



HJR 174

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<https://documents.house.mo.gov/billtracking/bills261/hlrbillspdf/6852H.01I.pdf>

PART 1 – QUICK SNAPSHOT (HJR 174)

1.1 One-Paragraph Overview (Plain Language)

HJR 174 proposes a **Missouri constitutional amendment** that (a) creates a conditional “lock” against ever re-imposing a **state individual income tax** once certain legislatively-defined “revenue triggers” reduce the top rate below **1.4%** (no earlier than tax year **2031**), and (b) opens the door to a major **sales/use tax base expansion (including services)** if lawmakers claim it is “for the purpose” of reducing/eliminating the income tax. It also forces **local governments** to “offset” any windfall from an expanded sales-tax base by adjusting local tax rates/levies, but with a carve-out that **cannot reduce public-school funding**, which shifts pressure elsewhere. Finally, it includes an especially concerning provision that—if enacted within a defined window—can **exempt tax/revenue increases** tied to this plan from key taxpayer protections in the **Hancock Amendment** (Article X, §§18 and 18(e)).

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Who benefits: policymakers seeking to market “income tax elimination,” and potentially higher-consumption sectors that can shape which services get taxed and how.

Who bears risk: Missouri families (especially lower/middle income) facing broader sales taxes, and local taxpayers dealing with complicated yearly adjustments and potential tax shifts.

1.2 Triage Table (Fast Flags)

- **Single-Subject / Clear Title: Concerning** (bundles multiple distinct tax regimes + Hancock exemptions + local tax rebalancing mechanics).
- **Title Specificity (0–3): 1** (“relating to taxation” is generic; does not telegraph Hancock exemptions or forced local adjustments).

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- **Department / Government Scope: Multiple** (General Assembly tax triggers; Department of Revenue regulations; State Auditor calculations; political subdivisions forced adjustments; school-funding constraint).

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- **Does it grow government? Likely yes** (new constitutional machinery + DOR anti-circumvention regulatory role + ongoing compliance complexity).

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- **Impact on Missouri families: Likely hurts** (high risk of regressive base-broadening; instability/complexity; weakened Hancock guardrails).

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- **Initial stance: Oppose – initial**

PART 2 – PURPOSE & PROVISION MAP

2.1 Stated Purpose & Title

- **Title/summary thrust:** “Relating to taxation,” with ballot language emphasizing income-tax elimination + sales-tax base expansion + rate/levy reductions.

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- **What it *really* appears designed to accomplish:** Create constitutional permission and political cover to **shift Missouri away from income taxes and toward broader sales/use taxation**, while insulating early implementing legislation from Hancock constraints and forcing local governments into an annual “rebalancing” exercise.

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2.2 Provision-by-Provision Map (Major Clusters)

A) Article X, §4(d)(1) – Federal “income” conformity language

- **What it does:** Allows Missouri income-tax law to define “income” by reference to U.S. law, with modifications.
- **Tag:** [Mixed/Neutral] (technical baseline; not the controversial heart).

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B) Article X, §4(d)(2) – Conditional ban on *state individual income tax*

- **What it does:** If legislatively-created “revenue triggers” reduce the **top individual income tax rate below 1.4%** (no earlier than 2031), then **no individual income tax may be enacted or imposed** thereafter—while preserving collection of prior liabilities. It

excludes local earnings taxes and **excludes** entity-level income taxes (trusts/estates/corporations/LLCs/partnerships).

- **Tag:** [Bad]
- **Why:** The “trigger” is whatever future legislatures define—meaning the constitution is being used to **lock in an outcome based on variables politicians control**. The carve-out for taxing entities creates a **ready-made workaround**: you can “ban” individual income tax while still imposing income-style taxes indirectly through entities.

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C) Article X, §26(1) – Ban on sales/use tax base expansion beyond Jan. 1, 2015

- **What it does:** Restates a restriction that sales/use taxes cannot be expanded to new services/transactions beyond what was taxed on 1/1/2015.
- **Tag:** [Good] (in isolation).

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D) Article X, §26(2) – The exception that swallows the rule (base expansion for “income tax elimination”)

- **What it does:** Allows sales/use taxes (and similar transaction taxes) to be expanded to **any goods and services** if legislation **expressly states** it is “for the purpose of reducing and eliminating” the state individual income tax (defined loosely as anticipated direct/indirect contribution). It also forces **all local sales/use taxes** and constitutionally-imposed sales/use taxes to apply to the newly-authorized base.
- **Tag:** [Bad]
- **Why:** This is a constitutional “blank check” to tax services and transactions broadly, based on a **legislative finding** that can be asserted almost anytime. It also **overrides local voter expectations** by automatically applying local sales taxes to an expanded base without separate local approval.

