

SECOND REGULAR SESSION

# SENATE JOINT RESOLUTION NO. 37

95TH GENERAL ASSEMBLY

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INTRODUCED BY SENATOR RIDGEWAY.

Read 1st time January 21, 2010, and ordered printed.

TERRY L. SPIELER, Secretary.

4214S.011

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## 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.

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*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, 2010, 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 X of the Constitution of the state of Missouri:

Section A. Section 4(d), article X, Constitution of Missouri, is repealed and  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

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

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

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

36           3. The rate of the tax levied and imposed under subsection 2 of  
37 this section shall be five and eleven one-hundredths percent. As may  
38 be recommended by the tax adjustment commission established by  
39 subsection 8 of this section or otherwise, the general assembly may  
40 enact one rate adjustment, to be effective no later than the beginning  
41 of fiscal year 2013, after the imposition of such tax if the revenue lost  
42 as a result of the prohibition on the taxation of income is greater than  
43 or less than the revenue received from the tax imposed in this  
44 section. Notwithstanding the limitation on total state revenues as  
45 provided in article X, section 18 of this constitution, such adjustment  
46 shall be calculated to ensure that the amount of revenue received is  
47 substantially equal to the amount of revenue that would have been  
48 generated by the taxes repealed under this section averaged over the  
49 three immediately preceding fiscal years. Local political subdivisions  
50 shall recalculate their local tax rates, including local tax revenue to be

51 deposited in the school district trust fund, affected by this section to  
52 produce the same or substantially similar revenue as collected in the  
53 immediately previous fiscal year. The general assembly may provide  
54 by law for determining the scope of taxable services and for otherwise  
55 implementing the provisions of this section. Exemptions from such tax  
56 may be provided by law upon an affirmative vote of at least two-thirds  
57 of the elected members of both chambers and approval by the governor.

58 4. Notwithstanding the provisions of sections 43(a) and 47(a) of  
59 article IV of this constitution, the rates of tax levied and imposed under  
60 those sections shall undergo a one-time recalculation, taking into  
61 account any adjustment in the tax base. This recalculation would  
62 determine the new rates that would produce an amount of revenue for  
63 the fiscal year of recalculation substantially equal to the amount  
64 actually received in the year of recalculation under the prior rate  
65 described in those sections of the constitution. These new tax rates  
66 shall be recalculated in this same manner should the rate of tax levied  
67 under section 4(d) of article X of this constitution be readjusted.

68 5. The taxes that are replaced under this section are as follows:  
69 (1) Withholding taxes and individual and corporate income taxes;  
70 (2) Corporation franchise and bank franchise taxes;  
71 (3) All existing state sales and use taxes;  
72 (4) All local earnings taxes authorized by state law.

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

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

84 8. There is hereby created a "Tax Adjustment Commission",  
85 whose members shall be the governor, or his or her designee, the chair  
86 of the house budget committee, and the chair of the senate  
87 appropriations committee. The purpose of the tax adjustment

88 commission shall be to recommend a one-time adjustment to the rate of  
89 tax established in subsection 3 of this section. The commission shall  
90 meet prior to January 1, 2013, to conduct studies of a tax rate  
91 adjustment which would provide an amount substantially equal to the  
92 amount of revenue that would have been generated by the taxes  
93 repealed under this section in fiscal year 2011. The tax rate adjustment  
94 shall only be recommended to the general assembly upon unanimous  
95 vote of the commission. If the general assembly is not in regular or  
96 special session at the time the commission's recommendation is  
97 received, the general assembly shall automatically convene in special  
98 session within fourteen days of receipt of the recommendation. A  
99 concurrent resolution, not subject to substantive amendment in either  
100 chamber, shall be introduced in the house of representatives for  
101 approval or rejection. If approved, the concurrent resolution shall be  
102 considered by the senate for approval or rejection. If approved by both  
103 chambers, the concurrent resolution shall be presented to the governor,  
104 and, within fourteen days of such presentment, the governor shall  
105 return the concurrent resolution to the house of representatives  
106 endorsed with his or her approval or accompanied by his or her  
107 objections. If the concurrent resolution is approved by the governor,  
108 the tax rate adjustment shall become effective at the beginning of the  
109 following calendar quarter. If the concurrent resolution is not  
110 approved by the governor, the general assembly shall automatically  
111 convene in special session within fourteen days of such disapproval to  
112 reconsider the resolution as otherwise provided in section 32 of article  
113 III of this constitution. If the concurrent resolution is approved by a  
114 two-third majority in each chamber, the tax rate adjustment shall  
115 become effective at the beginning of the following calendar quarter.

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

122       10. The provisions of this section are severable. If any provision  
123 of this section is found by a court of competent jurisdiction to be  
124 unconstitutional, the remaining provisions are valid except to the

125 **extent that the court finds that the valid provisions, standing alone, are**  
126 **incomplete and are incapable of being executed in accordance with the**  
127 **will of the people.**

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

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

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

Bill ✓

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