

SECOND REGULAR SESSION

SENATE JOINT RESOLUTION NO. 48

97TH GENERAL ASSEMBLY

INTRODUCED BY SENATOR KEHOE.

Read 1st time January 27, 2014, and ordered printed.

TERRY L. SPIELER, Secretary.

5511S.011

JOINT RESOLUTION

Submitting to the qualified voters of Missouri, an amendment repealing section 30(d) of article IV of the Constitution of Missouri, and adopting two new sections in lieu thereof relating to a temporary tax to improve the state highway system, city streets, county roads and the state transportation system.

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, 2014, 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 IV of the Constitution of the state of Missouri:

Section A. Section 30(d), article IV, Constitution of Missouri, is repealed
2 and two new sections adopted in lieu thereof, to be known as sections 30(d) and
3 30(e), to read as follows:

Section 30(d). 1. No state revenues derived from highway users which are
2 [to be allocated] **imposed, collected, apportioned**, distributed or deposited in
3 the state road fund pursuant to either section 30(a) or section 30(b) shall be
4 diverted from the highway purposes and uses specified in subsection 1 of section
5 30(b). No state revenues derived from highway users which are [to be allocated]
6 **imposed, collected, apportioned**, distributed or deposited in the state road
7 bond fund pursuant to subdivision (3) of subsection 2 of section 30(b) shall be
8 diverted from the highway purposes and uses specified in said subdivision (3). **No**
9 **state revenues which are imposed, collected, apportioned, distributed**
10 **or deposited into the state road fund or transportation safety and job**
11 **creation fund pursuant to section 30(e) of this article shall be used for**

EXPLANATION—Matter enclosed in bold-faced brackets [thus] in this bill is not enacted and is intended to be omitted in the law.

12 **administrative purposes or diverted from the state highway system**
13 **purposes and uses and the state transportation system purposes and**
14 **uses specified in section 30(e) of this article. The oversight division of**
15 **the committee on legislative research shall conduct a program**
16 **evaluation of the department of transportation to ensure the additional**
17 **funds under section 30(e) are used as required under this article and**
18 **provide a report to the general assembly by January 1, 2020.**

19 2. All of the provisions of sections 29, 30(a), 30(b), 30(c) [and], 30(d), and
20 **30(e)** shall be self executing. All of the provisions of sections 29, 30(a), 30(b),
21 30(c) [and], 30(d), **and 30(e)** are severable. If any provision of sections 29, 30(a),
22 30(b), 30(c) [and], 30(d), **and 30(e)** is found by a court of competent jurisdiction
23 to be unconstitutional or unconstitutionally enacted, the remaining provisions of
24 these sections shall be and remain valid.

25 3. The provisions of sections [29, 30(a), 30(b), 30(c) and] 30(d) **and 30(e)**
26 shall become effective on [July 1, 2005] **January 1, 2015.**

Section 30(e). 1. To provide additional moneys for state highway
2 **system purposes and uses, city streets, county roads, and state**
3 **transportation system purposes and uses:**

4 **(1) First, an additional state sales tax of one percent is hereby**
5 **levied and imposed upon all transactions on which the Missouri state**
6 **sales tax is imposed, subject to the provisions of and to be collected as**
7 **provided in the "Sales Tax Law" and the rules adopted in connection**
8 **therewith; and**

9 **(2) Second, an additional state use tax of one percent is hereby**
10 **levied and imposed upon all transactions on which the Missouri state**
11 **use tax is imposed, subject to the provisions of and to be collected as**
12 **provided in the "Compensating Use Tax Law" and the rules adopted in**
13 **connection therewith. No tax levied or imposed under this section 30(e)**
14 **shall apply to the retail sale of food as defined in the "Sales Tax Law".**

15 **2. The proceeds from the additional state sales and use taxes**
16 **imposed under this section shall be collected, apportioned, distributed,**
17 **and deposited by the department of revenue as provided in this**
18 **section. The term "proceeds from the additional state sales and use**
19 **taxes" used in this subsection shall mean and include all proceeds**
20 **collected by the department of revenue reduced only by refunds for**
21 **overpayments and erroneous payments of such taxes as permitted by**
22 **law and the department's actual costs to collect these proceeds, which**

23 shall not exceed one percent of the total amount of the tax
24 collected. The department's actual costs to collect these proceeds shall
25 be limited to actual costs incurred by the department of revenue,
26 including any other entity or person designated by law or by the
27 department to collect or to provide goods and services used to collect
28 the additional state sales and use taxes.

