

## COLUMBIA MISSOURIAN

# 'Fair tax' gains traction in Missouri legislature

By [Spencer Willems](#)

May 19, 2009 | 12:01 a.m. CDT



From left, Bob Holliger, Ray Walker, Colin Malaker and Dale Chaffee present their ideas on "fair tax" to a gathering of Democrats at the Upper Crust Boardroom on May 8. The fair tax plan is a comprehensive proposal to replace all federal income and payroll-based taxes, and Democrats have been more hostile than Republicans toward the grass-roots alternative tax scheme. : [Bharat Choudhary](#)

**COLUMBIA** — Increasing frustration over Missouri's 90-year-old income tax has prompted legislators to begin pushing an alternative that to date has been little more than a fringe issue on the national political scene.

Although the proposal to let voters decide whether to replace the state income tax with a sales tax on all goods and services died in the Senate this year, it gained more traction than ever before, and advocates say they'll push even harder for the legislation next year.

One of those advocates is state Rep. Chris Kelly, D-Columbia.

In mid-January, Kelly filed [House Bill 318](#), which called for a constitutional amendment that would let voters decide whether to end income tax effective Jan. 1, 2012.

Excited, right? Hold on. The bill also calls for replacing the income tax with a sales tax on all goods and services.

Kelly, who served in the legislature in the 1980s and '90s and was elected again in November, joined state Rep. Ed Emery, R-Lamar, and other Republicans in the push for what many advocates call the "fair tax." Also known as a consumption tax, the concept is simple: Instead of paying taxes based on how much money you earn, you pay taxes based on how much you spend.

Kelly explained his support for an idea that's typically deemed conservative.

"There are issues about which different parties are correct," Kelly said. "Democrats are right about education. Republicans, I believe, are right about this sales tax."

According to figures from the Missouri Department of Revenue, Missouri currently collects two-thirds, or a whopping \$5.4 billion, of its general revenue of a little more than \$8.2 billion from the state's individual income tax. The state's sales and use taxes already account for 23 percent, or almost \$1.9 billion, of its general revenue. If implemented, Kelly's and Emery's legislation would eliminate the state's income, corporate franchise and estate taxes, as well as any existing sales tax exemptions.

The legislation would raise the state's sales tax from 4.225 percent to an estimated 5.11 percent to ensure the state loses no revenue. It would apply to all tangible services, not just goods. That means you'll pay a sales tax when you get a haircut, or even when you go to the doctor.

Such a complete overhaul of the Missouri tax regime would place Missouri in the similar company of New Hampshire, Alaska, Texas, Tennessee and five other states that do not levy income taxes. Those states also generate money through corporate franchise taxes, excise taxes or higher property taxes.

Missouri would be the first state in the country to adopt a tax system predicated solely on consumption.

Such an overhaul, though, is not going to happen this year. Some cite technical flaws with Kelly's and Emery's bill. Others say it's philosophically flawed. All concede that any institutional change such as the "fair tax" takes time.

It took three years for Emery to even get the legislation out of committee and onto the House floor for full debate. Once that happened, it sailed through the lower chamber, passing 90-65. Then it stalled in the Senate, where Emery said it remains a new and foreign concept.

"It's done for this year. ... It won't make it out of the Senate," Kelly said a few days before this year's session of the General Assembly ended. "The votes for it just aren't there."

Emery said the legislation might be dead for now but that the idea is alive and well.

### **Kelly, Robb unlikely allies**

Months after narrowly beating former Republican Rep. Ed Robb in November, Kelly wasted no time filing legislation that his former opponent had spent two years trying to enact.

The House Committee on Tax Reform met March 15 to hear proposed consumption taxes from both Emery and Kelly. Robb, too, testified before the committee.

Kelly concedes the idea has its flaws. He thinks that Missourians will have to pay more than the proposed 5.11 percent. He thinks the plan's "prebates," which would allow monthly tax refunds to offset the increased costs of living, will need greater attention. He admits that a higher sales tax might encourage Missourians to make more Internet purchases and "border jumping" trips for big-ticket items. But he still thinks it's the right thing to do.

"There is no such thing as perfect policy," Kelly said. "But what we're talking about is a matter of degree and not a matter of absolute right or absolute wrong."

Kelly sees his support of a consumption tax as a continuation of the 11 years he spent trying to remove sales tax exemptions. He likes the consumption because he says it is "efficient and universal." He sees the current tax code as riddled with exemptions and favors for the very wealthy and the very powerful.

"If you own a big boat, I mean a big boat, I mean you're a party dog ... you can get your boat exempted from the sales tax by effectively donating your boat to the Coast Guard so that your boat is available to defend the people of Missouri," Kelly said. "Like for instance if the Kansans attack down the Osage River ... we will be prepared to fight hard. ... We'd have our luxury boats in place."

Kelly expects the collection of sales taxes would be far more efficient and less susceptible to cheating than of the state's income taxes.

