

FIRST REGULAR SESSION
[P E R F E C T E D]
SENATE SUBSTITUTE NO. 2 FOR
SENATE COMMITTEE SUBSTITUTE FOR
SENATE JOINT RESOLUTION NO. 16
97TH GENERAL ASSEMBLY

INTRODUCED BY SENATOR KEHOE.

Offered March 13, 2013.

Senate Substitute No. 2 adopted, March 13, 2013.

Taken up for Perfection March 13, 2013. Bill declared Perfected and Ordered Printed.

TERRY L. SPIELER, Secretary.

1261S.06P

JOINT RESOLUTION

Submitting to the qualified voters of Missouri, an amendment repealing section 30(d) of article IV of the Constitution of Missouri, and adopting two new sections in lieu thereof relating to a temporary tax to improve the state highway system, city streets, county roads and the state transportation system.

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 IV of the Constitution of the state of Missouri:

Section A. Section 30(d), article IV, Constitution of Missouri, is repealed
2 and two new sections adopted in lieu thereof, to be known as sections 30(d) and
3 30(e), to read as follows:

Section 30(d). 1. No state revenues derived from highway users which are
2 **[to be allocated] imposed, collected, apportioned**, distributed or deposited in
3 the state road fund pursuant to either section 30(a) or section 30(b) shall be
4 diverted from the highway purposes and uses specified in subsection 1 of section
5 30(b). No state revenues derived from highway users which are **[to be allocated]**
6 **imposed, collected, apportioned**, distributed or deposited in the state road
7 bond fund pursuant to subdivision (3) of subsection 2 of section 30(b) shall be
8 diverted from the highway purposes and uses specified in said subdivision (3). **No**

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

9 state revenues which are imposed, collected, apportioned, distributed
10 or deposited into the state road fund or transportation sales tax fund
11 pursuant to section 30(e) of this article shall be diverted from the state
12 highway system purposes and uses and the state transportation system
13 purposes and uses specified in section 30(e) of this article.

14 2. All of the provisions of sections 29, 30(a), 30(b), 30(c) [and], 30(d), and
15 30(e) shall be self executing. All of the provisions of sections 29, 30(a), 30(b),
16 30(c) [and], 30(d), and 30(e) are severable. If any provision of sections 29, 30(a),
17 30(b), 30(c) [and], 30(d), and 30(e) is found by a court of competent jurisdiction
18 to be unconstitutional or unconstitutionally enacted, the remaining provisions of
19 these sections shall be and remain valid.

20 3. The provisions of sections [29, 30(a), 30(b), 30(c) and] 30(d) and 30(e)
21 shall become effective on [July 1, 2005] **January 1, 2015**.

Section 30(e). 1. To provide additional moneys for state highway
2 **system purposes and uses, city streets, county roads and state**
3 **transportation system purposes and uses:**

4 (1) First, except for food as defined under the Sales Tax Law, an
5 additional state sales tax of one percent is hereby levied and imposed
6 upon all sellers for the privilege of selling and leasing tangible personal
7 property or rendering taxable services at retail in this state upon the
8 sales and services which are now or are hereafter listed and set forth
9 in, and, except as to the amount of the tax, subject to the provisions of
10 and to be collected as provided in the "Sales Tax Law" and subject to
11 the rules adopted in connection therewith; and

12 (2) Second, except for food as defined under the Sales Tax Law,
13 an additional state use tax of one percent is hereby levied and imposed
14 for the privilege of storing, using, or consuming within this state any
15 article of tangible personal property and, except as to the amount of
16 the tax, subject to the provisions of and to be collected as set forth and
17 provided in the "Compensating Use Tax Law", and, subject to the rules
18 adopted in connection therewith; and an additional state use tax of one
19 percent is hereby levied and imposed on all new or used motor vehicles,
20 trailers, motorcycles, mopeds, motortricycles, boats, and outboard
21 motors that are purchased or acquired for use on the highways and
22 waterways of this state as set forth and as provided by law and, except
23 as to the amount of the tax, subject to the provisions of and to be
24 collected as set forth in state law and the rules and regulations
25 promulgated in connection therewith.

