

COMMITTEE ON LEGISLATIVE RESEARCH  
OVERSIGHT DIVISION

**FISCAL NOTE**

L.R. No.: 6715-01  
Bill No.: SJR 36  
Subject: Taxation and Revenue - Sales and Use, Constitutional Amendments, Highway Patrol  
Type: Original  
Date: March 27, 2018

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Bill Summary: This proposes a constitutional amendment to authorize a sales tax for law enforcement on state highways.

**FISCAL SUMMARY**

<b>ESTIMATED NET EFFECT ON GENERAL REVENUE FUND</b>			
FUND AFFECTED	FY 2019	FY 2020	FY 2021
General Revenue	\$0 or (\$7,800,000)	\$0 or (\$128,996)	\$0 or (\$46,414)
<b>Total Estimated Net Effect on General Revenue</b>	<b>\$0 or (\$7,800,000)</b>	<b>\$0 or (\$128,996)</b>	<b>\$0 or (\$46,414)</b>

<b>ESTIMATED NET EFFECT ON OTHER STATE FUNDS</b>			
FUNDS AFFECTED	FY 2019	FY 2020	FY 2021
MO Law Enforcement Fund	\$0	\$0 or \$335,400,000	\$0 or \$335,400,000
<b>Total Estimated Net Effect on <u>Other</u> State Funds</b>	<b>\$0</b>	<b>\$0 or \$335,400,000</b>	<b>\$0 or \$335,400,000</b>

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

<b>ESTIMATED NET EFFECT ON FEDERAL FUNDS</b>			
<b>FUND AFFECTED</b>	<b>FY 2019</b>	<b>FY 2020</b>	<b>FY 2021</b>
<b>Total Estimated Net Effect on <u>All</u> Federal Funds</b>	<b>\$0</b>	<b>\$0</b>	<b>\$0</b>

<b>ESTIMATED NET EFFECT ON FULL TIME EQUIVALENT (FTE)</b>			
<b>FUND AFFECTED</b>	<b>FY 2019</b>	<b>FY 2020</b>	<b>FY 2021</b>
General Revenue	0 FTE	0 or 1 FTE	0 or 1 FTE
<b>Total Estimated Net Effect on FTE</b>	<b>0 FTE</b>	<b>0 or 1 FTE</b>	<b>0 or 1 FTE</b>

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

<b>ESTIMATED NET EFFECT ON LOCAL FUNDS</b>			
<b>FUND AFFECTED</b>	<b>FY 2019</b>	<b>FY 2020</b>	<b>FY 2021</b>
<b>Local Government</b>	<b>\$0*</b>	<b>\$0*</b>	<b>\$0*</b>

\* Election costs net to zero.

## FISCAL ANALYSIS

### ASSUMPTION

Officials at the **Office of Administration Division of Budget and Planning (B&P)** assume this proposal would change Article IV, Section 30(b) of the Missouri Constitution. This proposal shall be submitted to qualified voters during the General Election in November, 2018 or at a special election. If approved, the changes shall become effective July 1, 2019.

Section 30(b).5 would create a 0.4% sales and use tax with revenue to be deposited into the newly created "Missouri Law Enforcement Fund". In FY 2017, there were \$2,147.1 billion in general sales and use taxes collected, and \$368.6 million in motor vehicles sales and use taxes collected. Therefore, B&P estimates that this proposal would generate \$335.4 million in sales and use tax collections for the Missouri Law Enforcement Fund, annually beginning with FY 2020.

This proposal requires voter approval; therefore, neither Total State Revenue nor the calculation under 18(e) would be impacted.

Officials at the **Department of Revenue** assume this proposal in order to provide for adequate law enforcement on state roads and throughout the state, an additional sales tax of four-tenths of one percent is hereby adopted and imposed upon all sellers for the privilege of selling tangible personal property or rendering taxable services at retail in this state upon the sales and services which now are listed and set forth in, and except as to the amount of tax, subject to the provisions of and to be collected as provided in the "Sales Tax Law" and subject to the rules and regulations promulgated in connection therewith.

