

SECOND REGULAR SESSION

# SENATE JOINT RESOLUTION NO. 35

96TH GENERAL ASSEMBLY

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INTRODUCED BY SENATOR RIDEGEWAY.

Pre-filed December 13, 2011, and ordered printed.

TERRY L. SPIELER, Secretary.

4387S.011

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## JOINT RESOLUTION

Submitting to the qualified voters of Missouri, an amendment repealing sections 1 and 6(a) of article X of the Constitution of Missouri, and adopting eleven new sections in lieu thereof relating to taxation.

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*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, 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Section A. Sections 1 and 6(a), article X, Constitution of Missouri, is repealed and eleven new sections adopted in lieu thereof, to be known as sections, to read as follows:

[Section 1. The taxing power may be exercised by the general assembly for state purposes, and by counties and other political subdivisions under power granted to them by the general assembly for county, municipal and other corporate purposes.]

**Section 1(a). The taxing power may be exercised by the general assembly for state purposes and by counties and other political subdivisions under power granted to them by the general assembly for county, municipal, and other corporate purposes, except the general assembly shall not have the power to enact any law:**

**(1) Imposing a tax on or measured by the income or earnings of an individual for tax years beginning on or after January 1, 2016; or**

**(2) Authorizing any county or other political subdivision to**

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

9 enact, levy or impose a tax on or measured by the income or earnings  
10 of an individual except any tax on or measured by the income or  
11 earnings of an individual that was lawfully enacted and imposed by a  
12 city prior to January 1, 2013, and continues to be lawfully renewed by  
13 voters of such city; or

14 (3) Imposing a tax for state purposes on sales or services other  
15 than as authorized in section 1(a) to 1(j) of this article or exempted  
16 from repeal in section 1(d) of this article.

Section 1(b). For tax years beginning on or after January 1, 2014,  
2 the following laws are repealed:

3 (1) Any law enacted by the general assembly that imposes a tax  
4 for state purposes that is on or measured by the income or earnings of  
5 an individual, except as provided in section 1(c) of this article; and

6 (2) Any law enacted by the general assembly that authorizes any  
7 county or other political subdivision to impose a tax for county,  
8 municipal and other corporate purposes that is on or measured by the  
9 income or earnings of an individual, except any law imposing a tax on  
10 or measured by the income or earnings of an individual that was  
11 lawfully enacted and imposed by a city prior to January 1, 2013, and  
12 continues to be lawfully renewed by voters of such city.

Section 1(c). (1) For tax years beginning on or after January 1,  
2 2014, any law enacted by the general assembly that imposes a tax for  
3 state purposes that is on or measured by the income or earnings of an  
4 individual shall not be more than three percent.

5 (2) For tax years beginning on or after January 1, 2016, any law  
6 enacted by the general assembly that imposes a tax for state purposes  
7 that is on or measured by the income or earnings of an individual shall  
8 be repealed.

9 (3) The general assembly shall enact a law with an effective date  
10 no later than January 1, 2016, to provide a mechanism for the  
11 continuation of any property tax relief available for senior citizens and  
12 disabled individuals in the tax year beginning January 1, 2012, and  
13 which was, for that tax year, provided in the form of an income tax  
14 credit.

Section 1(d). For tax years beginning on or after January 1, 2014,  
2 all laws enacted by the general assembly for state purposes prior to the  
3 effective date of this section imposing sales and use taxes and

4 exemptions thereto are repealed, except taxes on alcohol, aviation fuel,  
5 insurance products, tobacco, any taxes imposed by article IV, sections  
6 43(a) and 47(a), or any taxes provided for by article IV, section 30(a),  
7 and exemptions thereto.

Section 1(e). (1) The general assembly shall enact a law, effective  
2 January 1, 2014, imposing and levying a tax on all sales and services,  
3 except those sales and services exempted pursuant to section 1(f) of  
4 this article, at a rate that shall not exceed five percent prior to January  
5 1, 2016, except for the rate of tax imposed on food which shall not  
6 exceed four percent prior to January 1, 2016. On and after January 1,  
7 2016, the sum of the rate of such tax on sales and services other than  
8 food plus the rates of the taxes calculated in section 1(h) of this article  
9 shall not exceed seven percent, and the rate of tax on the sale of food  
10 plus the rates of the taxes calculated in section 1(h) of this article shall  
11 not exceed five and one-half percent.

