

SECOND REGULAR SESSION

SENATE JOINT RESOLUTION NO. 40

91ST GENERAL ASSEMBLY

INTRODUCED BY SENATOR WESTFALL.

Read 1st time February 28, 2002, and 1,000 copies ordered printed.

TERRY L. SPIELER, Secretary.

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JOINT RESOLUTION

Submitting to the qualified voters of Missouri, an amendment repealing sections 30(a), 30(b) and 30(c) of article IV of the Constitution of Missouri relating to transportation, and adopting three new sections in lieu thereof relating to the same subject.

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 Tuesday next following the first Monday in November, 2002, 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 IV of the Constitution of the state of Missouri:

Section A. Sections 30(a), 30(b) and 30(c), article IV, Constitution of Missouri, are repealed and three new sections adopted in lieu thereof, to be known as sections 30(a), 30(b) and 30(c), to read as follows:

Section 30(a). 1. [On and after the first day of the month next following the adoption of this section, a tax] **Taxes** upon or measured by fuel used for propelling highway motor vehicles shall be levied and collected as provided by law **and by subsection 4 of this section**. Any amount of the [tax] **taxes** collected with respect to fuel not used for propelling highway motor vehicles shall be refunded by the state in the manner provided by law. The remaining net proceeds of the tax, after deducting **actual** costs of collection, [apportionment and making] **(but after June 30, 2003, not more than three percent of the amount collected) and refunds for overpayments and erroneous payments of such taxes as permitted by law**, shall be apportioned between the counties, cities and the state as hereinafter provided and shall stand appropriated without legislative action for the following purposes:

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

(1) Ten percent of the remaining net proceeds shall be deposited in a special trust fund known as the "County Aid Road Trust Fund". In addition, beginning July 1, 1994, an additional five percent of the remaining net proceeds which is derived from the difference between the amount received from a tax rate equal to the tax rate in effect on March 31, 1992, and the tax rate in effect on and after July 1, 1994, shall also be deposited in the county aid road trust fund, and of such monies generated by the additional five percent, five percent shall be credited, **apportioned and distributed** solely to cities not within any county in this state. After such credit to cities not within any county, the **remaining** proceeds in the county aid road trust fund shall be credited, **apportioned and distributed** to the various counties of the state on the following basis: One-half on the ratio that the county road mileage of each county bears to the county road mileage of the entire state as determined by the last available report of the state highways and transportation commission and one-half on the ratio that the rural land valuation of each county bears to the rural land valuation of the entire state as determined by the last available report of the state tax commission, except that county road mileage in incorporated villages, towns or cities and the land valuation in incorporated villages, towns or cities shall be excluded in such determination, except that, if the assessed valuation of rural lands in any county is less than five million dollars, the county shall be treated as having an assessed valuation of five million dollars. The funds credited to each county shall be used by the county solely for the construction, reconstruction, maintenance and repairs of roads, bridges and highways, and subject to such other provisions and restrictions as provided by law. The monies generated by the additional five percent of the remaining net proceeds which is derived from the difference between the amount received from a tax rate equal to the tax rate in effect on March 31, 1992, and the tax rate in effect on and after July 1, 1994, shall not be used for equipment, machinery, salaries, fringe benefits or capital improvements, other than roads and bridges. In the absence of other controls provided by law, the state highways and transportation commission shall prescribe policy, rules and requirement for the expenditure of these funds by counties, including, among other things, highways and transportation commission approval of plans for projects on which the funds are to be used. In counties having the township form of county organization, the funds [credited] **distributed** to such counties shall be expended solely under the control and supervision of the county [court] **commission**, and shall not be expended by the various townships located within such counties. "Rural land" as used in this section shall mean all land located within any county, except land in incorporated villages, towns, or cities.

