

FIRST REGULAR SESSION

HOUSE JOINT RESOLUTION NO. 8

96TH GENERAL ASSEMBLY

INTRODUCED BY REPRESENTATIVES KOENIG (Sponsor), BURLISON, FUNDERBURK, DAVIS, BRATTIN, DIECKHAUS, McNARY, CROSS, BAHR, BARNES, LICHTENEGGER, LONG, PARKINSON, POLLOCK, SCHOELLER, SCHNEIDER, SCHAD, JONES (89), DIEHL, REDMON, FISHER, WHITE, McCAHERTY AND KELLEY (126) (Co-sponsors).

0122L.011

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 revenue-neutral replacement of all taxes on income with an amended sales and use tax.

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 following the first Monday in November, 2012, or at a special election to be called by the governor for that purpose, there is hereby submitted to the qualified voters of this state, for adoption or rejection, the following 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Section A. Section 4(d), article X, Constitution of Missouri, is repealed and one new section adopted in lieu thereof, to be known as section 4(d), to read as follows: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 general assembly may define income by reference to provisions of the laws of the United States as they may be or become effective at any time or from time to time, whether retrospective or prospective in their operation. The general assembly shall in any such law set the rate or rates of such tax. The general assembly may in so defining income make exceptions, additions, or modifications to any provisions of the laws of the United States so referred to and for retrospective exceptions or modifications to those provisions which are retrospective.

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.

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

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

33 **a. Motor fuel purchases subject to an excise tax;**

34 **b. Premiums or fees paid on valid insurance policies but only if the insurance**
35 **company does not claim business-to-business exemptions on purchases; or**

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

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

42 **3. Notwithstanding the limitation on total state revenues as provided in article X,**
43 **section 18 of this constitution, such adjustment shall be calculated to ensure that the**

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

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

80 recommend such proposed rates to the general assembly for its consideration as provided
81 in subsection 8 of this section. The state treasurer shall recalculate the state sales tax rate
82 each year that the individual income tax is reduced under subsection 5 of this section, and
83 shall recommend such proposed rates to the general assembly for its consideration as
84 provided in subsection 8 of this section. At no time shall the general revenue sales tax rate
85 exceed seven percent.

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

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

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

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

92 **(4) All existing state sales and use taxes; provided, however, existing sales and use**
93 **taxes on used motor vehicles, as defined by law, shall be reduced at least thirty-three and**
94 **one-third percent per year using the average of collections for fiscal years 2012, 2013, and**
95 **2014, until eliminated. Such taxes shall be eliminated in full no later than January 1, 2019.**

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

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

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

116 governor, the tax rate adjustment shall become effective January first of the next calendar
117 year. If the concurrent resolution is not approved by the governor, the general assembly
118 shall automatically convene in special session within fourteen days of such disapproval to
119 reconsider the resolution as otherwise provided in section 32 of article III of this
120 constitution. If the concurrent resolution is approved by the required two-third majority,
121 the tax rate adjustment shall become effective January first of the next calendar year. If
122 the general assembly fails to approve the recommended tax rate as described in this
123 section, the withholding and income tax rate shall be reduced by twenty-five percent as
124 calculated in subdivision (2) of subsection 5 of this section and the state treasurer shall
125 calculate the new rate to be substantially equal to the average of the last five state fiscal
126 years of collection subject to the limitations of subsection 4 of this section. The new rate
127 shall be effective January first of the next calendar year.

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

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