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E) Article X, §26(3) – Mandatory local offsets (with a school-funding no-cut constraint)

- **What it does:** Starting 7/1/2029, local governments that levy sales/use tax must annually adjust rates/levies (sales tax rate, personal property levy, residential real property levy, or earnings tax rate) to reduce revenues by an amount “substantially equal” to the extra revenue caused by base expansion—but **cannot reduce public-school funding**.
- **Tag:** [Concern]

- **Why:** This is administratively heavy, vague (“substantially equal”), and it hard-codes a political priority (school funding) that may force offsets to come from **other taxpayers or services**, not true “taxpayer relief.”

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F) Article X, §26(4) – Automatic adjustment of constitutionally-imposed sales/use tax rates

- **What it does:** Beginning 7/1/2029 (rates effective 1/1/2029), constitutionally-imposed sales/use tax rates (except Art. XIV) are adjusted to produce inflation-adjusted median revenue from prior years, with the State Auditor calculating.
- **Tag:** [Mixed]
- **Why:** The intent sounds like rate discipline, but it is complex, centralized, and could create perverse incentives (e.g., pushing lawmakers toward other revenue tools if these rates are constrained).

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G) Article X, §26(5) – Hancock and other constitutional exemptions for early implementing laws

- **What it does:** If enacted within **three years** of the amendment’s effective date, any tax/revenue increase tied to this plan is **exempt from Hancock requirements** and “not considered new annual revenue” for purposes of Article X §§18 and 18(e). It also exempts such legislation from Article IV §§30(a)–(d).
- **Tag:** [Critical / Bad]
- **Why:** Hancock’s purpose is to restrain revenue growth and require voter approval for significant tax/fee increases. Article X §18 establishes a state revenue limit; §18(e) requires voter approval for certain tax/fee increases above thresholds. HJR 174 proposes to **sidestep those protections** at the very moment the plan would likely require the largest tax-base expansion.

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H) Article X, §26(6) – DOR regulatory power to prevent “circumvention,” define terms

- **What it does:** Authorizes the Director of Revenue to promulgate regulations to clarify/prohibit circumvention and define terms, “notwithstanding any provision of this Constitution to the contrary.”
- **Tag:** [Bad]
- **Why:** This is an unusually broad delegation in constitutional text, inviting mission creep and reducing legislative accountability for what is and is not taxed.

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2.3 Changes to Existing Law (High-Level)

- Creates a conditional constitutional prohibition on **state individual income tax** once triggers are met.

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- Authorizes potentially sweeping expansion of **sales/use tax to services** if labeled as income-tax elimination policy.

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- Forces political subdivisions into annual “offset” adjustments, constrained by a school-funding protection.

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- Attempts to exempt key implementing legislation from **Hancock Amendment guardrails** (Article X §§18 and 18(e)).

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- Grants the Department of Revenue broad regulatory authority to police “circumvention.”

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PART 3 – CONSTITUTIONAL & PROCESS CHECKS

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

- **Main subject (claimed):** Tax policy changes relating to reducing/eliminating state individual income tax.

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- **Additional subjects effectively bundled:**
 - Permanent structural limits on future income taxation (with carve-outs)
 - Sales/use tax base expansion authority over “any goods and services”
 - Forced local tax/levy adjustments (property tax, personal property, earnings tax)
 - State Auditor-driven revenue/rate formula changes
 - **Hancock exemption** window for implementing tax increases
 - DOR rulemaking power “notwithstanding” constitutional limits

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Conclusion: Even if litigated language might be defended as “all taxation,” this is **likely a fair-notice failure** to ordinary voters. The title and ballot framing do not candidly communicate that the measure can **weaken Hancock protections** during implementation and can **authorize broad new taxation of services**.

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3.2 Constitutional Rights Implicated

- **Property rights / economic liberty:** High risk of shifting to more regressive taxation and lowering transparency (services taxation often hides in receipts and vendor pricing).

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- **Due process / clarity:** Vague standards (“substantially equal,” “anticipated directly or indirectly”) invite administrative overreach and litigation.

