

FIRST REGULAR SESSION

HOUSE JOINT RESOLUTION NO. 23

98TH GENERAL ASSEMBLY

INTRODUCED BY REPRESENTATIVE KOENIG.

0834H.011

D. ADAM CRUMBLISS, Chief Clerk

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 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, 2016, 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Section A. Sections 1 and 6(a), article X, Constitution of Missouri, are repealed and eleven new sections adopted in lieu thereof, to be known as sections 1(a), 1(b), 1(c), 1(d), 1(e), 1(f), 1(g), 1(h), 1(i), 1(j), and 6(a), to read as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, 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, 2019;

(2) Authorizing any county or other political subdivision to enact, levy, or impose a tax on or measured by the income or earnings of an individual, except any tax on or measured by the income or earnings of an individual that was lawfully enacted and

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.

10 imposed by a city prior to January 1, 2016, and continues to be lawfully renewed by voters
11 of such city; or

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

Section 1(b). For tax years beginning on or after January 1, 2016, the following
2 laws are repealed:

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

6 (2) Any law enacted by the general assembly that authorizes any county or other
7 political subdivision to impose a tax for county, municipal, and other corporate purposes
8 that is on or measured by the income or earnings of an individual, except any law imposing
9 a tax on or measured by the income or earnings of an individual that was lawfully enacted
10 and imposed by a city prior to January 1, 2016, and continues to be lawfully renewed by
11 voters of such city.

Section 1(c). (1) For tax years beginning on or after January 1, 2017, any law
2 enacted by the general assembly that imposes a tax for state purposes that is on or
3 measured by the income or earnings of an individual shall not be more than three percent.

4 (2) For tax years beginning on or after January 1, 2019, any law enacted by the
5 general assembly that imposes a tax for state purposes that is on or measured by the
6 income or earnings of an individual shall be repealed.

7 (3) The general assembly shall enact a law with an effective date no later than
8 January 1, 2019, to provide a mechanism for the continuation of any property tax relief
9 available for senior citizens and disabled individuals in the tax year beginning January 1,
10 2015, and which was, for that tax year, provided in the form of an income tax credit.

Section 1(d). For tax years beginning on or after January 1, 2017, all laws enacted
2 by the general assembly for state purposes prior to the effective date of this section
3 imposing sales and use taxes and exemptions thereto are repealed, except taxes on alcohol,
4 aviation fuel, insurance products, tobacco, any taxes imposed by article IV, sections 43(a)
5 and 47(a), or any taxes provided for by article IV, section 30(a), and exemptions thereto.

Section 1(e). (1) The general assembly shall enact a law, effective January 1, 2017,
2 imposing and levying a tax on all sales and services, except those sales and services
3 exempted under section 1(f) of this article, at a rate that shall not exceed five percent prior
4 to January 1, 2019, except for the rate of tax imposed on food which shall not exceed four
5 percent prior to January 1, 2019. On and after January 1, 2019, the sum of the rate of such

6 tax on sales and services other than food plus the rates of the taxes calculated in section
7 1(h) of this article shall not exceed seven percent, and the rate of tax on the sale of food plus
8 the rates of the taxes calculated in section 1(h) of this article shall not exceed five and one-
9 half percent.

10 (2) All revenues collected from the tax imposed pursuant to this section shall be
11 deposited into the general revenue fund of the state of Missouri and be subject to
12 appropriation by the general assembly, unless otherwise restricted or appropriated by this
13 constitution, except a portion of the revenues collected from the tax imposed under this
14 section shall be deposited into the school district trust fund or any successor fund, to be
15 distributed to the school districts of the state as provided by law, so that such fund receives
16 no less than the amount of revenue as such fund received on average annually in fiscal
17 years 2011 to 2015.

