

SECOND REGULAR SESSION

HOUSE JOINT RESOLUTION NO. 45

91ST GENERAL ASSEMBLY

INTRODUCED BY REPRESENTATIVE HOLLINGSWORTH.

Read 1st time January 31, 2002, and 1000 copies ordered printed.

TED WEDEL, Chief Clerk

4329L.01I

JOINT RESOLUTION

Submitting to the qualified voters of Missouri an amendment repealing sections 29, 30(a), 30(b), 30(c), 31, 32, 37(a), 40(a), 41, 42, 43(a), 43(b), 45, 49, 50, and 52 of article IV and sections 2(a), 2(b), and 5, of article IX of the Constitution of Missouri, and adopting eighteen new sections in lieu thereof relating to gubernatorial appointments.

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
2 following the first Monday in November, 2002, or at a special election to be called by the
3 governor for that purpose, there is hereby submitted to the qualified voters of this state, for
4 adoption or rejection, the following amendment to article IV and article IX of the Constitution
5 of the state of Missouri:

Section A. Sections 29, 30(a), 30(b), 30(c), 31, 32, 37(a), 40(a), 41, 42, 43(a), 43(b), 45,
2 49, 50, and 52, article IV, and sections 2(a), 2(b), and 5, article IX, Constitution of Missouri, are
3 repealed and eighteen new sections adopted in lieu thereof, to be known as sections 29, 30(a),
4 30(b), 30(c), 31, 32, 37(a), 40(a), 41, 42, 43(a), 43(b), 45, 49, 50, and 52, article IV, and sections
5 2(a), and 5, article IX, to read as follows:

Section 29. The department of [highways and] transportation shall be in charge of a
2 [highways and transportation commission] **director of transportation appointed by the**

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

3 **governor, by and with the advice and consent of the senate.** [The number, qualifications,
4 compensation and terms of the members of the highways and transportation commission shall
5 be fixed by law, and not more than one-half of its members shall be of the same political party.]
6 The selection and removal of all employees shall be without regard to political affiliation. The
7 [highways and transportation commission] **department** shall have authority over all state
8 transportation programs and facilities as provided by law, including, but not limited to, bridges,
9 highways, aviation, railroads, mass transportation, ports, and waterborne commerce, and shall
10 have authority to limit access to, from and across state highways where the public interest and
11 safety may require. The present members of the highway commission shall serve as [members
12 of the highways and transportation commission for the remainder of the terms for which they
13 were appointed] **such until a director has been appointed by the governor and confirmed**
14 **by the senate.** All references to the highway commission and the department of highways in this
15 constitution and in the statutes shall mean the [highways and transportation commission]
16 **director of transportation** and the department of [highways and] transportation.

Section 30(a). 1. On and after the first day of the month next following the adoption of
2 this section, a tax upon or measured by fuel used for propelling highway motor vehicles shall be
3 levied and collected as provided by law. Any amount of the tax collected with respect to fuel
4 not used for propelling highway motor vehicles shall be refunded by the state in the manner
5 provided by law. The remaining net proceeds of the tax, after deducting costs of collection,
6 apportionment and making refunds shall be apportioned between the counties, cities and the state
7 as hereinafter provided and shall stand appropriated without legislative action for the following
8 purposes:

9 (1) Ten percent of the remaining net proceeds shall be deposited in a special trust fund
10 known as the "County Aid Road Trust Fund". In addition, beginning July 1, 1994, an additional
11 five percent of the remaining net proceeds which is derived from the difference between the
12 amount received from a tax rate equal to the tax rate in effect on March 31, 1992, and the tax rate
13 in effect on and after July 1, 1994, shall also be deposited in the county aid road trust fund, and
14 of such monies generated by the additional five percent, five percent shall be credited solely to
15 cities not within any county in this state. After such credit to cities not within any county, the
16 proceeds in the county aid road trust fund shall be credited to the various counties of the state
17 on the following basis: One-half on the ratio that the county road mileage of each county bears
18 to the county road mileage of the entire state as determined by the last available report of the
19 [state highways and] **department of transportation** [commission] and one-half on the ratio that
20 the rural land valuation of each county bears to the rural land valuation of the entire state as
21 determined by the last available report of the state tax commission, except that county road
22 mileage in incorporated villages, towns or cities and the land valuation in incorporated villages,