Kelly expects a tax system based on revenue would allow transparency and prevent future abuse by powerful interest groups in Jefferson City. He, like other conservative proponents, thinks a consumption tax would provide stable revenue. Unlike conservatives, Kelly didn't call his version of the consumption tax a "fair tax."

"Nowhere in my bill will you see the words 'fair tax,'" Kelly said. "I totally reject the 'fair tax' label. ... It is fallacious, and (it is) there for political reasons."

For Kelly, fairness in tax policy would require a more progressive state income tax. Like most Democrats, he thinks that because the wealthy benefit most from state services such as roads and law enforcement, they should shoulder more of the tax burden.

Many Democrats fear House Joint Resolution 36, which calls for a consumption tax, would mean a regressive tax, one that puts more of the tax burden on those least able to pay. Kelly disagrees. He thinks Democrats should be more pragmatic when considering long-term tax planning.

"We're not talking about the comparison of a progressive income tax to a regressive sales tax," Kelly said. "It's a less regressive sales tax versus a very regressive income tax."

Kelly was one of eight Democrats who voted in favor of the consumption tax, House Joint Resolution 36, for the resolution on April 16, and he was the only Democrat who spoke in favor of the legislation during floor debate. He thinks that because the voters are the ones being taxed, they should have direct input on how it's done.

"The sales tax has so many practical advantages," Kelly said on the House floor. "It is more popular with people at every level of society, regardless of economic standing or education level. Popularity is a legitimate measure of how we ought to tax."

Kelly plans to work with Emery and others over the summer to educate the public and other lawmakers on the issue. He said

the more it's discussed, the more likely it will become law.

### **Advocates cite economic benefits**

Emery and Robb point to neighboring Tennessee as an example and as an incentive to overhaul Missouri's tax structure. Tennessee has no individual income tax and generates most of its revenue through sales and selective service/excise taxes. They say this type of climate breeds economic growth.

"When I moved to Missouri back in 1972," Robb said at the committee hearing, "Tennessee's economy was one-half the size of Missouri's. As of today, they've overtaken us."

As of 2007, Tennessee, along with eight other states that do not tax income, had higher gross state products than Missouri. According to a 2008 report from the American Legislative Exchange Council, five of the top 10 performing economies were found in states without income taxes.

"Capital and money, they can move very easily, and they will move to areas where they perceive a better rate of return, or less tax threats, like Tennessee," said Robb, who is seen as an economics expert in Jefferson City.

Robb says that businesses will lower prices on products once they are no longer encumbered by "intrusive" taxes.

"Businesses sell products with taxes already built into the price," Robb said. "No business has ever not passed the cost of taxes on to the consumer."

MU economics professor Joseph Haslag, a member of the Show-Me Institute, found in a recent study that state revenue would be more stable if it were to be switched to something similar to Emery's and Robb's plan. If Missouri were to rely on sales tax revenue and not on income revenue, the state would face less drastic funding shortfalls, Haslag said.

"There's not as much volatility in consumer spending as there is in income," Haslag said. In looking at revenue collections over time, Haslag determined that sales tax revenues were roughly 50 percent less volatile than income revenues.

"If we stay with an income and sales (tax) the way we have it now, we may be headed south, since we rely so much more on the income tax," Haslag said.

Haslag acknowledged that when times are bad, people spend less, and revenue from sales and service taxes decline. But he noted that though luxury spending might fall, people will always buy necessities, which buttress a "fair tax" regime against instability.

Although Haslag supports the idea of the "fair tax," he disagrees with those such as Robb who claim abolishing income and corporate taxes would lower prices.

"It's not perfect," Haslag said. "It's way too complicated when you look across all products and all people and all suppliers to say that those supply-and-demand functions will bring on a lower price."

### **Opponents call sales tax unfair, insufficient**

As the push to eliminate the income tax gains traction, opposition is growing louder. Retailers, professionals and legislators say the bill is rife with flaws.

For one thing, many critics doubt Emery's proposed increase of nearly 0.9 percentage in the sales tax is sufficient, even when

it's applied to services.

"I've looked at the numbers, and they just don't add up," said state Rep. Stephen Webber, D-Columbia. "It's going to cost a lot more ... to cover the losses of the income tax."

Amy Blouin of the Missouri Budget Project thinks it would take a sales tax as high as 9 percent to ensure revenue neutrality. She said that while paying a few more dollars for discretionary things such as some retail purchases or a movie, a 9 percent increase in the costs of things such as prescription drugs, food, nursing home services or child care would make such services impossible for lower- and middle-income households

Emery and Kelly tout the resolution's prebate plan, which would offer monthly tax refunds to counter the heightened prices of goods and services. But the fiscal note prepared by the Committee on Legislative Research said those prebates could cost as much as \$7.5 billion annually, which would create a revenue shortfall that could be offset only by an even higher sales tax rate.