The "Missouri Law Enforcement Trust Fund: is hereby established, and all revenues generated by the tax in subsection 5 of this section shall be deposited into the fund. To the extent any amounts in the fund are not appropriated by the general assembly in any fiscal year, such unappropriated funds shall remain in the fund for future appropriations consistent with this section, and no balance shall be diverted or otherwise appropriated except as authorized by this section. No funds shall be expended from the fund prior to July 1, 2019. The general assembly shall appropriate funds from the fund solely as follows:

To provide for the actual cost of an annual audit of all funds raised or expended under this section;

To provide for the actual cost of the state highway patrol in administering and enforcing any state motor vehicle laws or traffic regulations, or for such other state highway patrol

ASSUMPTION (continued)

functions as the general assembly shall deem appropriate;

To provide funds for grants to municipal and county law enforcement agencies for equipment and training, and to provide for the families of law enforcement officers killed in the line of duty as authorized by law, provided that not more than ten percent of the revenue generated under subsection 5 in a fiscal year shall be appropriated for grants or programs under this subdivision in such fiscal year.

The state auditor shall annually conduct an audit of the funds raised and expenditures authorized under subsections 5 to 8 of this section and shall release the report publicly to the taxpayers. The provisions of subsections 5 to 8 of this section shall become effective July 1, 2019.

DOR's Sales Tax Section would require one (1) Revenue Processing Technician I (\$26,340) for every 2,600 additional pieces of correspondence that is generated.

**Oversight** will show the FTE impact in the fiscal note.

Officials at the **Missouri Department of Transportation** defers to Department of Revenue for fiscal impact.

Officials at the **Missouri Highway Patrol (MHP)** assume since 1931, the Patrol's main mission has been funded by the state road fund. This proposal would establish a new fund "to provide for the actual cost of administering and enforcing motor vehicle laws and traffic regulations, as well as other Patrol functions as the general assembly deems appropriate." It would be driven by a 4/10 of one percent sales tax, which, per Department of Revenue estimates, would generate \$342,564,990 annually, beginning in FY 2020. As the legislation provides up to 10% of these funds could be used for grants to municipal and county law enforcement agencies for equipment and training, and families of law enforcement officers killed in the line of duty as authorized by law, the Patrol would receive 90% of the revenue, or an estimated \$308,308,491.

The Patrol's entire FY 2018 operating budget is slightly more than \$338,000,000. Included in this amount is the constitutionally mandated operating budget of \$240,540,875 "for the actual cost of administering and enforcing motor vehicle laws and traffic regulations," derived from the Highway Fund. Additionally, there are \$4,912,577 appropriated from the Highway Fund to pay costs related to leasing and facility maintenance/repair. As it has been explained to the Patrol, the funds generated by this proposal would be to replace the dedicated funds from the Highway Fund with those newly created, allowing for the \$240,540,875 to be returned for use in road and bridge maintenance/construction. If the funds established in this proposal are solely utilized for

ASSUMPTION (continued)

operations related "to administering and enforcing motor vehicle laws and traffic regulations," and those highway funds currently budgeted for leasing and facility maintenance/repair, they will be adequate to sustain Patrol operations related to those activities now.

The Patrol FY 2018 operating budget also contains General Revenue funding of \$36,107,676, which provides for criminal investigation, crime lab, marine enforcement, and other non-highway related activities. If one were to provide a broad interpretation of "other state highway patrol functions as the general assembly shall deem appropriate," the General Revenue funded operations could be deemed payable from the newly created fund. However, as previously stated, it has been explained to the Patrol, that the intent of this legislation is solely to replace current highway funded operations, nothing more.

The Patrol's current Highway and General Revenue funded appropriations total \$281,561,128. A comparison of current revenue projections for this proposal versus these appropriations reveals a positive \$26,747,363 balance. While adequate for immediate needs, these funds and the related balance do not provide sustainability as they do not account for certain cost increases related to personal service and equipment needs. Additionally, many Patrol facilities, to include troop headquarters, the dormitory located at General Headquarters, and crime lab are aging, inadequate, and in need of replacement. The cumulative cost of these capital improvements will be in the hundreds of millions of dollars. The establishment of the "Missouri Law Enforcement Trust Fund" that, as written, cannot be swept, would allow for planning and completion of such future capital improvement projects.

To reiterate, if the funds established in this proposal are solely utilized for operations related "to administering and enforcing motor vehicle laws and traffic regulations," and those Highway funds currently budgeted for leasing and facility maintenance/repair, they will be adequate to sustain Patrol operations related to those activities now. If additional costs are included, specifically General Revenue funded operations, the newly created fund will not be adequate.

Officials at the **Office of the State Auditor** assume any impact would be absorbed through current appropriations.

Officials at the **Office of the State Treasurer** assume there is no fiscal impact from this proposal.

