

SECOND REGULAR SESSION
[TRULY AGREED TO AND FINALLY PASSED]
SENATE SUBSTITUTE NO. 2 FOR

HOUSE BILL NO. 1460

99TH GENERAL ASSEMBLY



4687S.06T

2018

AN ACT

To repeal sections 142.803 and 143.121, RSMo, and to enact in lieu thereof three new sections relating to state revenues, with a referendum clause.

Be it enacted by the General Assembly of the state of Missouri, as follows:

Section A. Sections 142.803 and 143.121, RSMo, are repealed and three new sections
2 enacted in lieu thereof, to be known as sections 142.803, 143.121, and 226.145, to read as
3 follows:

142.803. 1. A tax is levied and imposed on all motor fuel used or consumed in this state
2 as follows:

3 (1) Motor fuel, seventeen cents per gallon **until June 30, 2019. For the fiscal year**
4 **beginning on or after July 1, 2019, and ending on or before June 30, 2020, such tax shall**
5 **be nineteen and one-half cents per gallon. For the fiscal year beginning on or after July**
6 **1, 2020, and ending on or before June 30, 2021, such tax shall be twenty-two cents per**
7 **gallon. For the fiscal year beginning on or after July 1, 2021, and ending on or before June**
8 **30, 2022, such tax shall be twenty-four and one-half cents per gallon. For all fiscal years**
9 **beginning on or after July 1, 2022, such tax shall be twenty-seven cents per gallon. Subject**
10 **to appropriation, the state portion of the revenue generated by the increases in the rate of**
11 **tax beginning July 1, 2019, shall be used for the actual cost of the state highway patrol in**
12 **administering and enforcing any state motor vehicle laws and traffic regulations;**

13 (2) Alternative fuels, not subject to the decal fees as provided in section 142.869, with
14 a power potential equivalent of motor fuel. In the event alternative fuel, which is not commonly

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.

15 sold or measured by the gallon, is used in motor vehicles on the highways of this state, the
16 director is authorized to assess and collect a tax upon such alternative fuel measured by the
17 nearest power potential equivalent to that of one gallon of regular grade gasoline. The
18 determination by the director of the power potential equivalent of such alternative fuel shall be
19 prima facie correct;

20 (3) Aviation fuel used in propelling aircraft with reciprocating engines, nine cents per
21 gallon as levied and imposed by section 155.080 to be collected as required under this chapter;

22 (4) Compressed natural gas fuel, five cents per gasoline gallon equivalent until
23 December 31, 2019, eleven cents per gasoline gallon equivalent from January 1, 2020, until
24 December 31, 2024, ~~and then~~ **seventeen cents per gasoline gallon equivalent from January**
25 **1, 2025, until December 31, 2025, and then twenty-seven cents per gasoline gallon**
26 **equivalent** thereafter. The gasoline gallon equivalent and method of sale for compressed natural
27 gas shall be as published by the National Institute of Standards and Technology in Handbooks
28 44 and 130, and supplements thereto or revisions thereof. In the absence of such standard or
29 agreement, the gasoline gallon equivalent and method of sale for compressed natural gas shall
30 be equal to five and sixty-six-hundredths pounds of compressed natural gas. All applicable
31 provisions contained in this chapter governing administration, collections, and enforcement of
32 the state motor fuel tax shall apply to the tax imposed on compressed natural gas, including but
33 not limited to licensing, reporting, penalties, and interest;

34 (5) Liquefied natural gas fuel, five cents per diesel gallon equivalent until December 31,
35 2019, eleven cents per diesel gallon equivalent from January 1, 2020, until December 31, 2024,
36 ~~and then~~ **seventeen cents per diesel gallon equivalent from January 1, 2025, until December**
37 **31, 2025, and then twenty-seven cents per diesel gallon equivalent** thereafter. The diesel
38 gallon equivalent and method of sale for liquefied natural gas shall be as published by the
39 National Institute of Standards and Technology in Handbooks 44 and 130, and supplements
40 thereto or revisions thereof. In the absence of such standard or agreement, the diesel gallon
41 equivalent and method of sale for liquefied natural gas shall be equal to six and six-hundredths
42 pounds of liquefied natural gas. All applicable provisions contained in this chapter governing
43 administration, collections, and enforcement of the state motor fuel tax shall apply to the tax
44 imposed on liquefied natural gas, including but not limited to licensing, reporting, penalties, and
45 interest;

