COMMITTEE ON LEGISLATIVE RESEARCH
OVERSIGHT DIVISION

FISCAL NOTE

L.R. No.: 5722-03
Bill No.: Truly Agreed To and Finally Passed CCS for SB 884
Subject: Taxation and Revenue - Income, Taxation and Revenue - General
Type: Original
Date: June 28, 2018

Bill Summary: This proposal modifies provisions relating to taxation.

FISCAL SUMMARY

ESTIMATED NET EFFECT ON GENERAL REVENUE FUND			
FUND AFFECTED	FY 2019	FY 2020	FY 2021
General Revenue	Unknown to (Unknown)	$4,900,000 to ($4,400,000)	$9,700,000 to ($8,800,000)
Total Estimated Net Effect on General Revenue	**Unknown to (Unknown)**	**$4,900,000 to ($4,400,000)**	**$9,700,000 to ($8,800,000)**

ESTIMATED NET EFFECT ON OTHER STATE FUNDS			
FUND AFFECTED	FY 2019	FY 2020	FY 2021
Total Estimated Net Effect on Other State Funds	**$0**	**$0**	**$0**

Numbers within parentheses: ( ) indicate costs or losses.
This fiscal note contains 10 pages.

ESTIMATED NET EFFECT ON FEDERAL FUNDS			
FUND AFFECTED	FY 2019	FY 2020	FY 2021
Total Estimated Net Effect on All Federal Funds	**$0**	**$0**	**$0**

ESTIMATED NET EFFECT ON FULL TIME EQUIVALENT (FTE)			
FUND AFFECTED	FY 2019	FY 2020	FY 2021
Total Estimated Net Effect on FTE	**0**	**0**	**0**

☒ Estimated Net Effect (expenditures or reduced revenues) expected to exceed $100,000 in any of the three fiscal years after implementation of the act.

ESTIMATED NET EFFECT ON LOCAL FUNDS			
FUND AFFECTED	FY 2019	FY 2020	FY 2021
Local Government	**$0**	**$0**	**$0**

FISCAL ANALYSIS

ASSUMPTION

§32.200, §143.451-§143.471 Corporate Allocation
Officials at the **Office of Administration Division of Budget and Planning** (**B&P**) assume this section creates a single-sales factor corporate income allocation method. Sections 32.200, 143.451, 143.461, 143.471, and 620.1350 disallow other corporate income allocation methods beginning in tax year 2020.

Based on information provided by DOR, moving to a single-sales factor only allocation method would increase Total State Revenue and General Revenue by $141.6 million once fully implemented, at the current corporate tax rate of 6.25%. However, Section 143.071 would reduce the corporate tax rate to 4% in tax year 2020. Therefore, factoring in the lower corporate tax rate, B&P estimates that this provision will increase Total State Revenue and General Revenue by $45.3 million in FY 2020 and $90.6 million once fully implemented.

Officials at the **Department of Revenue** (**DOR**) assume these proposed sections would remove Corporate Method One - Multistate Allocation and Three Factor Apportionment and Method Two - Business Transaction Single Factor Apportionment to be replaced by the Optional Single Sales Factor Apportionment. The Department estimates that this could potentially increase state revenues by an estimated range of $104.1 million - $117.5 million when fully implemented.

§143.011 Income Tax Rate
Officials at the **B&P** assume this section clarifies that the individual income tax will not be eliminated on incomes above $9,000 once the top income tax rate reaches 5.5%. This proposal also defines the term "net general revenue collected". B&P estimates that this section will not impact Total State Revenue or the calculation under Article X, Section 18(e).

Officials at the **DOR** assume this is clarifying language and would have no fiscal impact.

Officials at the **University of Missouri's Economic and Policy Analysis Research Center** (**EPARC**) assume they will restrict their analysis to those changes pertaining to the individual income tax. If enacted, this bill would reduce the top rate by 0.1% every time the general revenue collected in the previous fiscal year exceeds the highest amount of net general revenue collected in any of the three fiscal years prior to such fiscal year by at least 150 million dollars. The bracket for income subject to the top rate of tax shall be eliminated once the top rate of tax has been reduced to 5.5% and the top remaining rate of tax shall apply to all income in excess of the income in the second highest remaining income bracket.