(2) Fifteen percent of the remaining net proceeds shall be [allocated] **credited, apportioned and distributed** to the various incorporated cities, towns and villages within the state solely for construction, reconstruction, maintenance, repair, policing, signing, lighting and cleaning roads and streets and for the payment of principal and interest on indebtedness incurred prior to January 1, 1980, on account of road and street purposes, and the use thereof being

subject to such other provisions and restrictions as provided by law. The amount [apportionable] **credited, apportioned and distributed** to each city, town or village shall be based on the ratio that the population of the city, town or village bears to the population of all incorporated cities, towns or villages in the state having a like population, as shown by the last federal decennial census, provided that any city, town or village which had a motor fuel tax prior to the adoption of this section shall annually receive not less than an amount equal to the net revenue derived therefrom in the year 1960; and

(3) All the remaining net proceeds in excess of the allocations to counties, and to cities, towns and villages under this section shall be [allocated] **credited, apportioned and distributed** to the state **highways and transportation commission** and shall be [disbursed] **expended and used** as provided in section 30[(a) and] (b) of Article IV of this Constitution.

2. The director of revenue of the state shall make the [division and] apportionment of the funds monthly in the manner required hereby.

3. Except for taxes or licenses which may be imposed uniformly on all merchants or manufacturers based upon sales, or which uniformly apply ad valorem to the stocks of merchants or manufacturers, no political subdivision in this state shall collect any tax, excise, license or fee upon, measured by or with respect to the importation, receipt, manufacture, storage, transportation, sale or use, on or after the first day of the month next following the adoption of this section of fuel used for propelling motor vehicles, unless the tax, excise, license or fee is approved by a vote of the people of any city, town or village subsequent to the adoption of this section, by a two-thirds majority. All funds collected shall be used solely for construction, reconstruction, maintenance, repair, policing, signing, lighting, and cleaning roads and streets and for the payment of principal and interest on indebtedness incurred prior to January 1, 1980, on account of road and street purposes.

4. **Taxes are levied and imposed on all motor fuel used or consumed for propelling highway motor vehicles in Missouri as follows:**

(1) The taxes imposed by law as of the date of the election when this subsection is adopted shall continue in effect and be collected until changed by constitutional amendment; and

(2) An additional tax of five cents per gallon shall be imposed commencing on January 1, 2003. Such additional tax shall become effective, shall be distributed, and shall stand appropriated without legislative action in the same manner as other motor fuel taxes. The tax imposed by this subdivision shall terminate on December 31, 2012, unless a majority of the votes cast for the ballot question set forth in subsection 5 of section 30(b) shall be in the affirmative, in which event the tax shall continue in effect.

5. Beginning on July 1, 1993, the net proceeds of fuel taxes [allocated] **credited,**

apportioned and distributed under this section to counties and to cities, towns and villages shall not be included within the definition of "total state revenues" in section 17 of article X of this constitution **nor be considered as an "expense of state government" as that term is used in section 20 of article X of this constitution. Beginning on January 1, 2003, the proceeds of fuel taxes imposed pursuant to subsection 4 of this section or which are imposed with voter approval after November 8, 1980, shall not be included within the definition of "total state revenues" in section 17 of article X of this constitution nor be considered as an "expense of state government" as that term is used in section 20 of article X of this constitution.**

Section 30(b). 1. For the purpose of constructing and maintaining an adequate system of connected state highways all state revenue derived from highway users as an incident to their use or right to use the highways of the state, including all state license fees and taxes upon motor vehicles, trailers and motor vehicle fuels, and upon, with respect to, or on the privilege of the manufacture, receipt, storage, distribution, sale or use thereof (excepting the sales tax on motor vehicles and trailers,) except as hereinafter provided[,] **in subsections 2 and 3 of this section** and all property taxes), **and the sales and use taxes apportioned by subsection 4 of section 30(b) for distribution and use pursuant to this subsection,** less **(1) the actual cost [(1)] of collection thereof (but after June 30, 2003, not to exceed three percent of the particular tax or fee collected, (2) [of maintaining the highway related activities of the highways and transportation commission and department including any workers' compensation and retirement programs] refunds for overpayments and erroneous payments of such taxes and fees as permitted by law, and (3) [and] the actual cost** of administering and enforcing any state motor vehicle laws or traffic regulations, [and less refunds and that portion of the fuel tax revenue to be allocated to counties and to cities, towns and villages under section 30(a) of Article IV of this Constitution,] **limited, however, in the following manner: (i) for the fiscal year ending June 30, 2004, not more than eighty percent of the actual expenditures by or for the state highway patrol from highway user taxes and fees during the fiscal year ending June 30, 2001; (ii) for the fiscal year ending June 30, 2005, not more than sixty percent of the actual expenditures by or for the state highway patrol from highway user taxes and fees during the fiscal year ending June 30, 2001; (iii) for the fiscal year ending June 30, 2006, not more than forty percent of the actual expenditures by or for the state highway patrol from highway user taxes and fees during the fiscal year ending June 30, 2001; (iv) for the fiscal year ending June 30, 2007, not more than twenty percent of the actual expenditures by or for the state highway patrol from highway user taxes and fees during the fiscal year ending June 30, 2001; and (v) for all periods after June 30, 2007, no amounts shall be appropriated from highway user taxes and fees for administering and enforcing any**