29 3. The proceeds from the additional state sales and use taxes
30 imposed under this section shall be apportioned, distributed, and
31 deposited by the director of revenue as follows:

32 (1) Five percent of the proceeds shall be deposited into a special
33 trust fund known as the "County Aid Transportation Fund". Moneys in
34 the county aid transportation fund shall be apportioned and distributed
35 to the various counties of the state based on the county road mileage
36 and assessed rural land valuation calculations in subdivision (1) of
37 subsection 1 of section 30(a) of this article, except that five percent of
38 these moneys shall be apportioned and distributed solely to cities not
39 within any county in this state. Moneys in this fund shall be expended
40 at the sole discretion of the various counties for any of the county road
41 and bridge purposes and uses provided in subdivision (1) of subsection
42 1 of section 30(a) of this article, any state highway system purpose and
43 uses authorized under section 30(b) of this article, or for any county
44 transportation purpose and uses set forth in subdivision (4) of this
45 subsection;

46 (2) Five percent of the proceeds shall be deposited into a special
47 trust fund known as the "Municipal Aid Transportation Fund". Moneys
48 in the municipal aid transportation fund shall be apportioned and
49 distributed to the various incorporated cities, towns, and villages in the
50 state based on the population ratio calculations in subdivision (2) of
51 subsection 1 of section 30(a) of this article. Moneys in this fund shall
52 be expended in the sole discretion of the various incorporated cities,
53 towns, and villages for any of the city road, street, and bridge purposes,
54 and uses provided in subdivision (2) of subsection 1 of section 30(a) of
55 this article, any state highway system purposes and uses authorized
56 under section 30(b) of this article, or for any city transportation system
57 purposes and uses as set forth in subdivision (4) of this subsection;

58 (3) Ninety percent of the proceeds shall be deposited into a
59 special trust fund known as the "Transportation Safety and Job

60 Creation Fund", which is created within the state treasury. Moneys in
61 the transportation safety and job creation fund shall stand
62 appropriated without legislative action to be used and expended at the
63 sole discretion of the highways and transportation commission for the
64 following purposes and uses, and no other:

65 (a) For deposit into the state road fund for state highway system
66 purposes and uses authorized under section 30(b) of this article; or

67 (b) For state transportation system purposes and uses as set
68 forth in subdivision (4) of this subsection;

69 (4) The term "transportation system purposes and uses" shall
70 include authority for the commission, any county, or any city to plan,
71 locate, relocate, establish, acquire, construct, maintain, control,
72 operate, develop, and fund public transportation facilities such as, but
73 not limited to, aviation, mass transportation, transportation for elderly
74 and handicapped persons, railroads, ports, waterborne commerce,
75 intermodal connections, bicycle, and pedestrian improvements;

76 (5) All interest earned on moneys deposited into the county aid
77 transportation fund, the municipal aid transportation fund, or the
78 transportation safety and job creation fund shall be credited to and
79 deposited into such fund. The unexpended balance remaining in the county
80 aid transportation fund, the municipal aid transportation fund, and the
81 transportation safety and job creation fund at the end of the biennium and
82 after all warrants on same have been discharged and the appropriation, if
83 applicable, has lapsed, shall not be transferred and placed to the credit of the
84 general revenue fund of the state or any other fund;

85 (6) The moneys apportioned or distributed under this section to the
86 transportation safety and job creation fund, county aid transportation fund,
87 and municipal aid transportation fund shall not be included within "total
88 state revenues" under section 17 of article X of the Missouri Constitution, nor
89 be considered an "expense of state government" under section 20 of article X
90 of the Missouri Constitution, nor be considered "state revenue" under section
91 3(b) of article IX of the Missouri Constitution.

