

FIRST REGULAR SESSION

SENATE JOINT RESOLUTION NO. 24

97TH GENERAL ASSEMBLY

INTRODUCED BY SENATOR EMERY.

Read 1st time February 28, 2013, and ordered printed.

TERRY L. SPIELER, Secretary.

1944S.011

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 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 X of the Constitution of the state of Missouri:

Section A. Section 4(d), article X, Constitution of Missouri, is repealed and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

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

10 **2. For all tax years beginning on or after January 1, 2017, no tax**
11 **shall be imposed upon any income derived from any source by the state**
12 **except as described herein, and all revenues lost as a result of the**
13 **prohibition on the taxation of income under this section shall be**

14 replaced by the levy and imposition of a tax upon the consumption or
15 use in this state of taxable property or services. No income tax credits
16 shall be authorized after January 1, 2017, and no authorized tax credit
17 other than for senior citizens property tax relief shall be allowed after
18 the elimination of the individual income tax as provided in subsection
19 5 of this section. Taxable property or services shall mean any property
20 (including leaseholds of any term or rents with respect to such
21 property but excluding intangible personal property and property for
22 which the tax authorized by this section has been collected due to a
23 prior taxable transaction) and any service consumed or used in this
24 state, except for such property purchased to be a component part or
25 ingredient of the new tangible personal property to be sold at
26 retail. For purposes of this section, the term "purchased for a business
27 purpose in a trade or business" shall mean purchased by a person
28 engaged in a trade or business and used in that trade or business for
29 resale, to produce, provide, render or sell taxable property or
30 services. For purposes of this section, the term "purchased for an
31 investment purpose" shall mean property purchased exclusively for
32 purposes of appreciation or the production of income, and tuition and
33 fees paid for educational services to an elementary school, high school,
34 or accredited institution of higher education. No tax shall be imposed
35 under this section on any taxable property or service purchased for a
36 business purpose in a trade or business, including agriculture, or
37 purchased for an investment purpose and held exclusively for an
38 investment purpose.

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

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

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

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

46 (2) The general assembly shall provide by law for determining
47 the scope of taxable services and for otherwise implementing the
48 provisions of this section prior to January 1, 2017. All sales tax
49 exemptions in place as of the effective date of this section exempting
50 purchases other than the purchases enumerated in this article shall be

51 void. Any additional exemptions not specified in this article may be
52 provided by law upon an affirmative vote of at least two-thirds of the
53 elected members of both chambers and approval by the governor.

54 3. Notwithstanding the limitation on total state revenues as
55 provided in article X, section 18 of this constitution, such adjustment
56 shall be calculated to ensure that the amount of revenue received is
57 substantially equal to the amount of revenue that would have been
58 generated by the taxes repealed under this section averaged over the
59 five immediately preceding state fiscal years. The department of
60 revenue or its successor shall recalculate local political subdivision tax
61 rates affected by this section no later than August 31, 2018, to produce
62 the same or substantially similar revenue as collected using the
63 average of collections for the last five state fiscal years unless the local
64 political subdivision has submitted a proposal to increase any such
65 local tax rates and has received majority approval from the voters for
66 such increase in which case the department shall include the additional
67 voter approved tax rate in the recalculations. The department shall
68 submit the recalculated rates to the state treasurer for approval. The
69 state treasurer shall approve or identify required changes to maintain
70 revenue neutrality within sixty days of receiving the department's
71 recommendations. The state treasurer shall publish the approved sales
72 tax rates for the local political subdivisions no later than November 30,
73 2016. A local political subdivision may request a recalculation of the
74 sales tax rate one time within twenty-four months of the publishing of
75 the recalculated rate if the state's calculations fail to collect an amount
76 of revenue equal to the average of the last five state fiscal years of
77 collections. The department of revenue and the state treasurer shall
78 repeat the recalculation process of the local sales tax rates by August
79 31, 2017, and November 30, 2017, respectively. The basis of the
80 recalculation shall be the average of the collections in the state fiscal
81 years of 2013, 2014, 2015, 2016, and 2017. Local political subdivisions
82 may request a recalculation as described herein.