26 **2. The proceeds from the additional state sales and use taxes**
27 **imposed under this section shall be collected, apportioned, distributed,**
28 **and deposited by the department of revenue as provided in this**
29 **section. The term "proceeds from the additional state sales and use**
30 **taxes" used in this subsection shall mean and include all proceeds**
31 **collected by the department of revenue reduced only by refunds for**
32 **overpayments and erroneous payments of such taxes as permitted by**
33 **law and the department's actual costs to collect the proceeds, which**
34 **shall not exceed one percent of the total amount of the tax**
35 **collected. The department's actual costs to collect these proceeds shall**
36 **be limited to actual costs incurred by the department of revenue,**
37 **including any other entity or person designated by law or by the**
38 **department to collect or to provide goods or services used to collect the**
39 **additional state sales and use taxes.**

40 **3. The proceeds from the additional state sales and use taxes**
41 **imposed under this section shall be apportioned, distributed, and**
42 **deposited by the director of revenue as follows:**

43 **(1) Five percent of the proceeds, which shall be considered**
44 **nonstate funds under section 15 of this article, shall be deposited into**
45 **a special trust fund known as the "County Aid Transportation Fund",**
46 **which is created in the state treasury. Moneys in the county aid**
47 **transportation fund shall be apportioned and distributed to the various**
48 **counties of the state based on the county road mileage and assessed**
49 **rural land valuation calculations in subdivision (1) of subsection 1 of**
50 **section 30(a) of this article, except that five percent of these moneys**
51 **shall be apportioned and distributed solely to cities not within any**
52 **county in this state. Moneys in this fund shall be expended in the sole**
53 **discretion of the various counties for any of the county road and bridge**
54 **purposes and uses provided in subdivision (1) of subsection 1 of section**
55 **30(a) of this article, any state highway system purposes and uses**
56 **authorized under section 30(b) of this article, or for any county**
57 **transportation system purposes and uses as set forth in subdivision (4)**
58 **of this subsection;**

59 **(2) Five percent of the proceeds, which shall be considered**
60 **nonstate funds under section 15 of this article, shall be deposited into**
61 **a special trust fund known as the "Municipal Aid Transportation Fund",**
62 **which is created within the state treasury. Moneys in the municipal aid**
63 **transportation fund shall be apportioned and distributed to the various**

64 incorporated cities, towns, and villages in the state based on the
65 population ratio calculations in subdivision (2) of subsection 1 of
66 section 30(a) of this article. Moneys in this fund shall be expended in
67 the sole discretion of the various incorporated cities, towns, and
68 villages for any of the city road, street and bridge purposes, and uses
69 provided in subdivision (2) of subsection 1 of section 30(a) of this
70 article, any state highway system purposes and uses authorized under
71 section 30(b) of this article, or for any city transportation system
72 purposes and uses as set forth in subdivision (4) of this subsection;

73 (3) Ninety percent of the proceeds shall be deposited into a
74 special trust fund known as the "Transportation Sales Tax Fund", which
75 is created within the state treasury. Moneys in the transportation sales
76 tax fund shall stand appropriated without legislative action to be used
77 and expended in the sole discretion of the highways and transportation
78 commission for the following purposes and uses, and no other:

79 (a) For deposit into the state road fund for state highway system
80 purposes and uses authorized under section 30(b) of this article; or

81 (b) For state transportation system purposes and uses as set
82 forth in subdivision (4) of this subsection;

83 (4) The term "transportation system purposes and uses" shall
84 include authority for the commission, any county or city to plan, locate,
85 relocate, establish, acquire, construct, maintain, control, operate,
86 develop, and fund public transportation facilities such as, but not
87 limited to, aviation, mass transportation, transportation of elderly and
88 handicapped, railroads, ports, waterborne commerce, intermodal
89 connections, bicycle, and pedestrian improvements;

90 (5) All interest earned on moneys deposited into the county aid
91 transportation fund, the municipal aid transportation fund or the
92 transportation sales tax fund shall be credited to and deposited in such
93 fund. Unexpended balances in these funds at the end of the biennium shall
94 be exempt from any state law provisions relating to transfer of unexpended
95 balances to any other fund;

96 (6) The moneys apportioned or distributed under this section to the
97 transportation sales tax fund, county aid transportation fund, and municipal
98 aid transportation fund shall not be included within the definition of "total
99 state revenues" as that term is used in section 17 of article X of the Missouri
100 Constitution nor be considered as an "expense of state government" as that
101 term is used in section 20 of article X of the Missouri Constitution.