ASSUMPTION (continued)

In this response we will assume that the revenue trigger above will be met every year providing a maximum impact estimate for 2019, 2020 and 2021.

The Baseline below shows the personal income tax brackets as they will appear in 2018 under current law. Immediately following the baseline we show the 2019, 2020 and 2021 brackets and rates proposed by this bill.

Baseline

If the Missouri taxable income is:	The tax is:
Not over $1,028 …	1 ½ % of the Missouri taxable income
Over $1,028 but not over $2,056	$15 plus 2 % of excess over $1,028
Over $2,056 but not over $3,084	$36 plus 2 ½ % of excess over $2,056
Over $3,084 but not over $4,112	$62 plus 3 % of excess over $3,084
Over $4,112 but not over $5,140	$93 plus 3 ½ % of excess over $4,112
Over $5,140 but not over $6,168	$129 plus 4 % of excess over $5,140
Over $6,168 but not over $7,196	$170 plus 4 ½ % of excess over $6,168
Over $7,196 but not over $8,224	$216 plus 5 % of excess over $7,196
Over $8,224 but not over $9,253	$267 plus 5 ½ % of excess over $8,224
Over $9,253	$324 plus 5.9 % of excess over $9,253

2020

If the Missouri taxable income is:	The tax is:
Not over $1,028	1 ½ % of the Missouri taxable income
Over $1,028 but not over $2,056	$15 plus 2 % of excess over $1,028
Over $2,056 but not over $3,084	$36 plus 2 ½ % of excess over $2,056
Over $3,084 but not over $4,112	$62 plus 3 % of excess over $3,084
Over $4,112 but not over $5,140	$93 plus 3 ½ % of excess over $4,112
Over $5,140 but not over $6,168	$129 plus 4 % of excess over $5,140
Over $6,168 but not over $7,196	$170 plus 4 ½ % of excess over $6,168
Over $8,224 but not over $9,253	$267 plus 5 ½ % of excess over $8,224
Over $9,253	$324 plus 5.6 % of excess over $9,253

The baseline for our analysis where Net Tax Due is $5,454.004 million. The simulation results of the parameter changes in this bill for 2020 shows Net Tax Due equals $5,197.166 million. This is a decrease in Net Tax Due of $256.838 million from the baseline. Therefore, this corresponds to a decrease in Net General Revenue in 2020 of $256.838 million due to this change in the Missouri tax brackets.

ASSUMPTION (continued)

2021

If the Missouri taxable income is:	The tax is:
Not over $1,028	1 ½ % of the Missouri taxable income
Over $1,028 but not over $2,056	$15 plus 2 % of excess over $1,028
Over $2,056 but not over $3,084	$36 plus 2 ½ % of excess over $2,056
Over $3,084 but not over $4,112	$62 plus 3 % of excess over $3,084
Over $4,112 but not over $5,140	$93 plus 3 ½ % of excess over $4,112
Over $5,140 but not over $6,168	$129 plus 4 % of excess over $5,140
Over $6,168 but not over $7,196	$170 plus 4 ½ % of excess over $6,168
Over $7,196 but not over $8,224	$216 plus 5 % of excess over $7,196
Over $8,224	$267 plus 5 ½ % of excess over $8,224

The baseline for our analysis where Net Tax Due is $5,454.004 million. The simulation results of the parameter changes in this bill for 2021 shows Net Tax Due equals $5,111.120 million. This is a decrease in Net Tax Due of $342.884 million from the baseline. Therefore, this corresponds to a decrease in Net General Revenue in 2021 of $342.884 million due to this change in the Missouri tax brackets.

Oversight notes the previous language stated the "The bracket for income subject to the top rate of tax shall be eliminated once the top rate of tax has been reduced to five and one-half of a percent." This proposal states "The bracket for income subject to the top rate of tax shall be eliminated once the top rate of tax has been reduced to five and one-half [of a] percent, and the top remaining rate of tax shall apply to all income in excess of the income in the second highest remaining income bracket." Oversight notes this doe not change the tax rates or brackets as described by EPARC.

Oversight notes that B&P and DOR interpret this language change as clarifying language and already assumed under SB 509 that upper bracket would have been eliminated. Oversight will not reflect an impact per B&P and DOR interpretation.