46 (6) Propane gas fuel, five cents per gallon until December 31, 2019, eleven cents per
47 gallon from January 1, 2020, until December 31, 2024, ~~and then~~ **seventeen cents per gallon**
48 **from January 1, 2025, until December 31, 2025, and then twenty-seven cents per gallon**
49 thereafter. All applicable provisions contained in this chapter governing administration,

50 collection, and enforcement of the state motor fuel tax shall apply to the tax imposed on propane
51 gas including, but not limited to, licensing, reporting, penalties, and interest;

52 (7) If a natural gas, compressed natural gas, liquefied natural gas, electric, or propane
53 connection is used for fueling motor vehicles and for another use, such as heating, the tax
54 imposed by this section shall apply to the entire amount of natural gas, compressed natural gas,
55 liquefied natural gas, electricity, or propane used unless an approved separate metering and
56 accounting system is in place.

57 2. Notwithstanding any provision of law to the contrary, beginning on January 1,
58 2026, all motor fuels and alternative fuels, including, but not limited to, gasoline, diesel
59 fuel, electricity, hydrogen, propane, compressed natural gas, and liquefied natural gas,
60 shall be taxed at substantially the equivalent rate. The department of agriculture, in
61 cooperation with the department of revenue, shall where necessary promulgate a rule on
62 or before December 31, 2023, to implement the provisions of this subsection. Any rule or
63 portion of a rule, as that term is defined in section 536.010 that is created under the
64 authority delegated in this section shall become effective only if it complies with and is
65 subject to all of the provisions of chapter 536, and, if applicable, section 536.028. This
66 section and chapter 536 are nonseverable and if any of the powers vested with the general
67 assembly pursuant to chapter 536, to review, to delay the effective date, or to disapprove
68 and annul a rule are subsequently held unconstitutional, then the grant of rulemaking
69 authority and any rule proposed or adopted after August 28, 2018, shall be invalid and
70 void.

71 3. All taxes, surcharges and fees are imposed upon the ultimate consumer, but are to be
72 precollected as described in this chapter, for the facility and convenience of the consumer. The
73 levy and assessment on other persons as specified in this chapter shall be as agents of this state
74 for the precollection of the tax.

75 4. In order to ensure that the revenues generated by this section are used for their
76 designated purposes, the state auditor shall biennially audit such funds and provide a
77 report to the general assembly. Such report may be included as part of an audit of a
78 department or agency receiving such funds.

143.121. 1. The Missouri adjusted gross income of a resident individual shall be the
2 taxpayer's federal adjusted gross income subject to the modifications in this section.

3 2. There shall be added to the taxpayer's federal adjusted gross income:

4 (1) The amount of any federal income tax refund received for a prior year which resulted
5 in a Missouri income tax benefit;

6 (2) Interest on certain governmental obligations excluded from federal gross income by
7 Section 103 of the Internal Revenue Code (26 U.S.C. Section 103, as amended). The previous

8 sentence shall not apply to interest on obligations of the state of Missouri or any of its political
9 subdivisions or authorities and shall not apply to the interest described in subdivision (1) of
10 subsection 3 of this section. The amount added pursuant to this subdivision shall be reduced by
11 the amounts applicable to such interest that would have been deductible in computing the taxable
12 income of the taxpayer except only for the application of Section 265 of the Internal Revenue
13 Code (**26 U.S.C. Section 265, as amended**). The reduction shall only be made if it is at least
14 five hundred dollars;

15 (3) The amount of any deduction that is included in the computation of federal taxable
16 income pursuant to Section 168 of the Internal Revenue Code (**26 U.S.C. Section 168**) as
17 amended by the Job Creation and Worker Assistance Act of 2002 to the extent the amount
18 deducted relates to property purchased on or after July 1, 2002, but before July 1, 2003, and to
19 the extent the amount deducted exceeds the amount that would have been deductible pursuant
20 to Section 168 of the Internal Revenue Code of 1986 (**26 U.S.C. Section 168**) as in effect on
21 January 1, 2002;

