

SECOND REGULAR SESSION
SENATE COMMITTEE SUBSTITUTE FOR
SENATE JOINT RESOLUTION NO. 29
95TH GENERAL ASSEMBLY

Reported from the Committee on Governmental Accountability and Fiscal Oversight, February 18, 2010, with recommendation that the Senate Committee Substitute do pass.

TERRY L. SPIELER, Secretary.

4139S.03C

JOINT RESOLUTION

Submitting to the qualified voters of Missouri, an amendment repealing section 4(d) of article X of the Constitution of Missouri, and adopting one new section in lieu thereof relating to the revenue-neutral replacement of state taxes on income with an amended sales and use tax.

Be it resolved by the Senate, the House of Representatives concurring therein:

That at the next general election to be held in the state of Missouri, on
2 Tuesday next following the first Monday in November, 2010, or at a special
3 election to be called by the governor for that purpose, there is hereby submitted
4 to the qualified voters of this state, for adoption or rejection, the following
5 amendment to article X of the Constitution of the state of Missouri:

Section A. Section 4(d), article X, Constitution of Missouri, is repealed and
2 one new section adopted in lieu thereof, to be known as section 4(d), to read as
3 follows:

Section 4(d). 1. In enacting any law imposing a tax on or measured by
2 income, the general assembly may define income by reference to provisions of the
3 laws of the United States as they may be or become effective at any time or from
4 time to time, whether retrospective or prospective in their operation. The general
5 assembly shall in any such law set the rate or rates of such tax. The general
6 assembly may in so defining income make exceptions, additions, or modifications
7 to any provisions of the laws of the United States so referred to and for
8 retrospective exceptions or modifications to those provisions which are
9 retrospective.

10 **2. For all tax years beginning on or after January 1, 2012, no tax**
11 **shall be imposed upon any income derived from any source within this**
12 **state, and all revenues lost as a result of the prohibition on the taxation**
13 **of income under this section shall be replaced by the levy and**

14 imposition of a tax upon the consumption or use in this state of taxable
15 property or services. Taxable property or services shall mean any
16 property (including leaseholds of any term or rents with respect to
17 such property but excluding intangible personal property and used
18 property) and any service consumed or used in this state, except for
19 such property purchased to be a component part or ingredient of the
20 new tangible personal property to be sold at retail. No tax shall be
21 imposed under this section on any taxable property or service
22 purchased for a business purpose in a trade or business, including
23 agriculture, or purchased for an investment purpose and held
24 exclusively for an investment purpose. For purposes of this section, the
25 term "purchased for a business purpose in a trade or business" shall
26 mean purchased by a person engaged in a trade or business and used
27 in that trade or business for resale, to produce, provide, render or sell
28 taxable property or services, or in furtherance of other bona fide
29 business purposes. For purposes of this section, the term "purchased
30 for an investment purpose" shall mean property purchased exclusively
31 for purposes of appreciation or the production of income, and tuition
32 and fees paid to an accredited institution of higher education for
33 educational services. All sales tax exemptions in place as of the
34 effective date of this section exempting purchases other than the
35 purchases enumerated in this article shall be void.

36 3. The rate of the tax levied and imposed under subsection 2 of
37 this section shall be five and eleven one-hundredths percent. As may
38 be recommended by the tax adjustment commission established by
39 subsection 8 of this section or otherwise, the general assembly may
40 enact one rate adjustment, to be effective no later than the beginning
41 of fiscal year 2013, after the imposition of such tax if the revenue lost
42 as a result of the prohibition on the taxation of income is greater than
43 or less than the revenue received from the tax imposed in this
44 section. Notwithstanding the limitation on total state revenues as
45 provided in article X, section 18 of this constitution, such adjustment
46 shall be calculated to ensure that the amount of revenue received is
47 substantially equal to the amount of revenue that would have been
48 generated by the taxes repealed under this section averaged over the
49 three immediately preceding fiscal years. Local political subdivisions
50 shall recalculate their local tax rates, including local tax revenue to be

51 deposited in the school district trust fund, affected by this section to
52 produce the same or substantially similar revenue as collected in the
53 immediately previous fiscal year. The general assembly may provide
54 by law for determining the scope of taxable services and for otherwise
55 implementing the provisions of this section. Exemptions from such tax
56 may be provided by law upon an affirmative vote of at least two-thirds
57 of the elected members of both chambers and approval by the governor.

