

SECOND REGULAR SESSION

HOUSE JOINT RESOLUTION NO. 71

95TH GENERAL ASSEMBLY

INTRODUCED BY REPRESENTATIVES KOENIG (Sponsor) AND GUERNSEY (Co-sponsor).

4371L.011

D. ADAM CRUMBLISS, Chief Clerk

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 House of Representatives, the Senate 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, 2010, 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Section A. Section 4(d), article X, Constitution of Missouri, is repealed and one new section adopted in lieu thereof, to be known as section 4(d), to read as follows:

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

2. For all tax years beginning on or after January 1, 2012, no tax shall be imposed upon any income derived from any source within this state, and all revenues lost as a result of the prohibition on the taxation of income under this section shall be replaced by the levy

EXPLANATION — Matter enclosed in bold-faced brackets [thus] in the above bill is not enacted and is intended to be omitted from the law. Matter in **bold-face** type in the above bill is proposed language.

11 and imposition of a tax upon the consumption or use in this state of taxable property or
12 services. Taxable property or services shall mean any property (including leaseholds of
13 any term or rents with respect to such property but excluding intangible personal property
14 and used property) and any service consumed or used in this state, except for such
15 property purchased to be a component part or ingredient of the new tangible personal
16 property to be sold at retail. No tax shall be imposed under this section on any taxable
17 property or service purchased for a business purpose in a trade or business, including
18 agriculture, or purchased for an investment purpose and held exclusively for an investment
19 purpose. For purposes of this section, the term "purchased for a business purpose in a
20 trade or business" shall mean purchased by a person engaged in a trade or business and
21 used in that trade or business for resale, to produce, provide, render or sell taxable
22 property or services, or in furtherance of other bona fide business purposes. For purposes
23 of this section, the term "purchased for an investment purpose" shall mean property
24 purchased exclusively for purposes of appreciation or the production of income, and
25 tuition and fees paid to an accredited institution of higher education for educational
26 services. All sales tax exemptions in place as of the effective date of this section exempting
27 purchases other than the purchases enumerated in this article shall be void.

28 3. The rate of the tax levied and imposed under subsection 2 of this section shall be
29 five and eleven one-hundredths percent. As may be recommended by the tax adjustment
30 commission established by subsection 8 of this section or otherwise, the general assembly
31 may enact one rate adjustment, to be effective no later than the beginning of fiscal year
32 2013, after the imposition of such tax if the revenue lost as a result of the prohibition on the
33 taxation of income is greater than or less than the revenue received from the tax imposed
34 in this section. Notwithstanding the limitation on total state revenues as provided in article
35 X, section 18 of this constitution, such adjustment shall be calculated to ensure that the
36 amount of revenue received is substantially equal to the amount of revenue that would
37 have been generated by the taxes repealed under this section averaged over the three
38 immediately preceding fiscal years. Local political subdivisions shall recalculate their local
39 tax rates, including local tax revenue to be deposited in the school district trust fund,
40 affected by this section to produce the same or substantially similar revenue as collected
41 in the immediately previous fiscal year. The general assembly may provide by law for
42 determining the scope of taxable services and for otherwise implementing the provisions
43 of this section. Exemptions from such tax may be provided by law upon an affirmative
44 vote of at least two-thirds of the elected members of both chambers and approval by the
45 governor.

46 **4. Notwithstanding the provisions of sections 43(a) and 47(a) of article IV of this**
47 **constitution, the rates of tax levied and imposed under those sections shall undergo a one-**
48 **time calculation, taking into account any adjustment in the tax base. This recalculation**
49 **would determine the new rates that would produce an amount of revenue for the fiscal**
50 **year of recalculation substantially equal to the amount actually received in the year or**
51 **recalculation under the prior rate described in those sections of the constitution. These**
52 **new tax rates shall be recalculated in this same manner should the rate of tax levied under**
53 **section 4(d) of article X of this constitution be readjusted.**

54 **5. The taxes that are replaced under this section are as follows:**

55 **(1) Withholding taxes and individual and corporate income taxes;**

56 **(2) Corporation franchise and bank franchise taxes;**

57 **(3) All existing state sales and use taxes;**

58 **(4) All local earnings taxes authorized by state law.**

59 **6. The department of revenue shall determine a method for providing sales tax**
60 **rebate for each duly registered qualified household of this state. The sales tax rebate shall**
61 **be distributed to each qualified household beginning January 1, 2012. The monthly**
62 **amount of the rebate shall be equal to the product of the rate of sales tax established under**
63 **this section and one-twelfth of the annual poverty guidelines updated periodically in the**
64 **Federal Register by the United States Department of Health and Human Services under**
65 **the authority of 42 U.S.C. Section 9902(2), as amended.**

66 **7. The department of revenue shall promulgate rules as otherwise provided by law**
67 **to implement the provisions of this section.**

68 **8. There is hereby created a "Tax Adjustment Commission", whose members shall**
69 **be the governor, or his or her designee, the chair of the house budget committee, and the**
70 **chair of the senate appropriations committee. The purpose of the tax adjustment**
71 **commission shall be to recommend a one-time adjustment to the rate of tax established in**
72 **subsection 3 of this section. The commission shall meet prior to January 1, 2013, to**
73 **conduct studies of a tax rate adjustment which would provide an amount substantially**
74 **equal to the amount of revenue that would have been generated by the taxes repealed**
75 **under this section in fiscal year 2011. The tax rate adjustment shall only be recommended**
76 **to the general assembly upon unanimous vote of the commission. If the general assembly**
77 **is not in regular or special session at the time the commission's recommendation is**
78 **received, the general assembly shall automatically convene in special session within**
79 **fourteen days of receipt of the recommendation. A concurrent resolution, not subject to**
80 **substantive amendment in either chamber, shall be introduced in the house of**
81 **representatives for approval or rejection. If approved, the concurrent resolution shall be**

82 considered by the senate for approval or rejection. If approved by both chambers, the
83 concurrent resolution shall be presented to the governor, and, within fourteen days of such
84 presentment, the governor shall return the concurrent resolution to the house of
85 representatives endorsed with his or her approval or accompanied by his or her objections.
86 If the concurrent resolution is approved by the governor, the tax rate adjustment shall
87 become effective at the beginning of the following calendar quarter. If the concurrent
88 resolution is not approved by the governor, the general assembly shall automatically
89 convene in special session within fourteen days of such disapproval to reconsider the
90 resolution as otherwise provided in section 32 of article III of this constitution. If the
91 concurrent resolution is approved by the required two-third majority, the tax rate
92 adjustment shall become effective at the beginning of the following calendar quarter.

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

97 **10. The provisions of this section are severable. If any provision of this section is**
98 **found by a court of competent jurisdiction to be unconstitutional, the remaining provisions**
99 **are valid except to the extent that the court finds that the valid provisions, standing alone,**
100 **are incomplete and are incapable of being executed in accordance with the will of the**
101 **people.**

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

5 "A 'yes' vote will amend the Constitution of the State of Missouri to eliminate individual
6 and corporate income tax, and state sales and use tax and to enact a single, revenue-neutral sales
7 tax of five and eleven one-hundredths percent on new purchases of goods and services, and to
8 exempt property purchased for business or investment from the sales tax, and to provide each
9 qualified family with a sales tax rebate to ensure no state sales tax is paid on purchases up to the
10 federal poverty level.

11 A 'no' vote would not amend the Constitution of the State of Missouri."

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