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

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

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

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

8 (3) Professional services;

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

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

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

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

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

21 (9) Services rendered by an employee for his or her employer;

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

- 23 **(11) Sales or services directly used for agricultural trade or agricultural business**
24 **purposes;**
- 25 **(12) Sales of materials, fuel, manufactured goods, machinery, equipment, parts, or**
26 **replacement parts used or consumed in manufacturing, processing, compounding, mining,**
27 **producing, fabricating, researching, or developing a product or producing a service,**
28 **controlling pollution, or that become a component part or ingredient of a product or**
29 **service;**
- 30 **(13) Construction, warehousing, computer system, software design, employment,**
31 **call center, and payroll processing services;**
- 32 **(14) Sales of stocks, bonds, financial instruments, and other similar intangible**
33 **personal property;**
- 34 **(15) Sales of bullion or coins, artistic works, precious stones, or other tangible**
35 **personal property held exclusively for investment purposes;**
- 36 **(16) Sales of insurance products and insurance services;**
- 37 **(17) Sales of railroad rolling stock for use in transporting persons or property in**
38 **interstate commerce and motor vehicles licensed for a gross weight of twenty-four**
39 **thousand pounds or more and trailers used by common carriers in the transportation of**
40 **persons or property;**
- 41 **(18) Sales of barges which are to be used primarily in the transportation of**
42 **property or cargo on interstate waterways;**
- 43 **(19) The purchase or storage of tangible personal property by any common carrier**
44 **engaged in the interstate air transportation of persons and cargo;**
- 45 **(20) Gaming sales, services, wagers, winnings, or admission fees related to licensed**
46 **bingo, racing, or excursion gambling boat activities;**
- 47 **(21) Sales or services to or for the benefit of the United States of America, any state,**
48 **county, other political subdivision, foreign government, or a charitable organization**
49 **exempt from taxation under federal law, and the sale or service is in furtherance of the**
50 **purpose of the state, county, or other political subdivision, or a charitable organization;**
- 51 **(22) Sales made through the use of federal food stamp coupons or any successor**
52 **program;**
- 53 **(23) Sales for which federal government coupons or vouchers under the**
54 **supplemental feeding for women, infants, and children program or any successor program**
55 **are used as payment;**
- 56 **(24) Sales exempted from state taxation under any other federal program that**
57 **requires a state that chooses to participate in such a program to be exempt from tax;**

58 **(25) Nonproprietary sales made by or nonproprietary services performed by the**
59 **state, a county, or other political subdivision;**

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

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

Section 1(g). (1) "Cumulative sales tax rate" as used in section 1(i) of this article
2 **shall mean the rate of the state sales tax, levied, and imposed under section 1(e), plus the**
3 **rate of the taxes imposed by article IV, sections 43(a) and 47(a), as calculated in section**
4 **1(h), plus the rate of sales and use taxes, as calculated in section 1(i) of this article, or newly**
5 **imposed sales and use taxes, imposed by counties, other political subdivisions, and other**
6 **taxing jurisdictions, but excluding any taxes imposed by transportation development**
7 **districts or community improvement districts.**

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

12 **(3) "Sales" as used in sections 1(a) through 1(j) of this article shall mean any**
13 **transfer, rental, lease, exchange, or barter, conditional or otherwise in any manner or by**
14 **any means whatsoever of tangible property, not purchased for resale or leasing, for**
15 **consideration. "Sales" shall also include the privilege of storing, using, or consuming**
16 **within this state any article of tangible property on or after January 1, 2017.**

17 **(4) "Services" as used in sections 1(a) through 1(j) of this article shall mean all**
18 **activities for the benefit, use, or consumption, regardless if paid by a fee, retainer,**
19 **commission, or other consideration, if such activities involve predominantly the**
20 **performance of a service as distinguished from the sale of property.**

Section 1(h). Notwithstanding the provisions of article IV, sections 43(a) and 47(a)
2 **of this constitution, effective January 1, 2017, the tax levied and imposed pursuant to those**
3 **sections shall be imposed on the same tax base as the tax authorized under section 1(e) of**
4 **this article. The rates of tax levied and imposed under sections 43(a) and 47(a) of article**
5 **IV of this constitution shall be recalculated, no later than May 1, 2016, and adjusted to**
6 **produce an amount of revenue for the 2017 fiscal year substantially equal to the amount**
7 **received on average annually in fiscal years 2011 to 2015, however, on and after January**
8 **1, 2019, the sum of such rates plus the rate of the tax authorized in section 1(e) of this**
9 **article shall not exceed seven percent. The general assembly shall provide for the**

10 procedure by which such tax rates shall be recalculated and the rate of tax may be
11 readjusted in the same manner one time after January 1, 2017, and before January 1, 2019,
12 to provide an amount of revenue for each fiscal year substantially equal to the amount
13 received on average annually in fiscal years 2011 to 2015.

