

SECOND REGULAR SESSION

[PERFECTED]

HOUSE JOINT RESOLUTION NO. 68

97TH GENERAL ASSEMBLY

INTRODUCED BY REPRESENTATIVES HINSON (Sponsor) AND SCHATZ (Co-sponsor).

5302H.02P

D. ADAM CRUMBLISS, Chief Clerk

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 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, 2014, 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 IV of the Constitution of Missouri:

Section A. Section 30(d), article IV, Constitution of Missouri, is repealed and two new sections adopted in lieu thereof, to be known as sections 30(d) and 30(e), to read as follows:

Section 30(d). 1. No state revenues derived from highway users which are [to be allocated] **imposed, collected, apportioned**, distributed, or deposited in the state road fund pursuant to either section 30(a) or section 30(b) shall be diverted from the highway purposes and uses specified in subsection 1 of section 30(b). No state revenues derived from highway users which are [to be allocated] **imposed, collected, apportioned**, distributed, or deposited in the state road bond fund pursuant to subdivision (3) of subsection 2 of section 30(b) shall be diverted from the highway purposes and uses specified in said subdivision (3). **No state revenues which are imposed, collected, apportioned, distributed, or deposited into the state road fund or transportation safety and job creation fund pursuant to section 30(e) of this article shall**

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 be used for administrative purposes or diverted from the state highway system purposes
11 and uses and the state transportation system purposes and uses specified in section 30(e)
12 of this article. The oversight division of the committee on legislative research shall conduct
13 a program evaluation of the department of transportation to ensure the additional funds
14 under section 30(e) are used as required under this article and provide a report to the
15 general assembly by January 1, 2020.

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

21 3. The provisions of [sections 29, 30(a), 30(b), 30(c) and 30(d)] this section and section
22 30(e) shall become effective on [July 1, 2005] January 1, 2015.

Section 30(e). 1. To provide additional moneys for state highway system purposes
2 and uses, city streets, county roads and state transportation system purposes and uses:
3 First, an additional state sales tax of one percent is hereby levied and imposed upon all
4 transactions on which the Missouri state sales tax is imposed, subject to the provisions of
5 and to be collected as provided in the Sales Tax Law and the rules adopted in connection
6 therewith; and Second, an additional state use tax of one percent is hereby levied and
7 imposed upon all transactions on which the Missouri state use tax is imposed, subject to
8 the provisions of and to be collected as provided in the Compensating Use Tax Law and
9 the rules adopted in connection therewith. No tax levied or imposed under this Section
10 30(e) shall apply to the retail sale of food as defined in the Sales Tax Law.

11 2. The proceeds from the additional state sales and use taxes imposed under this
12 section shall be collected, apportioned, distributed, and deposited by the department of
13 revenue as provided in this section. The term "proceeds from the additional state sales and
14 use taxes" used in this subsection shall mean and include all proceeds collected by the
15 department of revenue reduced only by refunds for overpayments and erroneous payments
16 of such taxes as permitted by law and the department's actual costs to collect these
17 proceeds, which shall not exceed one percent of the total amount of the tax collected. The
18 department's actual costs to collect these proceeds shall be limited to actual costs incurred
19 by the department of revenue, including any other entity or person designated by law or
20 by the department to collect or to provide goods or services used to collect the additional
21 state sales and use taxes.

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

25 **(1) Five percent of the proceeds shall be deposited into a special trust fund known**
26 **as the "County Aid Transportation Fund". Moneys in the county aid transportation fund**
27 **shall be apportioned and distributed to the various counties of the state based on the**
28 **county road mileage and assessed rural land valuation calculations in subdivision (1) of**
29 **subsection 1 of section 30(a) of this article, except that five percent of these moneys shall**
30 **be apportioned and distributed solely to cities not within any county in this state. Moneys**
31 **in this fund shall be expended at the sole discretion of the various counties for any of the**
32 **county road and bridge purposes and uses provided in subdivision (1) of subsection 1 of**
33 **section 30(a) of this article, any state highway system purposes and uses authorized under**
34 **section 30(b) of this article, or for any county transportation system purposes and uses as**
35 **set forth in subdivision (4) of this subsection;**

36 **(2) Five percent of the proceeds shall be deposited into a special trust fund known**
37 **as the "Municipal Aid Transportation Fund". Moneys in the municipal aid transportation**
38 **fund shall be apportioned and distributed to the various incorporated cities, towns, and**
39 **villages in the state based on the population ratio calculations in subdivision (2) of**
40 **subsection 1 of section 30(a) of this article. Moneys in this fund shall be expended at the**
41 **sole discretion of the various incorporated cities, towns, and villages for any of the city**
42 **road, street and bridge purposes and uses provided in subdivision (2) of subsection 1 of**
43 **section 30(a) of this article, any state highway system purposes and uses authorized under**
44 **section 30(b) of this article, or for any city transportation system purposes and uses as set**
45 **forth in subdivision (4) of this subsection;**

46 **(3) Ninety percent of the proceeds shall be deposited into a special trust fund**
47 **known as the "Transportation Safety and Job Creation Fund", which is created within the**
48 **state treasury. Moneys in the transportation safety and job creation fund shall stand**
49 **appropriated without legislative action to be used and expended at the sole discretion of**
50 **the highways and transportation commission for the following purposes and uses, and no**
51 **other:**