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3.3 Delegation & Separation of Powers

- DOR is given sweeping authority to define terms and prevent “circumvention,” with “notwithstanding” language that reads like an attempt to outrank normal constitutional constraints.

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- This concentrates power upward (agency interpretation) rather than keeping tax burdens and definitions tightly controlled by elected lawmakers.

PART 4 – IMPACT ON MISSOURI FAMILIES

4.1 Economic, Tax Impacts

- **Burden (likely):** Expanding sales/use taxes to services typically falls hardest on households spending most of their income on consumption.

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- **Burden (structural):** Local “offset” mandates do not guarantee real relief; they can simply **move** the burden among tax types and taxpayers.

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- **Critical concern:** Hancock exists to limit state revenue growth and require voter approval for certain tax/fee hikes (Article X §§18 and 18(e)). HJR 174’s exemption window undermines those protections when they are most needed.

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4.2 Family / Parental / Education

- Not directly an education policy bill, but the “no reduction in school funding” constraint functions as a **hard-coded spending priority** that may force cuts elsewhere or prevent meaningful local tax-rate reductions.

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4.3 Moral & Cultural Climate

- Not directly implicated.

PART 5 – ACT FOR MISSOURI CORE PRINCIPLES CHECK (Summary)

- **Limited government / accountable taxation: Violates** (constitutional blank checks + agency discretion + weakened Hancock).

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- **Property rights & economic liberty: Mixed leaning negative** (marketed “relief,” but likely shifts burden and reduces transparency).

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- **Constitutionalism & rule of law: Violates in spirit** (bundling and fair-notice concerns; built-in workarounds; vague standards).

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PART 6 – SPECIAL TOPIC TESTS (Most Relevant)

6.1 Hancock / Taxpayer Protection Test

HJR 174 explicitly attempts to exempt early implementing legislation from Hancock constraints (Article X §§18 and 18(e)), which are core taxpayer safeguards.

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This is a major red flag because it invites the classic bait-and-switch: “We’re cutting income tax,” while temporarily removing the constitutional brake on how big the replacement tax scheme can become.

PART 7 – RED FLAGS, AMENDMENT IDEAS, & FINAL RECOMMENDATION

7.1 Red-Flag List (Prioritized)

1. Hancock Guardrails Bypassed During Implementation

- **Location:** Article X, §26(5).

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- **Why it matters:** Article X §18 sets a revenue limit; §18(e) requires voter approval for certain tax/fee increases. This resolution creates a pathway to increase taxes while claiming those increases “don’t count.”

2. Exception Swallows Rule: “For the Purpose” Standard Is Too Easy to Invoke

- **Location:** Article X, §26(2).

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- **Why it matters:** A simple legislative “finding” can justify taxing almost any service/transaction and automatically expanding local tax bases.

3. Built-In Workaround: Ban on “individual” income tax while allowing entity-level income taxation

- **Location:** Article X, §4(d)(2).

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- **Why it matters:** If lawmakers can’t tax “individual people,” they can shift an income-style tax to entities—often flowing back to families via prices, wages, or pass-through structures.

4. Open-Ended Delegation to Department of Revenue

- **Location:** Article X, §26(6).

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- **Why it matters:** Tax-base definition and enforcement should be legislatively explicit; this invites administrative expansion and unpredictability.

5. Forced Local “Offset” Adjustments with Vague Math and Political Constraints

- **Location:** Article X, §26(3).

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- **Why it matters:** Annual recalculation mandates, “substantially equal” standards, and the school-funding constraint create complexity and reduce local accountability.

7.2 Possible Fixes / Amendments

This is **too structurally far** from a clean, limited-government amendment to be “fixed” with minor tweaks. If lawmakers insisted on salvaging concepts, the only credible path would be to **split** the measure into clean stand-alone amendments:

- One narrow amendment about income tax policy (no sales-tax expansion).
- A separate amendment (if any) about sales-tax base changes—without Hancock exemptions.
- Remove DOR “notwithstanding” rulemaking language entirely.

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7.3 Final Recommendation

Act for Missouri OPPOSES HJR 174. While the headline claim is “income tax elimination,” the actual constitutional mechanism authorizes broad sales-tax expansion (including services), creates loopholes for alternative income-style taxation, delegates major authority to the executive branch, and—most importantly—undercuts Hancock taxpayer protections during implementation.