§143.071 Corporate Tax Rate

Officials at the **B&P** assume this section would reduce the corporate tax rate from the current 6.25% to 4% beginning with tax year 2020. Based on FY 2017 net corporate collections of $276.2 million, B&P estimates that this provision will reduce Total State Revenue and General Revenue by $49.7 million in FY 2020. Once fully implemented, this provision will reduce Total State Revenue and General Revenue by $99.4 million annually.

ASSUMPTION (continued)

Officials at the **DOR** assume this proposed section changes the tax imposed upon the Missouri taxable income of corporations in an amount equal to 4% of Missouri taxable income. The Department estimates that this could potentially decrease state revenue by an estimated $107.8 million each year.

§143.431 Consolidated Income Tax Return
Officials at the **B&P** assume this section states that all transactions between affiliated members shall be eliminated on the Missouri consolidated income tax return. B&P notes that under this provision some corporations filing a consolidated return may have a positive impact on their tax liability, while others may have a negative impact to their tax liability. B&P is unable to determine which impacts, in the aggregate, would be greater. Therefore, due to these data limitations, B&P cannot estimate an exact impact from this section. However, this provision may have an unknown impact on Total State Revenue and General Revenue.

§144.087 Retail Sales Licences
Officials at the **B&P** assume this section would change the requirement that all businesses post a sales tax bond when applying for a retail license. This section states that DOR may require a sales tax bond rather than they shall require a sales tax bond. B&P notes that sales tax bonds are refunded back to businesses after one year as long as the business remits sales tax due. Therefore, B&P estimates that while this provision may impact cash flow it will not impact Total State Revenue or the calculation under Article X, Section 18(e).

Officials at the **DOR** assume that current law requires the Department to require all applicants for a retail sales license and all current licensees in default in filing a return and paying taxes due to file a bond with the Director. This proposed law allows, rather than requires, the Director to request such a bond. It also removes the ability of the Director to request such a bond from a retail sales license applicant. The Department believes this will not have a fiscal impact.

B&P Summary
B&P estimates that this proposal will decrease Total State Revenue and General Revenue by $4.4 million in FY 2020. Once fully implemented, in FY 2021, this proposal will decrease Total State Revenue and General Revenue by $8.8 million.

Figures in Millions

Provision	FY 2020	FY 2021
Corporate Rate Reduction	($49.7)	($99.4)
Single-Sales Factor	$45.3	$90.6
GR and TSR Impact	($4.4)	($8.8)

ASSUMPTION (continued)

DOR Summary
The proposed legislation may impact total state revenues by an estimated ($3.7)-$9.7 million when fully implemented in FY 2021

Figures in Millions

Provision	FY20	FY21
Corporate Rate Reduction @ 4.0%	($53.9)	($107.8)
Single-Sales Factor	$52.1 - $58.8	$104.1-$117.5
GR and TSR Impact	($1.8) - $4.9	($3.7) - $9.7

Officials at the Department of Elementary and Secondary Education did not respond to **Oversight's** request for fiscal impact.

Oversight notes that the Outstanding Schools Trust Fund established in §160.500 receives funding from the corporate tax rate in §143.071, from the amount of federal income tax deduction in §143.171 and from General Revenue. The Outstanding Schools Trust Fund is used to support the Foundation Formula and is budgeted to receive $836 million in FY 2019. Oversight considers how the money is divided among the funding sources to be a secondary impact of this proposal and will not reflect it in the fiscal note.

FISCAL IMPACT - State Government	FY 2019 (10 Mo.)	FY 2020	FY 2021
GENERAL REVENUE			
Additional Revenue - Single-Sales Factor Allocation §§32.200, 143.451-143.471, 620.1350	$0	$45,300,000 to $58,800,000	$90,600,000 to $117,500,000
Revenue Reduction Corporate Tax Rate Reduction from 6.25% to 4.0% §143.071	$0	($49,700,000 to $53,900,000)	($99,400,000 to $107,800,000)
Revenue - corporations income tax filing changes §143.431	Unknown to (Unknown)	Unknown to (Unknown)	Unknown to (Unknown)
ESTIMATED NET EFFECT ON GENERAL REVENUE	**Unknown to (Unknown)**	**$4,900,000 to ($4,400,000)**	**$9,700,000 to ($8,800,000)**

FISCAL IMPACT - Local Government	FY 2019 (10 Mo.)	FY 2020	FY 2021
	$0	**$0**	**$0**

FISCAL IMPACT - Small Business

Small businesses may be impacted by the taxation changes.