23 towns or cities shall be excluded in such determination, except that, if the assessed valuation of
24 rural lands in any county is less than five million dollars, the county shall be treated as having
25 an assessed valuation of five million dollars. The funds credited to each county shall be used by
26 the county solely for the construction, reconstruction, maintenance and repairs of roads, bridges
27 and highways, and subject to such other provisions and restrictions as provided by law. The
28 monies generated by the additional five percent of the remaining net proceeds which is derived
29 from the difference between the amount received from a tax rate equal to the tax rate in effect
30 on March 31, 1992, and the tax rate in effect on and after July 1, 1994, shall not be used for
31 equipment, machinery, salaries, fringe benefits or capital improvements, other than roads and
32 bridges. In the absence of other controls provided by law, the [state highways and transportation
33 commission] **director** shall prescribe policy, rules and requirement for the expenditure of these
34 funds by counties, including, among other things, [highways and transportation commission]
35 **department** approval of plans for projects on which the funds are to be used. In counties having
36 the township form of county organization, the funds credited to such counties shall be expended
37 solely under the control and supervision of the county court, and shall not be expended by the
38 various townships located within such counties. "Rural land" as used in this section shall mean
39 all land located within any county, except land in incorporated villages, towns, or cities.

40 (2) Fifteen percent of the remaining net proceeds shall be allocated to the various
41 incorporated cities, towns and villages within the state solely for construction, reconstruction,
42 maintenance, repair, policing, signing, lighting and cleaning roads and streets and for the
43 payment of principal and interest on indebtedness incurred prior to January 1, 1980, on account
44 of road and street purposes, and the use thereof being subject to such other provisions and
45 restrictions as provided by law. The amount apportionable to each city, town or village shall be
46 based on the ratio that the population of the city, town or village bears to the population of all
47 incorporated cities, towns or villages in the state having a like population, as shown by the last
48 federal decennial census, provided that any city, town or village which had a motor fuel tax prior
49 to the adoption of this section shall annually receive not less than an amount equal to the net
50 revenue derived therefrom in the year 1960; and

51 (3) All the remaining net proceeds in excess of the allocations to counties, and to cities,
52 towns and villages under this section shall be allocated to the state and shall be disbursed as
53 provided in section 30(a) and (b) of Article IV of this Constitution.

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

56 3. Except for taxes or licenses which may be imposed uniformly on all merchants or
57 manufacturers based upon sales, or which uniformly apply ad valorem to the stocks of merchants
58 or manufacturers, no political subdivision in this state shall collect any tax, excise, license or fee

59 upon, measured by or with respect to the importation, receipt, manufacture, storage,
60 transportation, sale or use, on or after the first day of the month next following the adoption of
61 this section of fuel used for propelling motor vehicles, unless the tax, excise, license or fee is
62 approved by a vote of the people of any city, town or village subsequent to the adoption of this
63 section, by a two-thirds majority. All funds collected shall be used solely for construction,
64 reconstruction, maintenance, repair, policing, signing, lighting, and cleaning roads and streets
65 and for the payment of principal and interest on indebtedness incurred prior to January 1, 1980,
66 on account of road and street purposes.

67 4. Beginning on July 1, 1993, the net proceeds of fuel taxes allocated under this section
68 to counties and to cities, towns and villages shall not be included within the definition of "total
69 state revenues" in section 17 of article X of this constitution.