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

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

56 **(4) The term "transportation system purposes and uses" shall include authority for**
57 **the commission, any county or any city to plan, locate, relocate, establish, acquire,**

58 construct, maintain, control, operate, develop, and fund public transportation facilities
59 such as, but not limited to, aviation, mass transportation, transportation for elderly and
60 handicapped persons, railroads, ports, waterborne commerce, intermodal connections,
61 bicycle, and pedestrian improvements;

62 (5) All interest earned on moneys deposited into the county aid transportation fund,
63 the municipal aid transportation fund or the transportation safety and job creation fund
64 shall be credited to and deposited into such fund. The unexpended balance remaining in
65 the county aid transportation fund, the municipal aid transportation fund, and the
66 transportation safety and job creation fund at the end of the biennium and after all
67 warrants on same have been discharged and the appropriation, if applicable, has lapsed,
68 shall not be transferred and placed to the credit of the general revenue fund of the state or
69 any other fund;

70 (6) The moneys apportioned or distributed under this section to the transportation
71 safety and job creation fund, county aid transportation fund, and municipal aid
72 transportation fund shall not be included within "total state revenues" under section 17
73 of article X of the Constitution of Missouri, nor be considered an "expense of state
74 government" under section 20 of article X of the Constitution of Missouri, nor be
75 considered "state revenue" under section 3(b) of article IX of the Constitution of Missouri,
76 but shall be subject to article X, section 21, of the Missouri Constitution.

77 4. (1) Unless approved by the voters of this state, the general assembly, counties,
78 and municipalities are prohibited from increasing or decreasing the tax upon, or measured
79 by, motor fuel used to propel highway motor vehicles from the rate of the tax authorized
80 by law on January 1, 2014, while this section is in effect.

81 (2) Unless approved by the voters of this state, the state highways and
82 transportation commission shall not authorize, own, or operate a toll highway or toll
83 bridge on a state highway or bridge that is in existence on January 1, 2014, while the sales
84 and use tax authorized by this section is in effect. Unless approved by the voters of the
85 applicable county or municipality, a county or municipality shall not authorize, own or
86 operate a toll highway or toll bridge on any highway or bridge under its jurisdiction that
87 is in existence on January 1, 2014, while the sales and use tax authorized by this section is
88 in effect.

89 (3) Prior to the effective date of this section and prior to any subsequent election
90 in which this section shall be submitted to voters for approval, the commission shall
91 approve its list of projects, programs, and facilities, with a priority given to safety, on the
92 state highway system and state transportation system that shall be funded from the
93 proceeds from the additional sales and use taxes deposited into the transportation safety

94 and job creation fund under this section. Starting in the second calendar year following the
95 effective date of this section, the commission shall annually submit a report to the
96 governor, general assembly, and joint committee on transportation oversight that shall
97 include the status of the approved list of projects, programs, and facilities on the state
98 highway system and state transportation system. During the ten-year period the
99 temporary tax is in effect, the commission shall include the approved projects, programs,
100 and facilities in one or more of the five-year statewide transportation improvement
101 programs approved by the commission. A taxpayer of the state shall have standing to
102 bring suit to compel the commission's inclusion of approved projects in a five-year
103 statewide transportation improvement program. All such suits shall be brought in the
104 circuit court of Cole County.

105 (4) Upon voter approval of the temporary one percent state sales and use tax in this
106 section at the general election held in 2014, or at a special election to be called by the
107 governor for that purpose, this section shall be effective January 1, 2015, and shall
108 continue for ten years. This section shall be resubmitted to the voters for approval at the
109 general election held in 2024. The secretary of state shall submit the ballot measure for
110 such ten-year resubmission. If approved by a simple majority of votes cast, this section
111 shall continue to be effective for an additional temporary ten-year period. Every ten years
112 thereafter, the secretary of state shall submit to the voters for approval the issue of whether
113 the sales and use tax authorized by this section shall be imposed for another ten-year
114 period. If at any subsequent general election a simple majority of votes cast do not approve
115 such issue, then this section shall terminate on December thirty-first of the calendar year
116 when the last election was held.

Section B. Pursuant to section 116.155, RSMo, and other applicable constitutional
2 provisions and laws of this state authorizing the general assembly to adopt ballot language for
3 the submission of a joint resolution to the voters of this state, the official ballot title of the
4 amendment proposed in section A shall be as follows:

5 "Should the Missouri Constitution be changed to enact a temporary sales tax of one
6 percent to be used solely to fund state and local highways, roads, bridges and transportation
7 projects for ten years, with priority given to repairing unsafe roads and bridges?"

Section C. Pursuant to section 116.155, RSMo, and other applicable constitutional
2 provisions and the laws of this state authorizing the general assembly to adopt a fiscal note
3 summary for the submission of a joint resolution to the voters of this state, the official fiscal note
4 summary of the amendment proposed by section A shall be as follows:

5 "This change is expected to produce \$651 million annually to the state's Transportation
6 Safety and Job Creation Fund and \$72 million for local governments. Increases in the gas tax

7 will be prohibited. This revenue shall only be used for transportation purposes and cannot be
8 diverted for other uses.”.

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