83 4. Notwithstanding the provisions of sections 43(a) and 47(a) of
84 article IV of this constitution and Proposition C, the rates of tax levied
85 and imposed under those sections and Proposition C shall undergo a
86 one-time calculation by the state treasurer, taking into account any
87 adjustment in the tax base. This recalculation shall determine the new

88 rates that would produce an amount of revenue for the fiscal year of
89 recalculation substantially equal to the average of the last five state
90 fiscal years of collections under the prior rates described in those
91 sections of the constitution. These new tax rates shall be recalculated
92 in this same manner should the rate of tax levied under section 4(d) of
93 article X of this constitution be readjusted. For the tax year beginning
94 January 1, 2017, the general revenue sales tax rate shall be four
95 percent. The state treasurer shall recalculate, using the taxable base
96 established in subsection 2 of this section, sales taxes imposed under
97 sections 43(a) and 47(a) of article IV and Proposition C to maintain
98 revenue neutrality from those sources based on the average of the last
99 five state fiscal years of collections, and shall recommend such
100 proposed rates to the general assembly for its consideration as
101 provided in subsection 8 of this section. The state treasurer shall
102 recalculate the state sales tax rate each year that the individual income
103 tax is reduced under subsection 5 of this section, and shall recommend
104 such proposed rates to the general assembly for its consideration as
105 provided in subsection 8 of this section. At no time shall the general
106 revenue sales tax rate exceed seven percent.

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

109 (1) Corporate income taxes;

110 (2) Withholding and individual income taxes of at least twenty-
111 five percent per year using the average of collections for fiscal years
112 2012, 2013, 2014, 2015, and 2016, until eliminated. These taxes shall be
113 eliminated in full no later than January 1, 2021;

114 (3) Corporation franchise and bank franchise taxes;

115 (4) All existing state sales and use taxes.

116 6. The general assembly may, by general law, provide a method
117 for calculating and providing sales tax rebates or prebates to allow a
118 portion of taxable purchases made by Missouri residents to be exempt
119 from the tax authorized under this section.

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

124 8. The general assembly shall act upon the state treasurer's

125 recommendation during the legislative session convened under section
126 32, article III of this constitution. A concurrent resolution, not subject
127 to substantive amendment in either chamber, shall be introduced in the
128 house of representatives for approval or rejection by majority vote. If
129 approved, the concurrent resolution shall be considered by the senate
130 for approval or rejection. If approved by both chambers, the
131 concurrent resolution shall be presented to the governor, and, within
132 fourteen days of such presentment, the governor shall return the
133 concurrent resolution to the house of representatives endorsed with his
134 or her approval or accompanied by his or her objections. If the
135 concurrent resolution is approved by the governor, the tax rate
136 adjustment shall become effective January first of the next calendar
137 year. If the concurrent resolution is not approved by the governor, the
138 general assembly shall automatically convene in special session within
139 fourteen days of such disapproval to reconsider the resolution as
140 otherwise provided in section 32 of article III of this constitution. If the
141 concurrent resolution is approved by the required two-third majority,
142 the tax rate adjustment shall become effective January first of the next
143 calendar year. If the general assembly fails to approve the
144 recommended tax rate as described in this section, the withholding and
145 income tax rate shall be reduced by twenty percent as calculated in
146 subdivision (2) of subsection 5 of this section and the state treasurer
147 shall calculate the new rate to be substantially equal to the average of
148 the last five state fiscal years of collection subject to the limitations of
149 subsection 4 of this section. The new rate shall be effective January
150 first of the next calendar year.

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

157 10. The provisions of this section are severable. If any provision
158 of this section is found by a court of competent jurisdiction to be
159 unconstitutional, the remaining provisions are valid except to the
160 extent that the court finds that the valid provisions, standing alone, are
161 incomplete and are incapable of being executed in accordance with the

162 **will of the people.**

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

7 "Shall the Missouri Constitution be amended to phase-out income tax and
8 enact a single, revenue-neutral sales and use tax on new purchases and uses of
9 goods and services capped at seven percent, and to exempt property purchased
10 for business or investment from the sales tax, and to provide sales tax rebates for
11 qualified families."

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Bill

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