Section 1(i). (1) Effective January 1, 2017, all provisions of laws, ordinances, or
2 resolutions exempting sales and services other than the sales and services exempted under
3 sections 1(a) through 1(j) and 25 of this article from taxation by counties, other political
4 subdivisions, or other taxing jurisdictions, as well as all provisions establishing the rate of
5 the tax on such sales and services, except those exemptions or exclusions expressly
6 approved by local voters and in effect as of January 1, 2015, shall be void.

7 (2) A new rate shall be imposed by the counties, other political subdivisions, and
8 other taxing jurisdictions on sales and services necessary to produce an amount of revenue
9 substantially equal to the amount that was produced by the prior rate of the tax on average
10 in the five years prior to January 1, 2017.

11 (3) The department of revenue shall calculate the new rate under a process the
12 general assembly shall establish by law, and shall provide the new rate to the counties,
13 other political subdivisions, and other taxing jurisdictions no later than September 1, 2016.
14 The general assembly shall include a process for allowing taxpayers, counties, other
15 political subdivisions, and other taxing jurisdictions to appeal the recalculation in this
16 section, provided that such appeal be filed by January 1, 2019. The department of revenue
17 may recalculate the new rate under the process established by the general assembly one
18 time after January 1, 2017, but before January 1, 2019.

19 (4) On or after January 1, 2019, the cumulative sales tax rate shall only exceed ten
20 percent, if either:

21 (a) The cumulative sales tax rate exceeds ten percent, if the new rate established
22 under section 1(i)(3) of this article is effective, and such rate shall be reduced to the extent
23 that the county, other political subdivision, or other taxing jurisdiction is no longer
24 authorized by law to impose, in whole or part, any sales tax which was a component of the
25 cumulative sales tax rate at the time the new rate was established under section 1(i)(3) of
26 this article; or

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

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

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

 Section 6(a). **1. The general assembly [may] shall provide that a portion of the assessed**
2 **valuation of real property actually occupied by the owner or owners thereof as a homestead, be**
3 **[exempted from the payment of taxes thereon, in such amounts and upon such conditions as may**
4 **be determined by law, and the general assembly may provide for certain tax credits or rebates**
5 **in lieu of or in addition to such an exemption, but any such law shall further provide for**
6 **restitution to the respective political subdivisions of revenues lost, if any, by reason of the**
7 **exemption, and any such law may also provide for comparable financial relief to persons who**
8 **are not the owners of homesteads but who occupy rental property as their homes] credited**
9 **against current tax liability in certain circumstances. If in the prior tax year, the property**
10 **tax liability on any parcel of subclass (1) real property increased by more than five percent**
11 **in a year of general reassessment or two and one-half in a year without general**
12 **reassessment, then any eligible owner of the property shall receive a property tax relief**
13 **credit in the amount of fifty percent of the increase above such thresholds for such year**
14 **against the current year's property tax liability. Eligible owners shall be sixty-five years**
15 **or older and have an income, including Social Security, of seventy-five thousand dollars**
16 **or less, adjusted annually based on the general price level as defined in section 17(3) of this**
17 **article. Owners in homes with an appraised value in excess of four hundred thousand**
18 **dollars, adjusted annually based on the general price level as defined in section 17(3) of this**
19 **article, are not eligible. The state shall reimburse local governments for seventy-five**
20 **percent of any credit taken under this section. Any eligible owner who receives a property**
21 **tax relief credit under this section shall not be eligible for any exemption, refund, credit,**
22 **or rebate under sections 1(c)(3) or 6(a)(2) of this article.**

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

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

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