Section 30(b). 1. For the purpose of constructing and maintaining an adequate system
2 of connected state highways all state revenue derived from highway users as an incident to their
3 use or right to use the highways of the state, including all state license fees and taxes upon motor
4 vehicles, trailers and motor vehicle fuels, and upon, with respect to, or on the privilege of the
5 manufacture, receipt, storage, distribution, sale or use thereof (excepting the sales tax on motor
6 vehicles and trailers, except as hereinafter provided, and all property taxes), less the cost (1) of
7 collection thereof, (2) of maintaining the highway related activities of the [highways and]
8 transportation [commission and] department including any workers' compensation and retirement
9 programs, (3) and of administering and enforcing any state motor vehicle laws or traffic
10 regulations, and less refunds and that portion of the fuel tax revenue to be allocated to counties
11 and to cities, towns and villages under section 30(a) of Article IV of this Constitution, shall be
12 credited to the state road fund and stand appropriated without legislative action for the following
13 purposes, and no other:

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

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

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

21 (2) To reimburse the various counties and other political subdivisions of the state, except
22 incorporated cities and towns, for money expended by them in the construction or acquisition
23 of roads and bridges now or hereafter taken over by the state as permanent parts of the system
24 of state highways, to the extent of the value to the state of such roads and bridges at the time
25 taken over, not exceeding in any case the amount expended by such counties and subdivisions

26 in the construction or acquisition of such roads and bridges, except that the [highways and
27 transportation commission] **director** may, in [its] **his or her** discretion, repay, or agree to repay,
28 any cash advanced by a county or subdivision to expedite state road construction or
29 improvement;

30 (3) In the discretion of the [commission] **director** to locate, relocate, establish, acquire,
31 construct and maintain the following:

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

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

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

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

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

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

47 (4) To acquire materials, equipment and buildings necessary for the purposes herein
48 described; and

49 (5) For such other purposes and contingencies relating and appertaining to the
50 construction and maintenance of such highways and bridges as the [highways and transportation
51 commission] **director** may deem necessary and proper.

52 2. One-half of the proceeds from the state sales tax on all motor vehicles, trailers,
53 motorcycles, mopeds and motortricycles shall be dedicated for highway and transportation use
54 and shall be distributed as follows: ten percent to the counties, fifteen percent to the cities, one
55 percent to the state transportation fund, which is hereby created to be used in a manner provided
56 by law and seventy-four percent to the state road fund. The amounts distributed shall be
57 allocated as provided in section 30(a) of this article, to be used for highway and transportation
58 purposes.

59 3. Notwithstanding the provisions of subsection 1 of this section, any increase in state
60 license fees and taxes on motor vehicles, trailers, motorcycles, mopeds and motortricycles over
61 and above those in effect upon adoption of this section shall be distributed as follows: ten

62 percent to the counties, fifteen percent to the cities and seventy-five to the state road fund. The
63 amounts distributed shall be allocated as provided in section 30(a) of this article, to be used for
64 highway and transportation purposes.

Section 30(c). The [highways and] **department of** transportation [commission] shall
2 have authority to locate, relocate, establish, acquire, construct, maintain, control, and as provided
3 by law to operate, develop or fund public facilities as part of any state transportation program
4 such as but not limited to aviation, mass transportation, railroads, ports, and waterborne
5 commerce, provided that funds other than those designated for highway purposes in this
6 constitution are made available for such purposes.

Section 31. Any state highway authorized herein to be located in any municipality may
2 be constructed without limitations concerning the distance between houses or other buildings
3 abutting such highway or concerning the width or type of construction. The [commission]
4 **department** may enter into contracts with cities, counties or other political subdivisions for and
5 concerning the maintenance of, and regulation of traffic on any state highway within such cities,
6 counties or subdivision.

Section 32. The funds which are allotted by the [commission] **department** to the
2 construction or acquisition of supplementary state highways and bridges in each of the counties
3 of the state shall be apportioned to the several counties as follows: One-fourth in the ratio that
4 the area of each county bears to the area of the state, one-fourth in the ratio of the population, and
5 two-fourths on such basis as the [commission] **department** may deem to be for the best interest
6 of highway users; provided the areas and population of cities having a population of 150,000 or
7 more shall not be considered in making such apportionment, and the latest available United
8 States decennial census shall be used; provided further, that if traffic on any supplementary state
9 highway becomes such that a higher type than ordinary supplementary highway construction
10 shall be required, then the [commission] **department** may construct such higher type and charge
11 such extra cost to unallotted state highway funds. Supplementary state highways shall be
12 selected by mutual agreement of the [commission] **director** and the local officials having charge
13 of or jurisdiction over roads in the territory through which such supplementary state highways
14 are to be constructed.

