



State of Tennessee

SENATE JOINT RESOLUTION NO. 221

**By Senators Kelsey, Berke, Johnson, Gresham, Beavers, Stewart, McNally;
Mr. Speaker Ramsey; Senators Tracy, Southerland, Watson, Crowe, Yager, Ketron, Bell,
Campfield, Summerville, Faulk, Norris, Woodson, Overbey, Roberts**

and

Representatives Todd, Dean, Alexander, Sargent, Weaver, Harry Brooks, Pody, Kevin Brooks, Lollar, McCormick, Swann, Keisling, Coley, Sparks, Nicely, Forgety, Don Miller, Hill, Evans, Womick, Haynes, Butt, Sexton, Maggart, Hensley, White, Sanderson, Gotto, Watson, Halford, Hall, Cobb, Elam, McDaniel, Curtis Johnson, Lundberg, Matheny, Faison, Ryan Williams, Shipley, Rich, Ragan, Hurley, Powers, Marsh, Dunn, Eldridge, Wirgau, Bass, Floyd, Campbell, Phillip Johnson, Dennis, Kent Williams, Harrison, Matlock, Carr, Hawk, Holt

A RESOLUTION to amend Article II, Section 28 of the Constitution of Tennessee, to prohibit taxation upon payroll or earned personal income.

WHEREAS, this resolution shall be known as the "No State Income Tax" Amendment; and

WHEREAS, not having a state income tax has brought jobs to Tennessee, and clarifying this prohibition will help Tennessee become the number one state in the southeast for high-quality jobs; and

WHEREAS, Article II, Section 28 of the Constitution of Tennessee currently prohibits the levying of a tax on any class of income other than income derived from stocks and bonds; and

WHEREAS, in 1932, in the case of Evans v. McCabe, 52 S.W.2d 159; once again in 1960, in the case of Jack Cole Co. v. MacFarland, 337 S.W.2d 453; and still again in 1964, in the case of Gallagher v. Butler, 378 S.W.2d 161; the Tennessee Supreme Court unanimously ruled that the General Assembly lacks constitutional authority to levy a state tax on any class of income other than income derived from stocks and bonds; and

WHEREAS, the aforementioned decisions of the Tennessee Supreme Court have never been overruled; and

WHEREAS, clearly, the General Assembly can neither exercise nor delegate authority it lacks; and

WHEREAS, any tax measured by an individual's earned income, an employee's salary, or an employer's payroll would be harmful to Tennesseans and is contrary to the longstanding public policy of this State and its political subdivisions; and

WHEREAS, by this resolution, the General Assembly seeks to clarify the language by which the Constitution of Tennessee currently prohibits the levying of a tax on any class of income other than income derived from stocks and bonds; now, therefore,

BE IT RESOLVED BY THE SENATE OF THE ONE HUNDRED SEVENTH GENERAL ASSEMBLY OF THE STATE OF TENNESSEE, THE HOUSE OF REPRESENTATIVES CONCURRING, that a majority of all the members of each House concurring, as shown by the yeas and nays entered on their journals, that it is proposed that Article II, Section 28 of the Constitution of the State of Tennessee be amended by adding the following sentence at the end of the final substantive paragraph within the section:

Notwithstanding the authority to tax privileges or any other authority set forth in this Constitution, the Legislature shall not levy, authorize or otherwise permit any state or local tax upon payroll or earned personal income or any state or local tax measured by payroll or earned personal income; however, nothing contained herein shall be construed as prohibiting any tax in effect on January 1, 2011, or adjustment of the rate of such tax.

BE IT FURTHER RESOLVED, that the foregoing amendment be referred to the One Hundred Eighth General Assembly and that this resolution proposing such amendment be published in compliance with Article XI, Section 3 of the Constitution of Tennessee.

BE IT FURTHER RESOLVED, that the Clerk of the Senate is directed to deliver copies of this resolution to the secretary of state and to the director of the Office of Legislative Information Services.

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ADOPTED: January 19, 2012



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

RON RAMSEY
SPEAKER OF THE SENATE



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

BETH HARWELL, SPEAKER
HOUSE OF REPRESENTATIVES



Senate Chamber
State of Tennessee

NASHVILLE

February 1, 2012

The Honorable Tre Hargett
Secretary of State
State Capitol, First Floor
Nashville, TN

Dear Mr. Secretary:

Attached is a copy of Senate Joint Resolution No. 221, a resolution to amend Article II of the Tennessee Constitution relative to taxation upon payroll or earned personal income. I have been directed to transmit a copy of the resolution to you.

Senate Joint Resolution No. 221 was read in the Senate on May 12, 16 and 18 of 2011; and was adopted by the Senate on May 18, 2011 by a vote of 26-4. Senate Joint Resolution No. 221 was read in the House on May 19, 20 and 21 of 2011; and was concurred in by the House on January 19, 2012, by a vote of 73-17-3.

Senate Joint Resolution No. 221 was signed by the Speaker of the Senate on January 25, 2012, and by the Speaker of the House on January 25, 2012.

This information is reflected in the Senate and House Journals for the First and Second Sessions of the One-Hundred Seventh General Assembly of the State of Tennessee.

With best wishes, I am

Yours Truly,

A handwritten signature in black ink, appearing to read "RHUMPHREY".

Russell Humphrey

MESSAGE FROM THE HOUSE

Mr. Speaker: I am directed to return SJR 221.

SJR 221 completed its first reading on May 19, 2011 second reading May 20, 2011, third and final reading May 21, 2011 and was concurred in by a majority vote on January 19, 2012 pursuant to Article XI, Section 3 of the Constitution of Tennessee.

**January 19, 2012
Date**

**Joe McCord
Chief Clerk**