent at any time a written  
19 compromise of any matter or matters in dispute, if otherwise lawful,  
20 by the parties to the arbitration proceeding.

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22

## ARTICLE X

23

### ENTRY INTO FORCE AND

24

### WITHDRAWAL

25

26 1. This compact shall enter into force when enacted into law by any  
27 seven states. Thereafter, this compact shall become effective as to any  
28 other state upon its enactment thereof. The commission shall arrange  
29 for notification of all party states whenever there is a new enactment  
30 of the compact.

1       **2. Any party state may withdraw from this compact by enacting a**  
2 **statute repealing the same. No withdrawal shall affect any liability**  
3 **already incurred by or chargeable to a party state prior to the time**  
4 **of such withdrawal.**

5       **3. No proceeding commenced before an arbitration board prior to**  
6 **the withdrawal of a state and to which the withdrawing state or any**  
7 **subdivision thereof is a party shall be discontinued or terminated by**  
8 **the withdrawal, nor shall the board thereby lose jurisdiction over any**  
9 **of the parties to the proceeding necessary to make a binding determi-**  
10 **nation therein.**

11

12                                     **ARTICLE XI**  
13                             **EFFECT ON OTHER LAWS AND**  
14                             **JURISDICTION**

15

16       **Nothing in this compact shall be construed to:**

17       **(a) Affect the power of any state or subdivision thereof to fix rates**  
18 **of taxation.**

19       **(b) Apply to any tax or fixed fee imposed for the registration of a**  
20 **motor vehicle or any tax on motor fuel, other than a sales tax: pro-**  
21 **vided that the definition of “tax” in Article VIII 9 may apply for the**  
22 **purposes of that Article and the commission’s powers of study and**  
23 **recommendation pursuant to Article VI 3 may apply.**

24       **(c) Withdraw or limit the jurisdiction of any state or local court**  
25 **or administrative officer or body with respect to any person, corpo-**  
26 **ration or other entity or subject matter, except to the extent that such**  
27 **jurisdiction is expressly conferred by or pursuant to this compact upon**  
28 **another agency or body.**

29       **(d) Supersede or limit the jurisdiction of any court of the United**  
30 **States.**

1                                   **ARTICLE XII**  
2                                   **CONSTRUCTION AND SEVERABILITY**

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4       **This compact shall be liberally construed so as to effectuate the**  
5 **purposes thereof. The provisions of this compact shall be severable and**  
6 **if any phrase, clause, sentence or provision of this compact is declared**  
7 **to be contrary to the constitution of any state or of the United States**  
8 **or the applicability thereof to any government, agency, person or cir-**  
9 **cumstance is held invalid, the validity of the remainder of this com-**  
10 **compact and the applicability thereof to any government, agency, person**  
11 **or circumstance shall not be affected thereby. If this compact shall**  
12 **be held contrary to the constitution of any state participating therein,**  
13 **the compact shall remain in full force and effect as to the remaining**  
14 **party states and in full force and effect as to the state affected as to**  
15 **all severable matters.**

16 “ \_\_\_\_\_  
17       **“SECTION 3. ORS 314.606 is amended to read:**  
18       **“314.606. In any case in which the provisions of ORS 314.605 to 314.675**  
19 **are inconsistent with the provisions of [ORS 305.655] section 2 of this 2013**  
20 **Act, the provisions of ORS 314.605 to 314.675 shall control.**

21       **“SECTION 4. ORS 305.655 is repealed.**  
22       **“SECTION 5. Section 2 of this 2013 Act, the amendments to ORS**  
23 **314.606 by section 3 of this 2013 Act and the repeal of ORS 305.655 by**  
24 **section 4 of this 2013 Act apply to tax years beginning on or after**  
25 **January 1, 2013.**

26       **“SECTION 6. This 2013 Act takes effect on the 91st day after the**  
27 **date on which the 2013 regular session of the Seventy-seventh Legis-**  
28 **lative Assembly adjourns sine die.”.**