22 (4) The amount of any deduction that is included in the computation of federal taxable
23 income for net operating loss allowed by Section 172 of the Internal Revenue Code of 1986 (**26**
24 **U.S.C. Section 172**), as amended, other than the deduction allowed by Section [~~172(b)(1)(G)~~]
25 **172(b)(1)(F)** and Section [~~172(i)~~] **172(h)** of the Internal Revenue Code of 1986 (**26 U.S.C.**
26 **Section 172**), as amended, for a net operating loss the taxpayer claims in the tax year in which
27 the net operating loss occurred or carries forward for a period of more than twenty years and
28 carries backward for more than two years. Any amount of net operating loss taken against
29 federal taxable income but disallowed for Missouri income tax purposes pursuant to this
30 subdivision after June 18, 2002, may be carried forward and taken against any income on the
31 Missouri income tax return for a period of not more than twenty years from the year of the initial
32 loss; and

33 (5) For nonresident individuals in all taxable years ending on or after December 31,
34 2006, the amount of any property taxes paid to another state or a political subdivision of another
35 state for which a deduction was allowed on such nonresident's federal return in the taxable year
36 unless such state, political subdivision of a state, or the District of Columbia allows a subtraction
37 from income for property taxes paid to this state for purposes of calculating income for the
38 income tax for such state, political subdivision of a state, or the District of Columbia.

39 3. There shall be subtracted from the taxpayer's federal adjusted gross income the
40 following amounts to the extent included in federal adjusted gross income:

41 (1) Interest or dividends on obligations of the United States and its territories and
42 possessions or of any authority, commission or instrumentality of the United States to the extent
43 exempt from Missouri income taxes pursuant to the laws of the United States. The amount

44 subtracted pursuant to this subdivision shall be reduced by any interest on indebtedness incurred
45 to carry the described obligations or securities and by any expenses incurred in the production
46 of interest or dividend income described in this subdivision. The reduction in the previous
47 sentence shall only apply to the extent that such expenses including amortizable bond premiums
48 are deducted in determining the taxpayer's federal adjusted gross income or included in the
49 taxpayer's Missouri itemized deduction. The reduction shall only be made if the expenses total
50 at least five hundred dollars;

51 (2) The portion of any gain, from the sale or other disposition of property having a higher
52 adjusted basis to the taxpayer for Missouri income tax purposes than for federal income tax
53 purposes on December 31, 1972, that does not exceed such difference in basis. If a gain is
54 considered a long-term capital gain for federal income tax purposes, the modification shall be
55 limited to one-half of such portion of the gain;

56 (3) The amount necessary to prevent the taxation pursuant to this chapter of any annuity
57 or other amount of income or gain which was properly included in income or gain and was taxed
58 pursuant to the laws of Missouri for a taxable year prior to January 1, 1973, to the taxpayer, or
59 to a decedent by reason of whose death the taxpayer acquired the right to receive the income or
60 gain, or to a trust or estate from which the taxpayer received the income or gain;

61 (4) Accumulation distributions received by a taxpayer as a beneficiary of a trust to the
62 extent that the same are included in federal adjusted gross income;

63 (5) The amount of any state income tax refund for a prior year which was included in the
64 federal adjusted gross income;

65 (6) The portion of capital gain specified in section 135.357 that would otherwise be
66 included in federal adjusted gross income;

67 (7) The amount that would have been deducted in the computation of federal taxable
68 income pursuant to Section 168 of the Internal Revenue Code (**26 U.S.C. Section 168**) as in
69 effect on January 1, 2002, to the extent that amount relates to property purchased on or after July
70 1, 2002, but before July 1, 2003, and to the extent that amount exceeds the amount actually
71 deducted pursuant to Section 168 of the Internal Revenue Code (**26 U.S.C. Section 168**) as
72 amended by the Job Creation and Worker Assistance Act of 2002;