FISCAL DESCRIPTION

This act modifies several provisions relating to taxation.

RETAIL SALES LICENSES - Current law requires the Director of Revenue to require all applicants for a retail sales license and all current licensees in default in filing a return and paying taxes due to file a bond with the Director. This act allows, rather than requires, the Director to request such a bond. The act also removes the ability of the Director to request such a bond from a retail sales license applicant. (§144.087)

INDIVIDUAL INCOME TAXES - This act provides that when an income bracket is eliminated from the tax table, the top remaining tax rate shall apply to all income in excess of the second highest remaining income bracket.

This act also creates a definition for "net general revenue collected", which includes all revenue deposited into the general revenue fund, less refunds and revenues originally deposited into the general revenue fund but designated by law for a specific distribution or transfer to another state fund. (§143.011)

CORPORATE INCOME TAXES - For all tax years beginning on or after January 1, 2020, this act reduces the corporate income tax rate from 6.25% to 4.0%. (§143.071)

This act removes the requirement that an affiliated group of corporations have fifty percent or more of its income derived from sources within this state in order to file a consolidated return, and eliminates transactions between affiliated members of the group from such consolidated return. (§143.431)

For all tax years beginning on or after January 1, 2020, this act modifies the Multi-state Tax Compact by requiring corporations subject to income tax in this state to apportion and allocate

FISCAL DESCRIPTION (continued)

income according to the income tax provisions provided in Chapter 143, and disallows the three-factor apportionment option available in the Multi-state Tax Compact. (§32.200)

For all tax years beginning on or after January 1, 2020, this act modifies the law relating to the allocation and apportionment of corporate income by requiring corporations to determine their income derived from sources within this state according to the provisions of this act.

ALLOCABLE INCOME - Net rents and royalties from real property located in the state, and capital gains from the sale of such property, is allocable to the state. Net rents and royalties from tangible personal property are allocable to the state to the extent that the property is used in this state, or in their entirety if the corporation's commercial domicile is in this state and is not organized or taxable by the state in which the property is utilized, as described in the act. Capital gains from the sale of tangible personal property is allocable to this state if the property had a situs in the state at the time of sale, or if the corporation's commercial domicile is in this state and is not organized or taxable by the state in which the property had a situs, as described in the act. Interest and dividends are allocable to this state if the corporation's commercial domicile is in this state. Patent and copyright royalties are allocable to this state to the extent that the patent or copyright is utilized in this state, or to the extent that the patent or copyright is utilized in a state in which the corporation is not taxable and the corporation's commercial domicile is in this state.

APPORTIONABLE INCOME - All apportionable income shall be apportioned to this state by dividing the total receipts of the corporation in this state during the tax period by the total receipts of the corporation everywhere during the tax period, and multiplying such result by the net income.

Receipts from the sale of tangible personal property shall be considered in this state if the property is received in this state by the purchaser, as described in the act. Receipts from all other sales shall be considered in this state if the corporation's market for such sales is in this state, as described in the act.

In the case of certain industries where unusual factual situations produce inequitable results under the apportionment and allocation provisions of this act, the Director of Revenue shall promulgate rules for determining the apportionment and allocation factors for each such industry. In such a case, a corporation may petition the Director of Revenue, as described in the act. (§143.451, §143.455, §143.471, §620.1350)

This act provides that the method of allocation and apportionment elected by a corporation shall expire after five years, or whenever the director of revenue finds and notifies such corporation

FISCAL DESCRIPTION (continued)

that such method does not show the income applicable to this state, whichever occurs first. After such expiration or revocation, the corporation may elect to use the same or a different method. Failure to make such an election shall constitute an election to comply with the allocation and apportionment provisions provided by the act. (§143.461)

This legislation is not federally mandated, would not duplicate any other program and would not require additional capital improvements or rental space.

SOURCES OF INFORMATION

Department of Revenue
Office of Administration
   Division of Budget and Planning
University of Missouri's Economic and Policy Analysis Research Center

Ross Strope

Acting Director
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