

FIRST REGULAR SESSION

[CORRECTED]

HOUSE COMMITTEE SUBSTITUTE FOR

HOUSE JOINT RESOLUTION NO. 8

96TH GENERAL ASSEMBLY

0122L.03C

D. ADAM CRUMBLISS, Chief Clerk

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 Missouri jobs and prosperity act.

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

That at the next general election to be held in the state of Missouri, on Tuesday next
2 following the first Monday in November, 2012, or at a special election to be called by the
3 governor for that purpose, there is hereby submitted to the qualified voters of this state, for
4 adoption or rejection, the following amendment to article X of the Constitution of the state of
5 Missouri:

Section A. Section 4(d), article X, Constitution of Missouri, is repealed and one new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

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

**2. Subsections 2 to 10 of this section shall be known as, and may be cited as the
9 "Missouri Jobs and Prosperity Act". For all tax years beginning on or after January 1,
10 2015, no tax shall be imposed by the state upon any income derived from any source by the
11 state, or on asset-based corporation or bank franchises, except as described herein, and all**

EXPLANATION — Matter enclosed in bold-faced brackets [thus] in the above bill is not enacted and is intended to be omitted from the law. Matter in **bold-face** type in the above bill is proposed language.

12 revenues lost as a result of the prohibition on the taxation of income under this section shall
13 be replaced by the levy and imposition of a tax upon the consumption or use in this state
14 of taxable property or services. No tax credits shall be authorized after January 1, 2015,
15 and no authorized tax credit other than for senior citizens property tax relief shall be
16 allowed after the elimination of the individual income tax as provided in subsection 5 of
17 this section. Taxable property or services shall mean any property (including leaseholds
18 of any term or rents with respect to such property but excluding intangible personal
19 property and property for which the tax authorized by this section has been collected due
20 to a prior taxable transaction) and any service consumed or used in this state.
21 Notwithstanding any other provisions of this article to the contrary, taxable property shall
22 include all component parts of residential housing constructed after the effective date of
23 this section. For purposes of this section, the term "purchased for a business purpose"
24 shall mean purchased by a person engaged in a trade or business and used exclusively in
25 that trade or business for resale, to produce, provide, render or sell taxable property or
26 services. For purposes of this section, the term "purchased for an investment purpose"
27 shall mean property purchased exclusively for purposes of appreciation or the production
28 of income, and tuition and fees paid for educational services to an elementary school, high
29 school, or accredited institution of higher education. No tax shall be imposed under this
30 section on any taxable property or service purchased for a business purpose and used
31 exclusively for a business purpose, including agriculture, or purchased for an investment
32 purpose and used exclusively for an investment purpose.

33 (1) No tax shall be imposed under this section for:

34 a. Motor fuel purchases subject to an excise tax;

35 b. Premiums or fees paid on valid insurance policies but only if the insurance
36 company does not claim its purchases were purchased for a business purpose; or

37 c. Property for which the tax authorized under this section has been collected due
38 to a prior taxable transaction.

39 (2) The general assembly shall provide by law for determining the scope of taxable
40 services and for otherwise implementing the provisions of this section prior to January 1,
41 2015. All sales tax exemptions in place as of the effective date of this section exempting
42 purchases other than the purchases enumerated in this article shall be void.

43 3. Notwithstanding the limitation on total state revenues as provided in article X,
44 section 18 of this constitution, an adjustment in the tax rate shall be calculated to ensure
45 that the amount of revenue received is substantially equal to the amount of revenue that
46 would have been generated by the taxes repealed under this section averaged over the five
47 immediately preceding state fiscal years by the state treasurer. Such adjustments shall

48 include an adjustment in the sales tax rate on the purchase of new motor vehicles in order
49 to maintain the same or substantially similar amount of revenue from such purchases. The
50 department of revenue or its successor shall recalculate local political subdivision tax rates
51 affected by this section no later than August 31, 2014, to produce the same or substantially
52 similar revenue as collected using the average of collections for the last five state fiscal
53 years unless the local political subdivision has submitted a proposal to increase any such
54 local tax rates and has received majority approval from the voters for such increase in
55 which case the department shall include the additional voter approved tax rate in the
56 recalculations. The department shall submit the recalculated rates to the state treasurer
57 for approval. The state treasurer shall approve or identify required changes to maintain
58 revenue neutrality within sixty days of receiving the department's recommendations. The
59 state treasurer shall publish the approved sales tax rates for the local political subdivisions
60 no later than November 30, 2014. A local political subdivision may request a recalculation
61 of its sales tax rates one time within twenty-four months of the publishing of the
62 recalculated rates if the state's calculations fail to collect an amount of revenue equal to the
63 average of the last five state fiscal years of collections. The department of revenue and the
64 state treasurer shall repeat the recalculation process of the local sales tax rates by August
65 31, 2015, and November 30, 2015, respectively. The basis of the recalculation shall be the
66 average of the collections in the state fiscal years of 2011, 2012, 2013, 2014, and 2015. Local
67 political subdivisions may request a recalculation as described herein.