state motor vehicle laws or traffic regulations shall be credited, **apportioned and distributed** to the state road fund (**which shall encompass and include the funds heretofore created and referred to as the state road fund and the state highways and transportation department fund**) and stand appropriated without legislative action **to be used and expended by the highways and transportation commission** for the following purposes, and no other:

First, to the payment of the principal and interest on any outstanding state road bonds.

Second, any balance in excess of the amount necessary to meet the payment of the principal and interest of any state road bonds for the next succeeding twelve months shall be credited to the state road fund and shall be expended **in the sole discretion of and** under the supervision and direction of the commission for the following purposes:

(1) To complete and widen or otherwise improve and maintain the state system of highways heretofore designated and laid out under existing laws;

(2) To reimburse the various counties and other political subdivisions of the state, except incorporated cities and towns, for money expended by them in the construction or acquisition of roads and bridges now or hereafter taken over by the state as permanent parts of the system of state highways, to the extent of the value to the state of such roads and bridges at the time taken over, not exceeding in any case the amount expended by such counties and subdivisions in the construction or acquisition of such roads and bridges, except that the highways and transportation commission may, in its discretion, repay, or agree to repay, any cash advanced by a county or subdivision to expedite state road construction or improvement;

(3) ~~[In the discretion of the commission]~~ To locate, relocate, establish, acquire, construct and maintain the following:

(a) **interstate and primary highways within the state;**

(b) supplementary state highways and bridges in each county of the state as hereinafter provided;

~~[(b)]~~ (c) state highways and bridges in, to and through state parks, public areas and reservations, and state institutions now or hereafter established, and connect the same with the state highways; and also national, state or local parkways, travelways, tourways, with coordinated facilities;

~~[(c)]~~ (d) any tunnel or interstate bridge or part thereof, where necessary to connect the state highways of this state with those of other states;

~~[(d)]~~ (e) any highway within the state when necessary to comply with any federal law or requirement which is or shall become a condition to the receipt of federal funds;

~~[(e)]~~ (f) any highway in any city or town which is found necessary as a continuation of any state or federal highway, or any connection therewith, into and through such city or town; and

[(f)] **(g)** additional state highways, bridges and tunnels, outside the corporate limits of cities having a population in excess of one hundred fifty thousand, either in congested traffic areas of the state or where needed to facilitate and expedite the movement of through traffic.

(4) To acquire materials, equipment and buildings **and to employ such personnel (including the funding of workers' compensation and retirement programs) as necessary** for the purposes [herein] described **in this subsection**; and

(5) For such other purposes and contingencies relating and appertaining to the construction and maintenance of such highways and bridges as the highways and transportation commission may deem necessary and proper.

2. **(1)** One-half of the proceeds from the state sales tax on all motor vehicles, trailers, motorcycles, mopeds and motortricycles, **less refunds for overpayments and erroneous payments of such taxes as permitted by law and actual costs of collection (but after June 30, 2003, not to exceed three percent of the amount collected)**, shall be dedicated for highway [and transportation] use and shall be distributed as follows: ten percent to the counties, fifteen percent to the cities[, one percent to the state transportation fund, which is hereby created to be used in a manner provided by law and seventy-four] **and seventy-five** percent to the state road fund. The amounts distributed shall be allocated as provided in section 30(a) of this article, to be used for highway [and transportation] purposes.

