

SECOND REGULAR SESSION

# SENATE JOINT RESOLUTION NO. 46

97TH GENERAL ASSEMBLY

---

---

INTRODUCED BY SENATOR EMERY.

Read 1st time January 23, 2014, and ordered printed.

TERRY L. SPIELER, Secretary.

4410S.01I

---

---

## 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.

---

---

*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, 2014, 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Section A. Sections 1 and 6(a), article X, Constitution of Missouri, are repealed and eleven new sections adopted in lieu thereof, to be known as sections 1(a), 1(b), 1(c), 1(d), 1(e), 1(f), 1(g), 1(h), 1(i), 1(j), and 6(a), to read as follows:

**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.**

**Section 1(b). 1. 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 in excess of three percent for tax years beginning on or after January 1, 2016; or**

**(2) Impose a tax on or measured by the income or earnings of an individual for tax years beginning on or after January 1, 2018; or**

**(3) 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, 2015, and continues to be lawfully renewed by  
13 voters of such city; or

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

17 2. Any existing law that violates the provisions of this section  
18 shall be considered repealed and void.

Section 1(c). The general assembly shall enact a law with an  
2 effective date no later than January 1, 2018 to provide a mechanism for  
3 the continuation of any property tax relief available for senior citizens  
4 and disabled individuals in the tax year beginning January 1, 2014, and  
5 which was, for that tax year, provided in the form of an income tax  
6 credit.

Section 1(d). For tax years beginning on or after January 1, 2016,  
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, 2016, 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, 2018, except for the rate of tax imposed on food which shall not  
6 exceed four percent prior to January 1, 2018. On and after January 1,  
7 2018, 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 pursuant to  
17 this 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 2010  
21 through 2014.

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

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) of this article;

5 (2) Sales of personal property for which the tax authorized  
6 pursuant to section 1(e) of this article or a sales or use tax repealed by  
7 section 1(d) of this article has been collected due to a prior taxable  
8 transaction or 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 or her 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) Nonproprietary sales made by or nonproprietary 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), plus the rate  
5 of sales and use taxes, as calculated in section 1(i) of this article, or  
6 newly imposed sales and use taxes, imposed by counties, other political  
7 subdivisions, and other taxing jurisdictions, but excluding any taxes  
8 imposed by transportation development districts or community  
9 improvement districts.

10 (2) "Professional services" as used in sections 1(a) to 1(j) 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(j) 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, 2016.

20 (4) "Services" as used in sections 1(a) to 1(j) 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) and 47(a) of article IV of this constitution, effective January 1, 2016, the tax levied and imposed pursuant to those sections shall be imposed on the same tax base as the tax authorized under section 1(e) of this article. The rates of tax levied and imposed pursuant to sections 43(a) and 47(a) of article IV of this constitution shall be recalculated, no later than May 1, 2015, and adjusted to produce an amount of revenue for the 2016 fiscal year substantially equal to the amount received on average annually in fiscal years 2010-2014, however, on and after January 1, 2018, the sum of such rates plus the rate of the tax authorized in section 1(e) of this article shall not exceed seven percent. The general assembly shall provide for the procedure by which such tax rates shall be recalculated and the rate of tax may be readjusted in the same manner one time after January 1, 2016, and before January 1, 2018, to provide an amount of revenue for each fiscal year substantially equal to the amount received on average annually in fiscal years 2010-2014.

Section 1(i). (1) Effective January 1, 2016, all provisions of laws, ordinances or resolutions exempting sales and services other than the sales and services exempted pursuant to sections 1(a) to 1(j) and 25 of this article from taxation by counties, other political subdivisions, or other taxing jurisdictions, as well as all provisions establishing the rate of the tax on such sales and services, except those exemptions or exclusions expressly approved by local voters and in effect as of January 1, 2015, shall be void.

(2) A new rate shall be imposed by the counties, other political subdivisions and other taxing jurisdictions on sales and services necessary to produce an amount of revenue substantially equal to the amount that was produced by the prior rate of the tax on average in the five years prior to January 1, 2016.

(3) The department of revenue shall calculate the new rate under a process the general assembly shall establish by law, and shall provide the new rate to the counties, other political subdivisions and other taxing jurisdictions no later than September 1, 2015. The general assembly shall include a process for allowing taxpayers, counties, other political subdivisions, and other taxing jurisdictions, to appeal the recalculation in this section, provided that such appeal be filed by January 1, 2018. The department of revenue may recalculate the new

22 rate under the process established by the general assembly one time  
23 after January 1, 2016, but before January 1, 2018.

24 (4) On or after January 1, 2018, the cumulative sales tax rate  
25 shall only exceed ten percent, when either:

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

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

Section 6(a). 1. The general assembly [may] shall provide that a portion  
2 of the assessed valuation of real property actually occupied by the owner or  
3 owners thereof as a homestead, be [exempted from the payment of taxes thereon,  
4 in such amounts and upon such conditions as may be determined by law, and the  
5 general assembly may provide for certain tax credits or rebates in lieu of or in  
6 addition to such an exemption, but any such law shall further provide for  
7 restitution to the respective political subdivisions of revenues lost, if any, by  
8 reason of the exemption, and any such law may also provide for comparable  
9 financial relief to persons who are not the owners of homesteads but who occupy  
10 rental property as their homes] credited against current tax liability in  
11 certain circumstances. If in the prior tax year, the property tax  
12 liability on any parcel of subclass (1) real property increased by more  
13 than five percent in a year of general reassessment or two and one-half  
14 in a year without general reassessment, then any eligible owner of the  
15 property shall receive a property tax relief credit in the amount of fifty  
16 percent of the increase above such thresholds for such year against the

17 current year's property tax liability. Eligible owners must be sixty-five  
18 years or older and have an income, including Social Security, of  
19 seventy-five thousand dollars or less, adjusted annually based on the  
20 general price level as defined in section 17(3) of this article. Owners  
21 in homes with an appraised value in excess of four hundred thousand  
22 dollars, adjusted annually based on the general price level as defined  
23 in section 17(3) of this article, are not eligible. The state shall  
24 reimburse local governments for seventy-five percent of any credit  
25 taken under this section. Any eligible owner who receives a property  
26 tax relief credit pursuant to this section shall not be eligible for any  
27 exemption, refund, credit, or rebate pursuant to sections 1(c)(3) or  
28 6(a)(2) of this article.

29 2. In addition to the relief provided by subsection 1 of this  
30 section, the general assembly may provide that a portion of the  
31 assessed valuation of real property actually occupied by the owner or  
32 owners thereof as a homestead, be exempted from the payment of taxes  
33 thereon, in such amounts and upon such conditions as may be  
34 determined by law, and the general assembly may provide for certain  
35 tax credits or rebates in lieu of or in addition to such an exemption, but  
36 any such law shall further provide for restitution to the respective  
37 political subdivisions of revenues lost, if any, by reason of the  
38 exemption, and any such law may also provide for comparable financial  
39 relief to persons who are not the owners of homesteads but who occupy  
40 rental property as their homes.

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

✓