68 4. Notwithstanding the provisions of sections 43(a) and 47(a) of article IV of this
69 constitution and Proposition C, as adopted by the initiative on November 2, 1982, the rates
70 of tax levied and imposed under those sections and Proposition C shall undergo a one-time
71 calculation by the state treasurer, taking into account any adjustment in the tax base. This
72 recalculation shall determine the new rates that would produce an amount of revenue for
73 the fiscal year of recalculation substantially equal to the average of the last five state fiscal
74 years of collections under the prior rates described in those sections of the constitution.
75 These new tax rates shall be recalculated in this same manner should the rate of tax levied
76 under section 4(d) of article X of this constitution be readjusted. For the tax year
77 beginning January 1, 2015, the general revenue sales tax rate shall be four percent. The
78 state treasurer shall recalculate, using the taxable base established in subsection 2 of this
79 section, sales taxes imposed under sections 43(a) and 47(a) of article IV and Proposition C
80 to maintain revenue neutrality from those sources based on the average of the last five state
81 fiscal years of collections, and shall recommend such proposed rates to the general
82 assembly for its consideration as provided in subsection 8 of this section. The state
83 treasurer shall recalculate the state sales tax rate each year that the individual income tax

84 is reduced under subsection 5 of this section, and shall recommend such proposed rates to
85 the general assembly for its consideration as provided in subsection 8 of this section. At
86 no time shall the general revenue sales tax rate exceed seven percent.

87 **5. The taxes that are replaced as of the effective date of this section are as follows:**

88 **(1) Corporate income taxes;**

89 **(2) Withholding and individual income taxes of at least a twenty-five percent**
90 **reduction in the rate per year using the average of collections for fiscal years 2010, 2011,**
91 **2012, 2013, and 2014, until eliminated. These taxes shall be eliminated in full no later than**
92 **January 1, 2019;**

93 **(3) Corporation franchise and bank franchise taxes;**

94 **(4) All existing state sales and use taxes; provided, however, existing sales and use**
95 **taxes on used motor vehicles, as defined by law, shall be reduced by a rate reduction of at**
96 **least thirty-three and one-third percent per year using the average of collections for fiscal**
97 **years 2012, 2013, and 2014, until eliminated. Such taxes shall be eliminated in full no later**
98 **than January 1, 2018.**

99 **6. The general assembly may, by general law, provide a method for calculating and**
100 **providing sales tax rebates or prebates to allow a portion of taxable purchases made by**
101 **Missouri residents to be exempt from the tax authorized under this section. The annual**
102 **rebate established under this section shall have a maximum ceiling of two thousand eight**
103 **hundred dollars of purchases for each Missouri resident qualified with the maximum**
104 **ceiling indexed to increase by the Consumer Price Index from each previous year;**
105 **provided, however, that no such increase shall be made prior to January 1, 2019.**

106 **7. The department of revenue shall implement the provisions of these sections as**
107 **provided by law in subsection 2 of this section. The burden of proof for establishing a tax**
108 **liability shall be borne by the department in all cases.**

109 **8. The general assembly shall act upon the state treasurer's recommendation**
110 **during the legislative session convened under section 32, article III of this constitution. A**
111 **concurrent resolution, not subject to substantive amendment in either chamber, shall be**
112 **introduced in the house of representatives for approval or rejection by majority vote. If**
113 **approved, the concurrent resolution shall be considered by the senate for approval or**
114 **rejection. If approved by both chambers, the concurrent resolution shall be presented to**
115 **the governor, and, within fourteen days of such presentment, the governor shall return the**
116 **concurrent resolution to the house of representatives endorsed with his or her approval or**
117 **accompanied by his or her objections. If the concurrent resolution is approved by the**
118 **governor, the tax rate adjustment shall become effective January first of the next calendar**
119 **year. If the concurrent resolution is not approved by the governor, the general assembly**

120 shall automatically convene in special session within fourteen days of such disapproval to
121 reconsider the resolution as otherwise provided in section 32 of article III of this
122 constitution. If the concurrent resolution is approved by the required two-third majority,
123 the tax rate adjustment shall become effective January first of the next calendar year. If
124 the general assembly fails to approve the recommended tax rate as described in this
125 section, the withholding and income tax rate shall be reduced by twenty-five percent as
126 calculated in subdivision (2) of subsection 5 of this section and the state treasurer shall
127 calculate the new rate to be substantially equal to the average of the last five state fiscal
128 years of collection subject to the limitations of subsection 4 of this section. The new rate
129 shall be effective January first of the next calendar year.

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

134 **10. The provisions of this section are severable. If any provision of this section is**
135 **found by a court of competent jurisdiction to be unconstitutional, the remaining provisions**
136 **are valid except to the extent that the court finds that the valid provisions, standing alone,**
137 **are incomplete and are incapable of being executed in accordance with the will of the**
138 **people.**

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

5 "A 'yes' vote will amend the Constitution of the State of Missouri to phase-out the
6 individual and corporate income tax, to eliminate the state sales and use tax, and to enact a
7 single, revenue-neutral sales and use tax on new purchases and uses of goods and services
8 capped at seven percent, and to exempt property purchased for business or investment from the
9 sales tax, and to provide each qualified family with a sales tax rebate to ensure no state sales tax
10 is paid on purchases up to a certain amount.

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