73 (8) For all tax years beginning on or after January 1, 2005, the amount of any income
74 received for military service while the taxpayer serves in a combat zone which is included in
75 federal adjusted gross income and not otherwise excluded therefrom. As used in this section,
76 "combat zone" means any area which the President of the United States by Executive Order
77 designates as an area in which Armed Forces of the United States are or have engaged in combat.
78 Service is performed in a combat zone only if performed on or after the date designated by the
79 President by Executive Order as the date of the commencing of combat activities in such zone,

80 and on or before the date designated by the President by Executive Order as the date of the
81 termination of combatant activities in such zone;

82 (9) For all tax years ending on or after July 1, 2002, with respect to qualified property
83 that is sold or otherwise disposed of during a taxable year by a taxpayer and for which an
84 additional modification was made under subdivision (3) of subsection 2 of this section, the
85 amount by which additional modification made under subdivision (3) of subsection 2 of this
86 section on qualified property has not been recovered through the additional subtractions provided
87 in subdivision (7) of this subsection; and

88 (10) For all tax years beginning on or after January 1, 2014, the amount of any income
89 received as payment from any program which provides compensation to agricultural producers
90 who have suffered a loss as the result of a disaster or emergency, including the:

- 91 (a) Livestock Forage Disaster Program;
- 92 (b) Livestock Indemnity Program;
- 93 (c) Emergency Assistance for Livestock, Honeybees, and Farm-Raised Fish;
- 94 (d) Emergency Conservation Program;
- 95 (e) Noninsured Crop Disaster Assistance Program;
- 96 (f) Pasture, Rangeland, Forage Pilot Insurance Program;
- 97 (g) Annual Forage Pilot Program;
- 98 (h) Livestock Risk Protection Insurance Plan; and
- 99 (i) Livestock Gross Margin insurance plan.

100 4. There shall be added to or subtracted from the taxpayer's federal adjusted gross
101 income the taxpayer's share of the Missouri fiduciary adjustment provided in section 143.351.

102 5. There shall be added to or subtracted from the taxpayer's federal adjusted gross
103 income the modifications provided in section 143.411.

104 6. In addition to the modifications to a taxpayer's federal adjusted gross income in this
105 section, to calculate Missouri adjusted gross income there shall be subtracted from the taxpayer's
106 federal adjusted gross income any gain recognized pursuant to Section 1033 of the Internal
107 Revenue Code of 1986 (**26 U.S.C. Section 1033**), as amended, arising from compulsory or
108 involuntary conversion of property as a result of condemnation or the imminence thereof.

109 7. (1) As used in this subsection, "qualified health insurance premium" means the
110 amount paid during the tax year by such taxpayer for any insurance policy primarily providing
111 health care coverage for the taxpayer, the taxpayer's spouse, or the taxpayer's dependents.

112 (2) In addition to the subtractions in subsection 3 of this section, one hundred percent
113 of the amount of qualified health insurance premiums shall be subtracted from the taxpayer's
114 federal adjusted gross income to the extent the amount paid for such premiums is included in

115 federal taxable income. The taxpayer shall provide the department of revenue with proof of the
116 amount of qualified health insurance premiums paid.

117 8. (1) Beginning January 1, 2014, in addition to the subtractions provided in this section,
118 one hundred percent of the cost incurred by a taxpayer for a home energy audit conducted by an
119 entity certified by the department of natural resources under section 640.153 or the
120 implementation of any energy efficiency recommendations made in such an audit shall be
121 subtracted from the taxpayer's federal adjusted gross income to the extent the amount paid for
122 any such activity is included in federal taxable income. The taxpayer shall provide the
123 department of revenue with a summary of any recommendations made in a qualified home
124 energy audit, the name and certification number of the qualified home energy auditor who
125 conducted the audit, and proof of the amount paid for any activities under this subsection for
126 which a deduction is claimed. The taxpayer shall also provide a copy of the summary of any
127 recommendations made in a qualified home energy audit to the department of natural resources.

128 (2) At no time shall a deduction claimed under this subsection by an individual taxpayer
129 or taxpayers filing combined returns exceed one thousand dollars per year for individual
130 taxpayers or cumulatively exceed two thousand dollars per year for taxpayers filing combined
131 returns.