92 4. (1) Unless approved by the voters of this state, the general
93 assembly, counties, and municipalities are prohibited from increasing or
94 decreasing the tax upon or measured by motor fuel used to propel highway
95 motor vehicles from the rate of the tax authorized by law on January 1, 2014
96 while this section is in effect.

97 **(2) Unless approved by the voters of this state, the state highways and**
98 **transportation commission shall not authorize, own, or operate a toll**
99 **highway or toll bridge on a state highway or bridge that is in existence on**
100 **January 1, 2014, while the sales and use tax authorized by this section is in**
101 **effect. Unless approved by the voters of the applicable county or**
102 **municipality, a county or municipality shall not authorize, own, or operate**
103 **a toll highway or toll bridge on any highway or bridge under its jurisdiction**
104 **that is in existence on January 1, 2014, while the sales and use tax authorized**
105 **by this section is in effect.**

106 **(3) Prior to the effective date of this section and prior to any**
107 **subsequent election in which this section shall be submitted to voters for**
108 **approval, the commission shall approve its list of projects, programs, and**
109 **facilities, with a priority given to safety, on the state highway system and**
110 **state transportation system that shall be funded from the proceeds from the**
111 **additional sales and use taxes deposited in the transportation safety and job**
112 **creation fund under this section. Starting in the second calendar year**
113 **following the effective date of this section, the commission shall annually**
114 **submit a report to the governor, general assembly, and joint committee on**
115 **transportation oversight that shall include the status of the approved list of**
116 **projects, programs, and facilities on the state highway system and state**
117 **transportation system. During the ten-year period the temporary tax is in**
118 **effect, the commission shall include the approved projects, programs, and**
119 **facilities in one or more of the five-year statewide transportation**
120 **improvement programs approved by the commission. A taxpayer of the state**
121 **shall have standing to bring suit to compel the commissions's inclusion of**
122 **approved projects in a five-year statewide transportation improvement**
123 **program. All such suits shall be brought in the circuit court of Cole County.**

124 **(4) Upon voter approval of the temporary one percent state sales and**
125 **use taxes in this section at a general election held in 2014, or at a special**
126 **election to be called by the governor, this section shall be effective January**
127 **1, 2015, and continue for ten years. This section shall be resubmitted to the**
128 **voters for approval at the general election held in 2024. The secretary of**
129 **state shall submit the ballot measure for such ten-year resubmission. If**
130 **approved by a simple majority of votes cast, this section shall continue to be**
131 **effective for an additional temporary ten year period. Every ten years**
132 **thereafter, the secretary of state shall submit to the voters for approval the**
133 **issue of whether the sales and use tax authorized by this section shall be**

134 **imposed for another ten year period. If at any subsequent general election**
135 **a simple majority of votes cast do not approve such issue, then this section**
136 **shall terminate on December thirty-first of the calendar year when the last**
137 **election was held.**

Section B. Pursuant to section 116.155, RSMo, and other applicable
2 constitutional provisions and laws of this state authorizing the general assembly to
3 adopt ballot language for the submission of a joint resolution to the voters of this state,
4 the official ballot title of the amendment proposed in section A of this act shall be as
5 follows:

6 "Should the Missouri Constitution be changed to enact a temporary
7 sales tax of one percent to be used solely to fund state and local
8 highways, roads, bridges and transportation projects for ten years, with
9 priority given to repairing unsafe roads and bridges?"

Section C. Pursuant to section 116.155, RSMo, and other applicable
2 constitutional provisions and the laws of this state authorizing the general assembly
3 to adopt a fiscal note summary for the submission of a joint resolution to the voters of
4 this state, the official fiscal note summary of the amendment proposed by section A of
5 this act shall be as follows:

6 "This change is expected to produce \$651 million annually to the state's
7 Transportation Safety and Job Creation Fund and \$72 million for local
8 governments. Increases in the gas tax will be prohibited. This revenue
9 shall only be used for transportation purposes and cannot be diverted
10 for other uses."

✓
Copy