102 4. (1) Unless approved by the voters of this state, the general
103 assembly, counties, and municipalities are prohibited from increasing or
104 decreasing the tax upon or measured by motor fuel used to propel highway
105 motor vehicles from the rate of the tax authorized by law on January 1, 2013,
106 while this section is in effect.

107 (2) Unless approved by the voters of this state, the state highways and
108 transportation commission shall not own or operate a toll highway or toll
109 bridge on a state highway or bridge that is in existence on the effective date
110 of this amendment while the sales and use tax authorized by this section is
111 in effect. Unless approved by the voters of this state, a county or
112 municipality shall not own or operate a toll highway or toll bridge on any
113 highway or bridge under its jurisdiction that is in existence on the effective
114 date of this amendment while the sales and use tax authorized by this section
115 is in effect.

116 (3) (a) Prior to any election in which this section shall be submitted
117 to voters for approval, the commission shall approve a list of projects,
118 programs, and facilities on the state highway system and state transportation
119 system that shall be funded from the proceeds from the additional sales and
120 use taxes levied, imposed, collected, and deposited into the transportation
121 sales tax fund under this section.

122 (b) Starting in the first fiscal year following voter approval of this
123 section, the commission shall annually submit a report to the governor,
124 general assembly, and the joint committee on transportation oversight that
125 shall include the status of the approved list of projects, programs, and
126 facilities on the state highway system and state transportation system.

127 (c) In the annual report filed in the sixth fiscal year following voter
128 approval of this section, if the joint committee on transportation oversight
129 identifies and determines that any project, program, or facility on the
130 commission's approved list has not yet been included in the commission's
131 statewide transportation improvement program, then the joint committee,
132 by two-thirds majority of the members of the committee, shall identify each
133 specific project, program, or facility that has not been included in the
134 commission's statewide transportation improvement program and shall
135 within thirty legislative days recommend suspension of appropriations from
136 the transportation sales tax fund in an amount that is equivalent to the
137 amount of funds necessary for each specific project, program, or facility that
138 was not included.

139 (d) The general assembly may approve the recommendation of the

140 joint committee on transportation oversight by enactment of a concurrent
141 resolution. Such resolution may be introduced in either legislative chamber
142 no later than fourteen calendar days after receipt of the joint committee's
143 recommendation. The resolution shall not be subject to amendment by
144 either chamber and may only be approved in its entirety. The presiding
145 officer of each legislative chamber in which a concurrent resolution has been
146 introduced, shall submit it to a vote of the membership not sooner than seven
147 calendar days nor later than fourteen calendar days after introduction of the
148 concurrent resolution. The presiding officer of the chamber passing a
149 concurrent resolution shall immediately forward the resolution to the other
150 chamber and the presiding officer of that chamber shall submit it to a vote
151 of the membership not sooner than seven calendar days or later than
152 fourteen calendar days of its receipt from the other legislative chamber.

153 (e) Any suspension of the appropriations from the transportation
154 sales tax fund shall be null and void when the highways and transportation
155 commission amends its statewide transportation improvement program to
156 include each project, program, and facility identified in the joint committee's
157 recommendation.

158 (4) Upon voter approval of the temporary one percent state sales and
159 use taxes in this section at a general election held in 2014, or at a special
160 election to be called by the governor, this section shall be effective and
161 continue until a general election is held in 2024, or at a special election to be
162 called by the governor, to resubmit this section to the voters for
163 approval. The secretary of state shall prepare the ballot measure for such
164 ten-year resubmission. If approved by voters at the ten-year resubmission
165 election required by this subsection, this section shall continue to be
166 effective for an additional temporary ten year period. Every ten years
167 thereafter, the secretary of state shall submit to the voters for approval the
168 issue of whether the sales and use tax authorized by this section shall be
169 imposed for another ten-year period. If at any subsequent election the
170 majority of voters do not approve such issue, then this section shall
171 terminate on December thirty-first of the calendar year when the last
172 election was held.

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