HJR 165

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Path to full text:
https://documents.house.mo.gov/billtracking/bills261/hlrbillspdf/6727H.01I.pdf

PART 1 — QUICK SNAPSHOT

1.1 One-Paragraph Overview (plain language)
HJR 165 asks Missouri voters to amend the Missouri Constitution on **November 3, 2026** to rewrite Article X, Section 26 (the current constitutional ban on expanding sales/use taxes to new services/transactions). In practice, it *keeps* the existing "no new service taxes" rule—but then creates a broad constitutional **exception** allowing the legislature to expand **state and local** sales/use taxes to "any goods and services" *if the stated purpose is to reduce/eliminate the state individual income tax*. It also attempts to carve these tax increases out of key **Hancock Amendment** limits and voter-approval requirements, meaning a major tax shift could occur with reduced constitutional taxpayer protections. Winners would likely be state government (more tax options and fewer constitutional restraints) and potentially higher-income taxpayers if income taxes fall; losers are typically working families and small businesses if the tax burden shifts toward consumption (sales taxes on services are generally more regressive).

1.2 Triage Table (Fast Flags)

- **Single-Subject / Clear Title (Art. III §23):** *Probably upheld legally* (taxation), but **fair-notice is poor** because the ballot summary/title do not plainly warn voters it weakens Hancock guardrails.
- **Title Specificity (0–3): 1** ("relating to taxation" = catch-all).
- **Department / Government Scope: Multiple** (state tax structure + local tax base + constitutional revenue limits/voter approval rules).
- **Does it grow government? Yes**—expands taxing power and tries to exempt it from constitutional limits.

- **Impact on Missouri families: Hurts** overall (likely shifts taxes onto consumption, raising costs broadly).
- **Alignment with Act for Missouri core beliefs: Violates** (weakens taxpayer protections; enlarges government's revenue tools).
- **Initial stance: Oppose — initial**

PART 2 — PURPOSE & PROVISION MAP

2.1 Stated Purpose & Title

- **Title/subject presented:** "relating to taxation."
- **What it really does:** It preserves Missouri's existing constitutional ban on taxing new services (adopted in 2016) **but** creates a sweeping carve-out so the legislature can tax essentially *anything* (goods and services) if it says the money is to reduce/eliminate the income tax—**and** it attempts to shield those changes from Hancock limits.

2.2 Provision-by-Provision Map

A) New Art. X, §26(1) — Re-states the current ban (baseline "no new service taxes")

- **Location:** Art. X, §26(1) (new)
- **Plain meaning:** Sales/use taxes cannot be expanded to services/transactions not taxed as of **Jan. 1, 2015**.
- **Tag: [Good]**
- **Why:** On its face, it continues a voter-adopted taxpayer protection.

B) New Art. X, §26(2) — Broad exception to allow taxing "any goods and services"

- **Location:** Art. X, §26(2) (new)
- **Plain meaning:** Despite the ban above, the legislature may expand state/local sales/use taxes to transactions involving **any goods and services** if it claims the purpose is reducing/eliminating the state income tax.
- **Tag: [Bad]**
- **Why:** This is a constitutional "escape hatch" that could enable a massive tax-base expansion on services (including everyday life and business services) and shift the tax burden in a regressive way.

C) New Art. X, §26(3) — Attempts to exempt these changes from Hancock limits/voter approval

- **Location:** Art. X, §26(3) (new)

- **Plain meaning:** Tax/revenue increases from these bills are declared **not "new annual revenue"** for Hancock purposes and are exempted from **Section 18 and 18(e)** constraints (and also references "Sections 30(a)–30(d)").
- **Tag: [Bad]**
- **Why:** Section 18(e) is specifically designed to require **voter approval** for large tax/fee increases over a constitutional threshold; this provision seeks to bypass that protection.

D) Ballot summary statement

- **Location:** Section B (ballot language)
- **Plain meaning:** Voters are told this allows eliminating the income tax and expanding the sales/use tax base for that purpose.
- **Tag: [Concern]**
- **Why:** It does **not plainly disclose** the attempted carve-outs from Hancock protections, which is a major "what voters deserve to know" problem.

2.3 Changes to Existing Law (High-Level)

- Repeals current Art. X §26 and re-enacts it **with a sweeping exception** tied to income tax reduction.
- Authorizes taxation of **previously untaxed services/transactions** under that exception.
- Attempts to exempt resulting revenue from **Hancock** limits and **voter-approval triggers** in §18(e).