Section 37(a). The department of mental health shall be in charge of a director who shall
2 be appointed by the [commission, as provided by law, and] **governor**, by and with the advice and
3 consent of the senate. The department shall provide treatment, care, education and training for
4 persons suffering from mental illness or retardation, shall have administrative control of the state
5 hospitals and other institutions and centers established for these purposes and shall administer
6 such other programs as provided by law.

Section 40(a). The control, management, restoration, conservation and regulation of the

2 bird, fish, game, forestry and all wildlife resources of the state, including hatcheries, sanctuaries,
3 refuges, reservations and all other property owned, acquired or used for such purposes and the
4 acquisition and establishment thereof, and the administration of all laws pertaining thereto, shall
5 be vested in a **department of conservation** [commission consisting of four members], **which**
6 **shall be in charge of a director of conservation** appointed by the governor, by and with the
7 advice and consent of the senate[, not more than two of whom shall be of the same political
8 party. The members shall have knowledge of and interest in wildlife conservation. The
9 members shall hold office for terms of six years beginning on the first day of July of consecutive
10 odd years. Two of the terms shall be concurrent; one shall begin two years before and one two
11 years after the concurrent terms. If the governor fails to fill a vacancy within thirty days, the
12 remaining members shall fill the vacancy for the unexpired term. The members shall receive no
13 salary or other compensation for their services as members, but shall receive their necessary
14 traveling and other expenses incurred while actually engaged in the discharge of their official
15 duties.] **The present members of the conservation commission shall serve as such until a**
16 **director has been appointed by the governor and confirmed by the senate.**

Section 41. The [commission] **department** may acquire by purchase, gift, eminent
2 domain, or otherwise, all property necessary, useful or convenient for its purposes, and shall
3 exercise the right of eminent domain as provided by law for the [highway commission]
4 **department of transportation.**

Section 42. The [commission shall appoint a] director of conservation [who, with its
2 approval,] shall appoint the assistants and other employees deemed necessary [by the
3 commission]. The [commission] **director** shall fix the qualifications and salaries of [the director
4 and] all appointees and employees[, and none of its members shall be an appointee or employee].

Section 43(a). For the purpose of providing additional moneys to be expended and used
2 by the [conservation commission,] department of conservation, for the control, management,
3 restoration, conservation and regulation of the bird, fish, game, forestry and wildlife resources
4 of the state, including the purchase or other acquisition of property for said purposes, and for the
5 administration of the laws pertaining thereto, an additional sales tax of one-eighth of one percent
6 is hereby levied and imposed upon all sellers for the privilege of selling tangible personal
7 property or rendering taxable services at retail in this state upon the sales and services which now
8 are or hereafter are listed and set forth in, and, except as to the amount of tax, subject to the
9 provisions of and to be collected as provided in the "Sales Tax Law" and subject to the rules and
10 regulations promulgated in connection therewith; and an additional use tax of one-eighth of one
11 percent is levied and imposed for the privilege of storing, using or consuming within this state
12 any article of tangible personal property as set forth and provided in the "Compensating Use Tax
13 Law" and, except as to the amount of the tax, subject to the provisions of and to be collected as

14 provided in the "Compensating Use Tax Law" and subject to the rules and regulations
15 promulgated in connection therewith.

Section 43(b). The moneys arising from the additional sales and use taxes provided for
2 in section 43(a) hereof and all fees, moneys or funds arising from the operation and transactions
3 of the [conservation commission,] department of conservation, and from the application and the
4 administration of the laws and regulations pertaining to the bird, fish, game, forestry and wildlife
5 resources of the state and from the sale of property used for said purposes, shall be expended and
6 used by the [conservation commission,] department of conservation, for the control,
7 management, restoration, conservation and regulation of the bird, fish, game, forestry and
8 wildlife resources of the state, including the purchase or other acquisition of property for said
9 purposes, and for the administration of the laws pertaining thereto, and for no other purpose. The
10 moneys and funds of the **department of** conservation [commission] arising from the additional
11 sales and use taxes provided for in 43(a) hereof shall also be used by the [conservation
12 commission,] department of conservation[,], to make payments to counties for the unimproved
13 value of land for distribution to the appropriate political subdivisions as payment in lieu of real
14 property taxes for privately owned land acquired by the commission after July 1, 1977 and for
15 land classified as forest cropland in the forest cropland program administered by the department
16 of conservation in such amounts as may be determined by the [conservation commission]
17 **director**, but in no event shall the amount determined be less than the property tax being paid
18 at the time of purchase of acquired lands.