(2) From and after July 1, 2003, a portion of all of the other one-half of the proceeds from the state sales tax on all motor vehicles, trailers, motorcycles, mopeds and motortricycles, **less refunds for overpayments and erroneous payments of such taxes and actual costs of collection (but after June 30, 2003, not to exceed three percent of the amount collected)**, shall be credited and allocated to the state highway patrol fund, which is hereby created, in annually increasing increments as follows: **(i) twenty percent of the net amount of such proceeds during the fiscal year ending June 30, 2004; (ii) forty percent of the net amount of such proceeds during the fiscal year ending June 30, 2005; (iii) sixty percent of the net amount of such proceeds during the fiscal year ending June 30, 2006; (iv) eighty percent of the net amount of such proceeds during the fiscal year ending June 30, 2007; and (v) all of the net amount of such proceeds for all periods after June 30, 2007. The monies within the state highway patrol fund shall only be used for state highway patrol purposes, including but not limited to funding personnel (including funding workers' compensation and retirement programs) and operational costs of the state highway patrol and shall be subject to appropriation by the general assembly along with the appropriation of such other funds for the state highway patrol as the general assembly shall determine to be proper.**

(3) The sales taxes which are subject to allocation pursuant to this subsection

shall not include those taxes levied and imposed pursuant to sections 43(a) or 47(a) of this article nor shall they include taxes apportioned, distributed and dedicated to the school district trust fund as provided in Proposition C approved by the voters on November 2, 1982.

3. Notwithstanding the provisions of [subsection] **subsections 1 and 2** of this section, any increase in state license fees and taxes on motor vehicles, trailers, motorcycles, mopeds and motortricycles over and above those in effect [upon adoption of this section] **on January 2, 2003**, shall be distributed as follows: ten percent to the counties, fifteen percent to the cities and seventy-five to the state road fund. The amounts distributed shall be allocated as provided in section 30(a) of this article, to be used for highway [and transportation] purposes.

4. (1) For the purpose of providing additional monies to be expended and used for highways and transportation, an additional sales tax of five-eighths of one percent is hereby levied and imposed commencing on January 1, 2003, upon all sellers for the privilege of selling tangible personal property or rendering taxable services at retail in this state upon the sales and services which now are or hereafter are listed and set forth in, and, except as to the amount of tax, subject to the provisions of and to be collected as provided in the "Sales Tax Law" and subject to the rules and regulations promulgated in connection therewith; an additional compensating use tax of five-eighths of one percent is levied and imposed for the privilege of storing, using or consuming within this state any article of tangible personal property as set forth and provided in the "Compensating Use Tax Law" and, except as to the amount of the tax, subject to the provisions of and to be collected as provided in the "Compensating Use Tax Law" and subject to the rules and regulations promulgated in connection therewith; and an additional tax for the privilege of using the highways and waterways of the state of five-eighths of one percent of the purchase price paid or charged on new and used motor vehicles, trailers, boats and outboard motors purchased or acquired for use on the highways or waterways of this state which are not subject to the aforementioned additional sales tax or compensating use tax of five-eighths of one percent and which are required to be registered under the laws of the state of Missouri, and, except as to the amount of the tax, subject to the provisions of and to be collected as provided by law with respect to the tax for the privilege of using the highways or waterways of the state and subject to the rules and regulations promulgated in connection therewith.

(2) The taxes imposed by this subsection shall be effective without action of the general assembly.

(3) Eighty percent of the proceeds of the taxes imposed by this subsection, less refunds for overpayments and erroneous payments of such taxes as permitted by law

and the actual costs of collection (but after June 30, 2003, not to exceed three percent of the amount collected), shall be added to and shall be distributed and stand appropriated without legislative action to the state road fund for highway purposes in the same manner as the other monies that are distributed pursuant to subsection 1 of this section.