58 4. Notwithstanding the provisions of sections 43(a) and 47(a) of
59 article IV of this constitution, the rates of tax levied and imposed under
60 those sections shall undergo a one-time calculation, taking into account
61 any adjustment in the tax base. This recalculation would determine the
62 new rates that would produce an amount of revenue for the fiscal year
63 of recalculation substantially equal to the amount actually received in
64 the year or recalculation under the prior rate described in those
65 sections of the constitution. These new tax rates shall be recalculated
66 in this same manner should the rate of tax levied under section 4(d) of
67 article X of this constitution be readjusted.

68 5. The taxes that are replaced under this section are as follows:

- 69 (1) Withholding taxes and individual and corporate income taxes;
- 70 (2) Corporation franchise and bank franchise taxes;
- 71 (3) All existing state sales and use taxes.

72 6. The department of revenue shall determine a method for
73 providing sales tax rebates for each duly registered qualified household
74 of this state. The sales tax rebate shall be distributed to each qualified
75 household beginning January 1, 2012. The monthly amount of the
76 rebate shall be equal to the product of the rate of sales tax established
77 under this section and one-twelfth of the annual poverty guidelines
78 updated periodically in the Federal Register by the United States
79 Department of Health and Human Services under the authority of 42
80 U.S.C. Section 9902(2), as amended.

81 7. The department of revenue shall promulgate rules as
82 otherwise provided by law to implement the provisions of this section.

83 8. There is hereby created a "Tax Adjustment Commission",
84 whose members shall be the governor, or his or her designee, the chair
85 of the house budget committee, and the chair of the senate
86 appropriations committee. The purpose of the tax adjustment
87 commission shall be to recommend a one-time adjustment to the rate of

88 tax established in subsection 3 of this section. The commission shall
89 meet prior to January 1, 2013, to conduct studies of a tax rate
90 adjustment which would provide an amount substantially equal to the
91 amount of revenue that would have been generated by the taxes
92 repealed under this section in fiscal year 2011. The tax rate adjustment
93 shall only be recommended to the general assembly upon unanimous
94 vote of the commission. If the general assembly is not in regular or
95 special session at the time the commission's recommendation is
96 received, the general assembly shall automatically convene in special
97 session within fourteen days of receipt of the recommendation. A
98 concurrent resolution, not subject to substantive amendment in either
99 chamber, shall be introduced in the house of representatives for
100 approval or rejection. If approved, the concurrent resolution shall be
101 considered by the senate for approval or rejection. If approved by both
102 chambers, the concurrent resolution shall be presented to the governor,
103 and, within fourteen days of such presentment, the governor shall
104 return the concurrent resolution to the house of representatives
105 endorsed with his or her approval or accompanied by his or her
106 objections. If the concurrent resolution is approved by the governor,
107 the tax rate adjustment shall become effective at the beginning of the
108 following calendar quarter. If the concurrent resolution is not
109 approved by the governor, the general assembly shall automatically
110 convene in special session within fourteen days of such disapproval to
111 reconsider the resolution as otherwise provided in section 32 of article
112 III of this constitution. If the concurrent resolution is approved by the
113 required two-third majority, the tax rate adjustment shall become
114 effective at the beginning of the following calendar quarter.

115 9. The revisor of statutes, in conjunction with the department of
116 revenue, the state tax commission, and other tax-related agencies and
117 departments, shall prepare and submit to the committee on legislative
118 research a proposed bill repealing those provisions of law which are
119 deemed unenforceable or unnecessary under the provisions of this
120 section.

121 10. The provisions of this section are severable. If any provision
122 of this section is found by a court of competent jurisdiction to be
123 unconstitutional, the remaining provisions are valid except to the
124 extent that the court finds that the valid provisions, standing alone, are

125 **incomplete and are incapable of being executed in accordance with the**
126 **will of the people.**

Section B. Pursuant to chapter 116, RSMo, and other applicable
2 constitutional provisions and laws of this state allowing the general assembly to
3 adopt ballot language for the submission of a joint resolution to the voters of this
4 state, the official ballot title of the amendment proposed in section A of this act
5 shall read as follows:

6 "A 'yes' vote will amend the Constitution of the State of Missouri to
7 eliminate individual and corporate income tax, and state sales and use tax and
8 to enact a single, revenue-neutral sales tax of five and eleven one-hundredths
9 percent on new purchases of goods and services, and to exempt property
10 purchased for business or investment from the sales tax, and to provide each
11 qualified family with a sales tax rebate to ensure no state sales tax is paid on
12 purchases up to the federal poverty level.

13 A 'no' vote would not amend the Constitution of the State of Missouri."

✓
Bill

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