12 (2) All revenues collected from the tax imposed pursuant to this  
13 section shall be deposited into the general revenue fund of the State of  
14 Missouri and be subject to appropriation by the general assembly,  
15 unless otherwise restricted or appropriated by this constitution, except  
16 a portion of the revenues collected from the tax imposed under this  
17 section shall be deposited into the School District Trust Fund or any  
18 successor fund to be distributed to the school districts of the state as  
19 provided by law, so that such fund receives no less than the amount of  
20 revenue as such fund received on average annually in fiscal years 2008-  
21 2012.

22 (3) In the event of an emergency, the general assembly may  
23 increase taxes, licenses, or fees as prescribed in this article, section  
24 18(e)3.

Section 1(f). The following shall not be subject to any tax  
2 imposed pursuant to section 1(e) of this article:

3 (1) Those sales and services subject to taxes which are  
4 specifically exempted from the repeal in section 1(d);

5 (2) Sales of personal property for which the tax authorized under  
6 section 1(e) of this article, or a sales or use tax repealed by section 1(d)  
7 of this article has been collected due to a prior taxable transaction or  
8 sales for resale;

9 (3) Professional services;

10           (4) Sales, leases, or rents of real property including all fees,  
11 charges, or commissions resulting directly or indirectly from the sale,  
12 lease, or rent of the real property;

13           (5) Sales of metered or unmetered water or wastewater service,  
14 electric energy or capacity, electric service, natural, artificial or  
15 propane gas, wood, coal or heating oil;

16           (6) Sales of pharmaceuticals or medical services by a licensed  
17 health care professional for the direct benefit of any individual's health  
18 care, where such sales or services are not subject to being recouped  
19 from another source;

20           (7) Child care services and services provided for by a residential  
21 care, assisted living, intermediate care or skilled nursing facility;

22           (8) Tuition and fees of any early childhood, prekindergarten,  
23 kindergarten, elementary, secondary, vocational or technical school, or  
24 an accredited institution of higher education for educational services;

25           (9) Services rendered by an employee for his employer;

26           (10) Services between entities that in the given year consolidate  
27 earnings;

28           (11) Sales or services directly used for agricultural trade or  
29 agricultural business purposes;

30           (12) Sales of materials, fuel, manufactured goods, machinery,  
31 equipment, parts, or replacement parts used or consumed in  
32 manufacturing, processing, compounding, mining, producing,  
33 fabricating, researching, or developing a product or producing a  
34 service, or controlling pollution, or that become a component part or  
35 ingredient of a product or service;

36           (13) Construction, warehousing, computer system, software  
37 design, employment, call center, and payroll processing services;

38           (14) Sales of stocks, bonds, financial instruments, and other  
39 similar intangible personal property;

40           (15) Sales of bullion or coins, artistic works, precious stones, or  
41 other tangible personal property held exclusively for investment  
42 purposes;

43           (16) Sales of insurance products and insurance services;

44           (17) Sales of railroad rolling stock for use in transporting  
45 persons or property in interstate commerce and motor vehicles licensed  
46 for a gross weight of twenty-four thousand pounds or more or trailers

47 used by common carriers, in the transportation of persons or property;

48 (18) Sales of barges which are to be used primarily in the  
49 transportation of property or cargo on interstate waterways;

50 (19) The purchase or storage of tangible personal property by  
51 any common carrier engaged in the interstate air transportation of  
52 persons and cargo;

53 (20) Gaming sales, services, wagers, winnings, or admission fees  
54 related to licensed bingo, racing, or excursion gambling boat activities;

55 (21) Sales or services to or for the benefit of the United States of  
56 America, any state, county, other political subdivision, foreign  
57 government, or a charitable organization exempt from taxation under  
58 federal law, and the sale or service is in furtherance of the purpose of  
59 the state, county, or other political subdivision, or a charitable  
60 organization;