(4) Twenty percent of the proceeds of the taxes imposed by this subsection, less refunds for overpayments and erroneous payments of such taxes as permitted by law and actual costs of collection (but after June 30, 2003, not to exceed three percent of the amount collected), shall be distributed and stand appropriated without legislative action to the state transportation fund created by subsection 1 of section 30(c).

(5) The tax imposed by this subsection shall terminate on December 31, 2012, unless a majority of the votes cast for the ballot question set forth in subsection 5 of this section shall be in the affirmative, in which event the tax shall continue in effect.

(6) The proceeds of the sales and use taxes imposed pursuant to this subsection shall not be included within the definition of "total state revenues" in section 17 of article X of this constitution nor be considered as an "expense of state government" as that term is used in section 20 of article X of this constitution.

5. The secretary of state shall place on the ballot at the general election in 2012 the question of whether the taxes which are authorized and imposed by subsection 4 of this section and by subdivision (2) of subsection 4 of section 30(a) shall continue in effect after December 31, 2012. The question which shall be placed on the ballot shall be as follows:

Shall the sales and use taxes of five-eighths of one percent and the motor fuel tax of five cents per gallon for highway and transportation purposes which are imposed by Article IV, Section 30(b)4 and 30(a)4(2), of the Missouri Constitution, continue in effect after December 31, 2012?

Q Yes Q No

6. No taxes or highway user fees enumerated in subdivision (3) of subsection 1 of section 30(a), in subsection 1 of this section, in subdivision (1) of subsection 2 of this section shall be diverted from highway purposes and uses specified in subsection 1 of this section or from the state road fund under the control of the state highways and transportation commission to any other department, agency or officer of the state, other than for costs of collection (but after June 30, 2003, not to exceed three percent of the cost of collection of the particular tax or fee) and refunds for overpayments and erroneous payment of such taxes or user fees as permitted by law. No taxes referred to in subdivision (4) of subsection 4 of this section shall be diverted from transportation purposes and uses specified in section 30(c) or from the state

transportation fund under the control of the state highways and transportation commission to any other department, agency or officer of the state, other than for costs of collection (but after June 30, 2003, not to exceed three percent of the cost of collection of the particular tax or fee) and refunds for overpayments and erroneous payments of such taxes as permitted by law. Interest which accrues upon monies in the state road fund, in the state transportation fund and in the state highway patrol fund shall be added to the fund with respect to which the interest accrues and shall not be added to general revenues. Monies received by the state from the United States government for highway purposes shall be placed in the state road fund, and monies received by the state from the United States government for other transportation purposes shall be placed in the state transportation fund.

Section 30(c). **1.** The highways and transportation commission shall have authority to **plan**, locate, relocate, establish, acquire, construct, maintain, control, [and as provided by law to] operate, develop [or] **and** fund public **transportation** facilities as part of any state transportation **system** or program such as but not limited to aviation, mass transportation, **transportation of elderly or handicapped**, railroads, ports, [and] waterborne commerce **and intermodal connections**, provided that funds other than those [designated] **dedicated** for highway purposes in **subsection 1 of section 30(b)** of this constitution are made available for such purposes.

2. A state transportation fund is hereby created. All revenues distributed to the state transportation fund pursuant to subdivision (4) of subsection 4 of section 30(b) and any other state revenue appropriated for or dedicated by the provisions of this constitution or by provisions of law for transportation purposes, other than revenues for highway purposes are credited to the state road fund, shall be credited to the state transportation fund and shall stand appropriated without legislative action to be used and expended by the highways and transportation commission in its sole discretion for the following purposes, and no other:

(1) For any of the uses and purposes set forth in subsection 1 of this section;

(2) To acquire materials, equipment and buildings and to employ such personnel (including the funding of workers compensation and retirement programs) as necessary for the purposes described in this section;

(3) For such other purposes and contingencies relating and appertaining to the construction and maintenance of state transportation programs and systems, other than for highway purposes, as the highways and transportation commission may deem necessary and proper.

3. All of provisions of sections 30(a), 30(b) and 30(c) are severable. If any provision of section 30(a), 30(b) or 30(c) is found by a court of competent jurisdiction

to be unconstitutional or unconstitutionally enacted, the remaining provisions of these sections shall be and remain valid.

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