Kelly Davis of the Institute on Taxation and Economic Policy, a national nonpartisan group, told the Senate Ways and Means Committee that in order to ensure revenue neutrality, combined state and local sales taxes might reach as high as 12.5 percent.

"The cost of this rebate comes out to about the same amount of revenue brought in by the income tax," Davis said. "In the interest of revenue neutrality, (5.11 percent) will go up."

Most of the vocal opposition has come from Kelly's fellow Democrats, who say the "fair tax" is anything but fair.

"You call it the fairness bill. Well, show me the line where the fairness is because I can't find it," said state Rep. Jeanette Oxford, D-St. Louis, at the March 11 committee hearing.

"Sales taxes are so regressive this would put the burden on those least able to pay," Oxford said. "It hurts those who have no discretionary income ... when trying to afford basic needs like food, housing and money for child care, suddenly they have to pay more."

The regressive nature of the resolution is not a new criticism. In Tennessee, where the state sales tax base stands at 7 percent, the lower-income brackets spend a higher percentage of their income complying with sales taxes than do wealthier taxpayers. Poorer households in Missouri could expect to spend even more of their income in sales taxes if the state adopts the consumption tax.

Oxford sponsored legislation this year that would update the state's income tax system instead of eliminating it. The rates and brackets of Missouri's income tax hasn't been touched since 1971. Its brackets have someone earning \$22,000 a year paying the same state tax rate as someone earning more than \$200,000. In her mind, it makes more sense to update it than to throw it out all together.

By raising the state's tax rate from 6 percent to 9 percent of higher personal income brackets, Oxford thinks the state would be better able to meet the challenges of funding health care and education.

"In terms of real dollars, we're funding programs at the same levels as five, even 10 years ago," Oxford said. "A modest increase like this would free up \$1.3 billion for state-funded programs."

About 70 percent of Missourians live on the border. Opponents of the consumption tax say higher sales taxes would encourage "border jumping" for groceries, auto repairs and even legal or medical services.

"Missouri does not exist in a vacuum," said state Rep. Jason Holsman, D-Kansas City. "The type of changes (Emery and Kelly)

want to make would only work on an island.”

Border jumping worries Webber even more. Whereas Holsman’s constituents can take a quick drive for what Webber expects will be cheaper goods and services, voters in Columbia don’t have that option.

“If this bill is going to be revenue-neutral, then the government will have to keep generating the same amounts from taxes,” Webber said. “But if people on the borders aren’t paying Missouri sales taxes, then that puts more of a burden on people in mid-Missouri.”

This legislation comes at a precarious economic point for the state and the country. According to the Center on Budget and Policy Priorities, 47 states are facing budget shortfalls, adding up to \$53 billion for fiscal 2009. Missouri revenue fell \$542 million below the expected rates for this year.

Holsman isn’t completely opposed to a consumption tax but thinks the current economic climate is no time to gamble on a complete transformation of how Missouri collects revenue.

According to a recent report from the Rockefeller Institute, state sales tax collections have hit a 50-year low. Income and property tax collections have been trending downward over the past year, but sales tax collections were down 6.1 percent nationally, according to the report.

Although states such as Florida and Tennessee have made great gains over the past decade, they face revenue shortfalls much larger than Missouri’s. [According to figures from the Center on Budget and Policy Priorities](#), Florida faced a \$5.7 billion shortfall for 2009, 22.2 percent of the state’s budget. Tennessee is looking at a funding gap of more than \$800 million this year.

While sales tax collections are down, so are incomes. State coffers are not solely made or broken by the way states tax their citizens. States without income taxes averaged revenue shortages identical to states that have them.

A spokeswoman for the Tennessee Department of Revenue conceded the state’s revenue has been hurt by the recession but insists that it’s facing difficulties no greater than any other state.

“Our experience has been that sales and use taxes are a more stable source of revenue than income-based taxes,” said Sara Jo Houghland, spokeswoman for the Revenue Department. “As such, our highs aren’t as high, and our lows aren’t as low. We believe this stability allows Tennessee to navigate downturns in the national economy better than most states.”

### **Gaining traction over time**

Emery’s work has taken three years to get through the House. It might take another three years to get through the Senate and to the public ballot, two years after Emery becomes term-limited in 2011.

Even so, the consumption tax as an idea has taken root with a number of younger Republican supporters in the House.

John Putnam, co-state director of the Missouri chapter of [FairTax.org](#), said he expects membership to grow. In June, Columbia is to host the Midwest FairTax Rally, an event that is to feature “The FairTax Book” authors Neal Boortz and Congressman John Linder, R-Ga., as well as Samuel Wurzelbacher, also known as “Joe the Plumber.”

State Sen. Jack Goodman, R-Mt. Vernon, worked with Emery and others to enlist support from other Missouri senators but said he realizes progress will be incremental.

“To make a change of this magnitude, most of the members will have to be very secure in their understanding and support,” Goodman said. “With the grass-roots momentum and active sharing of information between legislators (and constituents), I think there’s a good chance (a consumption tax) will happen.”