132 (3) Any deduction claimed under this subsection shall be claimed for the tax year in
133 which the qualified home energy audit was conducted or in which the implementation of the
134 energy efficiency recommendations occurred. If implementation of the energy efficiency
135 recommendations occurred during more than one year, the deduction may be claimed in more
136 than one year, subject to the limitations provided under subdivision (2) of this subsection.

137 (4) A deduction shall not be claimed for any otherwise eligible activity under this
138 subsection if such activity qualified for and received any rebate or other incentive through a
139 state-sponsored energy program or through an electric corporation, gas corporation, electric
140 cooperative, or municipally owned utility.

141 9. The provisions of subsection 8 of this section shall expire on December 31, 2020.

142 **10. Gross income shall not include the value of any prize or award won by a**
143 **taxpayer in athletic competition in the Olympic, Paralympic, or Special Olympic Games.**
144 **This subsection shall be known and may be cited as the "Olympic Dream Freedom Act".**

226.145. 1. (1) There is hereby created in the state treasury the "Emergency State
2 Freight Bottleneck Fund", which shall consist of moneys appropriated by the general
3 assembly. The state treasurer shall be custodian of the fund. In accordance with sections
4 30.170 and 30.180, the state treasurer may approve disbursements. The fund shall be a
5 dedicated fund and money in the fund shall be used solely to finance eligible projects under
6 this section.

7 (2) Notwithstanding the provisions of section 33.080 to the contrary, any moneys
8 remaining in the fund at the end of the biennium shall not revert to the credit of the
9 general revenue fund.

10 (3) The state treasurer shall invest moneys in the fund in the same manner as other
11 funds are invested. Any interest and moneys earned on such investments shall be credited
12 to the fund.

13 **2. Projects eligible for financing under this section shall:**

14 (1) Be a major road improvement with an estimated construction cost of fifty
15 million dollars or more;

16 (2) Be an improvement needed to eliminate a bottleneck, a twenty minute delay or
17 more during peak hours, that impacts the distribution of goods and on-time delivery of
18 freight;

19 (3) Be an improvement needed to reduce fatal and disabling motor vehicle crashes
20 within an area designated as a safe travel zone by the department of transportation;

21 (4) Be an improvement listed on the 2014 state freight plan; and

22 (5) Be slated to receive not less than thirty-five percent of the funds required for
23 project completion from sources other than the state road fund or general revenue.

24 **3. If in any given fiscal year there are insufficient funds in the emergency state**
25 **freight bottleneck fund to finance all eligible projects under this section, such eligible**
26 **projects shall be rank ordered and given priority based on the Missouri state infra-grant**
27 **application criteria published by the department of transportation.**

Section B. This act is hereby submitted to the qualified voters of this state for approval
2 or rejection at an election which is hereby ordered and which shall be held and conducted on
3 Tuesday next following the first Monday in November, 2018, pursuant to the laws and
4 constitutional provisions of this state for the submission of referendum measures by the general
5 assembly, and this act shall become effective when approved by a majority of the votes cast
6 thereon at such election and not otherwise.

Section C. Pursuant to chapter 116, and other applicable constitutional provisions and
2 laws of this state allowing the general assembly to adopt ballot language for the submission of
3 referendum measures to the voters of this state, the official summary statement of the act
4 proposed in section A of this act shall be as follows:

5 "Shall Missouri law be amended to fund Missouri state law enforcement by
6 increasing the motor fuel tax by two and one half cents per gallon annually for
7 four years beginning July 1, 2019, exempt Special Olympic, Paralympic, and
8 Olympic prizes from state taxes, and to establish the Emergency State Freight
9 Bottleneck Fund?"

Section D. Pursuant to chapter 116, and other applicable constitutional provisions and laws of this state allowing the general assembly to adopt ballot language for the submission of referendum measures to the voters of this state, the official fiscal note summary of the act proposed in section A of this act shall be as follows:

"If passed, this measure will generate at least \$288 million annually to the State Road Fund to provide for the funding of Missouri state law enforcement and \$123 million annually to local governments for road construction and maintenance."

✓

A handwritten signature in blue ink, appearing to read "Todd Ruff", written over a horizontal line.

Speaker of the House

A handwritten signature in black ink, appearing to read "Charles Fiedler", written over a horizontal line.

President Pro Tem of the Senate