61 (22) Sales made through the use of federal food stamp coupons  
62 or any successor program;

63 (23) Sales for which federal government coupons or vouchers  
64 under the supplemental feeding for women, infants, and children  
65 program, or any successor program, are used as payment;

66 (24) Sales exempted from state taxation under any other federal  
67 program that requires a state that chooses to participate in such a  
68 program to be exempt from tax;

69 (25) Non-proprietary sales made by or non-proprietary services  
70 performed by the state, a county, or other political subdivision;

71 (26) Sales which the state of Missouri is prohibited from taxing  
72 pursuant to this constitution or the Constitution or laws of the United  
73 States of America; and

74 (27) Any other sale or service exempted by a two-thirds vote of  
75 the members elected to each house of the general assembly, proceeded  
76 upon in the same manner as in the case of a bill and presented to the  
77 governor.

Section 1(g). (1) "Cumulative sales tax rate", as used in section  
2 1(i) of this article shall mean the rate of the state sales tax, levied and  
3 imposed under section 1(e), plus the rate of the taxes imposed by article  
4 IV, sections 43(a) and 47(a), as calculated in section 1(h) of this article,  
5 plus the rate of sales and use taxes, as calculated in section 1(i) of this  
6 article, or newly imposed sales and use taxes, imposed by counties,

7 other political subdivisions, and other taxing jurisdictions, but  
8 excluding any taxes imposed by transportation development districts  
9 or community improvement districts.

10 (2) "Professional services", as used in sections 1(a) to 1(i) of this  
11 article shall mean services rendered by an accountant, architect,  
12 barber, cosmetologist, embalmer, engineer, funeral director, lawyer,  
13 real estate agent, real estate broker, or real estate appraiser.

14 (3) "Sales", as used in sections 1(a) to 1(i) of this article shall  
15 mean any transfer, rental, lease, exchange, or barter, conditional or  
16 otherwise, in any manner or by any means whatsoever, of tangible  
17 property, not purchased for resale or leasing, for consideration. "Sales"  
18 shall also include the privilege of storing, using, or consuming within  
19 this state any article of tangible property on or after January 1, 2014.

20 (4) "Services", as used in sections 1(a) to 1(i) of this article shall  
21 mean all activities for the benefit, use or consumption, regardless if  
22 paid by a fee, retainer, commission, or other consideration, when such  
23 activities involve predominantly the performance of a service as  
24 distinguished from the sale of property.

Section 1(h). Notwithstanding the provisions of sections 43(a)  
2 and 47(a) of article IV of this constitution, effective January 1, 2014, the  
3 tax levied and imposed under those sections shall be imposed on the  
4 same tax base as the tax authorized under section 1(e) of this  
5 article. The rates of tax levied and imposed under sections 43(a) and  
6 47(a) of article IV of this constitution shall be recalculated no later  
7 than May 1, 2013, and adjusted to produce an amount of revenue for the  
8 2015 fiscal year substantially equal to the amount received on average  
9 annually in fiscal years 2008 to 2012, however, on and after January 1,  
10 2016, the sum of such rates plus the rate of the tax authorized in  
11 section 1(e) of this article shall not exceed seven percent. The general  
12 assembly shall provide for the procedure by which such tax rates shall  
13 be recalculated and the rate of tax may be readjusted in the same  
14 manner one time after January 1, 2014, and before January 1, 2016, to  
15 provide an amount of revenue for each fiscal year substantially equal  
16 to the amount received on average annually in fiscal years 2008 to 2012.

Section 1(i). (1) Effective January 1, 2014, all provisions of laws,  
2 ordinances, or resolutions exempting sales and services other than the  
3 sales and services exempted pursuant to sections 1(a) to 1(j) and 25 of

4 this article from taxation by counties, other political subdivisions, or  
5 other taxing jurisdictions, as well as all provisions establishing the rate  
6 of the tax on such sales and services, except those exemptions or  
7 exclusions expressly approved by local voters and in effect as of  
8 January 1, 2013, shall be void.