Section 45. The rules and regulations of the [commission] **department of conservation**
2 not relating to its organization and internal management shall become effective not less than ten
3 days after being filed with the secretary of state as provided in section 16 of this article, and such
4 final rules and regulations affecting private rights as are judicial or quasi-judicial in nature shall
5 be subject to the judicial review provided in section 22 of article V.

Section 49. The department of labor and industrial relations shall be in charge of a
2 ["Labor and Industrial Relations Commission" consisting of three members] **director of labor**
3 **and industrial relations** appointed by the governor by and with the advice and consent of the
4 senate. [One member of the commission shall be a person who, on account of his previous
5 vocation, employment, affiliation or interests shall be classified as a representative of employers,
6 and one member who, on account of his previous vocation, employment, affiliation or interests
7 shall be classified as a representative of employees, and one member, who, by reason of his
8 previous activities and interests shall be classified as a representative of the public and who is
9 licensed to practice law in the state of Missouri; except that not more than two members of the
10 commission shall be of the same political party. A member of the commission shall be
11 designated by the governor as the chairman. The labor and industrial commission shall be the

12 successor to the industrial commission and the terms of members shall be as provided by law for
13 the industrial commission.] The department shall also administer the programs of the state
14 relating to the protection and improvement of human rights.

Section 50. The office of administration shall be in charge of a [commissioner] **director**
2 of administration. The [commissioner] **director** shall be appointed by the governor by and with
3 the advice and consent of the senate.

Section 52. There shall be established a department of higher education[. A
2 "Coordinating Board for Higher Education"] which shall [consist of nine members] **be in charge**
3 **of a director of higher education** appointed by the governor by and with the advice and consent
4 of the senate [shall be established within the department. The qualifications and terms of the
5 members of the board shall be fixed by law, but not more than five of its members shall be of
6 the same political party. The coordinating board shall succeed the commission on higher
7 education with all its powers and duties and shall have such other powers and duties as may be
8 prescribed by law]. **The present members of the coordinating board shall serve as such until**
9 **a director has been appointed by the governor and confirmed by the senate.**

Section 2(a). The supervision of instruction in the public schools shall be vested in a
2 [state board] **department of elementary and secondary** education, [consisting of eight lay
3 members] **which shall be in charge of a director of elementary and secondary education**
4 appointed by the governor, by and with the advice and consent of the senate[; provided, that at
5 no time shall more than four members be of the same political party. The term of office of each
6 member shall be eight years, except the terms of the first appointees shall be from one to eight
7 years, respectively. While attending to the duties of their office, members shall be entitled to
8 receive only actual expenses incurred, and a per diem fixed by law]. **The present members of**
9 **the state board of education shall serve as such until a director has been appointed by the**
10 **governor and confirmed by the senate.**

Section 5. The proceeds of all certificates of indebtedness due the state school fund, and
2 all moneys, bonds, lands, and other property belonging to or donated to any state fund for public
3 school purposes, and the net proceeds of all sales of lands and other property and effects that may
4 accrue to the state by escheat, shall be paid into the state treasury, and securely invested under
5 the supervision of the [state board] **director of elementary and secondary** education, and
6 sacredly preserved as a public school fund the annual income of which shall be faithfully
7 appropriated for establishing and maintaining free public schools, and for no other uses or
8 purposes whatsoever.

[Section 2(b). The board shall select and appoint a commissioner of
2 education as its chief administrative officer, who shall be a citizen and resident of the
3 state, and removable at its discretion. The board shall prescribe his duties and fix his
4 compensation, and upon his recommendation shall appoint the professional staff and

5 fix their compensation. The board shall succeed the state board of education
6 heretofore established, with all its powers and duties, and shall have such other
7 powers and duties as may be prescribed by law.]