PART 3 — CONSTITUTIONAL & PROCESS CHECKS

3.1 Single-Subject & Clear-Title / Fair-Notice (Art. III §23)

- **Main subject:** Taxation/state revenue structure.
- **Additional "barnacles":** Hancock-limit bypass language is a significant add-on with major voter-oversight implications.
- **Title clarity vs. real effects:** "Relating to taxation" is broad enough that a court might tolerate it, but ordinary citizens are not fairly warned that this measure attempts to **weaken Hancock protections**.
- **Conclusion: Borderline legal; clearly fails the fair-notice standard that the** Act for Missouri expects from constitutional changes.

3.2 Rights Implicated

- **Property/economic liberty:** Not a direct "rights" bill, but a structural move that can expand government's ability to extract revenue—especially from daily life transactions—raising serious limited-government concerns.
- **Due process clarity:** See drafting/cross-reference issue below.

3.3 Delegation / Separation of Powers

- No new boards or agencies, but it **constitutionally expands legislative discretion** over taxable transactions while reducing constitutional guardrails (Hancock).

PART 4 — IMPACT ON MISSOURI FAMILIES

4.1 Economic / Tax Impacts

- **Regressive tax shift risk:** Expanding sales taxes to services typically hits lower- and middle-income families harder as a share of income (they spend more of what they earn).
- **Small business cost stack:** Service-tax expansion can cascade through the economy (business-to-business services taxed, then costs passed to consumers).
- **Local tax exposure:** The text explicitly allows "state and local" sales/use taxes to be expanded under the exception.

4.2 Family / Parental Rights / Education

- Not directly implicated.

4.3 Moral & Cultural Climate

- Not directly implicated.

PART 5 — ACT FOR MISSOURI CORE PRINCIPLES CHECK

- **Limited government/taxpayer protection: Violates.** This is a constitutional mechanism to broaden taxing power and reduce Hancock restraints.
- **Property rights & economic liberty: Violates / Burdens.** Shifts taxation toward consumption and expands taxable events.
- **Constitutionalism & rule of law: Concern.** The measure includes a significant drafting/citation problem (below).

PART 7 — RED FLAGS, AMENDMENT IDEAS, FINAL RECOMMENDATION

7.1 Red-Flag List (Prioritized)

1. **Hancock Amendment Bypass / Reduced Voter Control**

- **Location:** Proposed Art. X §26(3)
- **Why it matters:** §18(e) exists to require **voter approval** when the legislature raises taxes/fees above a constitutional threshold; HJR 165 attempts to exempt the income-tax-swap revenue from those requirements. That is a major structural erosion of taxpayer protections.
- **Severity: Critical**

2. **Open-Ended Authority to Tax "Any Goods and Services" (Service-Tax Expansion Doorway)**

- **Location:** Proposed Art. X §26(2)
- **Why it matters:** This is extremely broad and could enable taxation of large categories of services and transactions that Missourians have historically resisted being taxed—creating a long-term "tax everything" constitutional permission slip.
- **Severity: Critical**

3. **Ballot Language / Fair-Notice Problem**

- **Location:** Ballot summary statement (Section B)
- **Why it matters:** It frames the measure as income tax reduction + broader sales tax base, but it does not clearly alert voters that the proposal attempts to **carve out Hancock protections**—a central feature voters deserve to understand before amending the Constitution.
- **Severity: Serious**

4. **Drafting Defect: References to "Sections 30(a)–30(d) of this article" (but Article X ends at §26)**

- **Location:** Proposed Art. X §26(3)
- **Why it matters:** Article X (Taxation) lists sections up through **§26**; it does not contain §30(a)–§30(d). This signals either careless drafting or an attempt to reference something else—either way, it invites litigation and uncertainty in a constitutional amendment.
- **Severity: Serious**

Necessity & Limited-Government Justification Test

- **Problem proof:** Not provided in the text.
- **Existing authority:** Income tax reductions can already be pursued legislatively; the "need" for a constitutional carve-out is not established.

- **Least-government option:** Fails. This is a maximal expansion of taxing authority plus weakened constitutional restraints.
- **Guardrails:** Weak to nonexistent (no required net tax reduction, no offset rules, no voter-approval backstop, no sunset).

7.2 Possible Fixes / Amendments

This is **too structurally problematic** to "tweak" into an acceptable measure. At minimum, any salvage effort would require (1) deleting the Hancock bypass, (2) adding hard constitutional guardrails guaranteeing a net tax reduction and voter approval triggers, and (3) correcting the defective cross-references—effectively rewriting the resolution.

Final Recommendation

Act for Missouri STRONGLY OPPOSES HJR 165. While it appears to "keep" the current constitutional sales-tax protection, the resolution actually creates a broad exception to tax "any goods and services" and attempts to exempt those tax increases from Hancock voter-protection mechanisms—an unacceptable expansion of government power and a major fair-notice problem for Missouri voters.