9 (2) A new rate shall be imposed by the counties, other political  
10 subdivisions and other taxing jurisdictions on sales and services  
11 necessary to produce an amount of revenue substantially equal to the  
12 amount that was produced by the prior rate of the tax on average in  
13 the five years prior to January 1, 2014.

14 (3) The department of revenue shall calculate the new rate  
15 pursuant to a process the general assembly shall establish by law, and  
16 shall provide the new rate to the counties, other political subdivisions,  
17 and other taxing jurisdictions no later than September 1, 2013. The  
18 general assembly shall include a process for allowing taxpayers,  
19 counties, other political subdivisions, and other taxing jurisdictions, to  
20 appeal the recalculation in this section, provided that such appeal be  
21 filed by January 1, 2016. The department of revenue may recalculate  
22 the new rate pursuant to the process established by the general  
23 assembly one time after January 1, 2014, but before January 1, 2016.

24 (4) On or after January 1, 2016, the cumulative sales tax rate  
25 shall only exceed ten percent, when either:

26 i. The cumulative sales tax rate exceeds ten percent, when the  
27 new rate established pursuant to section 1(i)(3) of this article is  
28 effective, and such rate shall be reduced to the extent that the county,  
29 other political subdivision, or other taxing jurisdiction is no longer  
30 authorized by law to impose, in whole or part, any sales tax which was  
31 a component of the cumulative sales tax rate at the time the new rate  
32 was established pursuant to section 1(i)(3) of this article; or

33 ii. The qualified electors in the taxing jurisdiction proposing a  
34 tax on sales and services, which tax will cause the cumulative sales tax  
35 rate to exceed ten percent in any part of the taxing jurisdiction,  
36 approve the new tax in the same requisite percentages as approval of  
37 local government debt in article VI, section 26(b) of this constitution.

Section 1(j). (1) The burden of proof for establishing tax liability  
2 for any taxes imposed pursuant to section 1(e) of this article shall be  
3 borne by the state in all legal proceedings.

4           **(2) Taxpayers shall have the same rights to enforce the**  
5 **provisions of this amendment as in section 23 of this article, in this**  
6 **constitution.**

          Section 6(a). **(1) The general assembly shall provide that a portion**  
2 **of the assessed valuation of real property actually occupied by the**  
3 **owner or owners thereof as a homestead, be credited against current**  
4 **tax liability in certain circumstances. If in the prior tax year, the**  
5 **property tax liability on any parcel of subclass (1) real property**  
6 **increased by more than five percent in a year of general reassessment**  
7 **or two and one-half percent in a year without general reassessment**  
8 **then any eligible owner of the property shall receive a property tax**  
9 **relief credit in the amount of fifty percent of the increase above such**  
10 **thresholds for such year against the current year's property tax**  
11 **liability. Eligible owners must be sixty-five years or older and have an**  
12 **income, including social security, of seventy-five thousand dollars or**  
13 **less, adjusted annually based on the general price level as defined in**  
14 **section 17(3) of this article. Owners in homes with an appraised value**  
15 **in excess of four hundred thousand dollars adjusted annually based on**  
16 **the general price level as defined in section 17(3) of this article, are not**  
17 **eligible. The state shall reimburse local governments for seventy-five**  
18 **percent of any credit taken under this section. Any eligible owner who**  
19 **receives a property tax relief credit under this section shall not be**  
20 **eligible for any exemption, refund, credit or rebate under sections**  
21 **1(c)(3) or 6(a)(2) of this article.**

22           **(2) In addition to the relief provided by section 6(a)(1), the general**  
23 **assembly may provide that a portion of the assessed valuation of real property**  
24 **actually occupied by the owner or owners thereof as a homestead, be exempted**  
25 **from the payment of taxes thereon, in such amounts and upon such conditions as**  
26 **may be determined by law, and the general assembly may provide for certain tax**  
27 **credits or rebates in lieu of or in addition to such an exemption, but any such law**  
28 **shall further provide for restitution to the respective political subdivisions of**  
29 **revenues lost, if any, by reason of the exemption, and any such law may also**  
30 **provide for comparable financial relief to persons who are not the owners of**  
31 **homesteads but who occupy rental property as their homes.**