ASSUMPTION (continued)

Officials at the **Office of the Secretary of State (SOS)** assume each year, a number of joint resolutions that would refer to a vote of the people a constitutional amendment and bills that would refer to a vote of the people the statutory issue in the legislation may be considered by the General Assembly.

Unless a special election is called for the purpose, Joint Resolutions proposing a constitutional amendment are submitted to a vote of the people at the next general election. Article XII section 2(b) of the Missouri Constitution authorizes the governor to order a special election for constitutional amendments referred to the people. If a special election is called to submit a Joint Resolution to a vote of the people, section 115.063.2 RSMo requires the state to pay the costs. The cost of the special election has been estimated to be \$7.8 million based on the cost of the 2016 Presidential Preference Primary.

The Secretary of State's office is required to pay for publishing in local newspapers the full text of each statewide ballot measure as directed by Article XII, Section 2(b) of the Missouri Constitution and Section 116.230-116.290, RSMo. The Secretary of State's office is provided with core funding to handle a certain amount of normal activity resulting from each year's legislative session. Funding for this item is adjusted each year depending upon the election cycle with \$1.3 million historically appropriated in odd numbered fiscal years and \$100,000 appropriated in even numbered fiscal years to meet these requirements. Through FY 2013, the appropriation had historically been an estimated appropriation because the final cost is dependent upon the number of ballot measures approved by the General Assembly and the initiative petitions certified for the ballot. In FY 2015, the General Assembly changed the appropriation so that it was no longer an estimated appropriation. In FY 2017 the Secretary of State's Office was appropriated \$2.6 million to publish the full text of the measures. In FY 2017, at the August and November elections, there were 6 statewide Constitutional Amendments or ballot propositions that cost \$2.4 million to publish (an average of \$400,000 per issue). The Secretary of State's office will continue to assume, for the purposes of this fiscal note, that it should have the full appropriation authority it needs to meet the publishing requirements. Because these requirements are mandatory, we reserve the right to request funding to meet the cost of our publishing requirements if the Governor and the General Assembly again change the amount or continue to not designate it as an estimated appropriation.

**Oversight** has reflected in this fiscal note, the state potentially reimbursing local political subdivisions the cost of having this joint resolution voted on during a special election in fiscal year 2019. This reflects the decision made by the Joint Committee on Legislative Research, that the cost of the elections should be shown in the fiscal note. The next scheduled statewide primary election is in August 2018 and the next scheduled general election is in November 2018

ASSUMPTION (continued)

(both in FY 2019). It is assumed the subject within this proposal could be on one of these ballots; however, it could also be on a special election called for by the Governor. Therefore, Oversight will reflect a potential election cost reimbursement to local political subdivisions in FY 2019.

Officials at the **St. Louis County Department of Justice Services** assume there is no fiscal impact from this proposal.

**Oversight** notes that currently the Missouri Highway Patrol (MHP) receives some of the funding collected from the Highway Fund. This proposal creates a new funding source for the Missouri Highway Patrol.

The MHP received the following appropriation authority in HB 8 for FY 2018 from the State Highways and Transportation Fund.

\$ 6,568,077	for MHP administration
\$87,566,159	for MHP fringe benefits
\$78,957,722	for the enforcement program
\$ 9,100,000	statewide interoperable communication system
\$ 4,837,264	for gasoline expenses of patrol cars
\$ 6,573,075	purchase of vehicles, aircraft and watercraft
\$ 5,088,123	crime lab
\$ 1,418,298	law enforcement academy
\$12,133,703	vehicle & driver safety program
\$ 100,000	refunding motor vehicle inspection stickers
\$212,342,421	TOTAL

**Oversight** notes this proposal creates the Missouri Law Enforcement Fund to receive the new additional four-tenths of one percent sales tax to be charged. This sales tax is to be used solely for:

- 1) costs of the annual audit of the fund performed by the State Auditor,
- 2) costs of the highway patrol in administering and enforcing all motor vehicle laws,
- 3) to provide grants to local law enforcement for equipment and training and to provide for families of law enforcement officers. Not more than 10% of this funding can be used for this purpose.

**Oversight** notes this proposal requires a vote of the people to be enacted. Oversight will show all costs as \$0 (people fail to adopt the proposal) to the estimates listed above. Additionally, if adopted this proposal becomes effective July 1, 2019 (FY 2020).

<u>FISCAL IMPACT - State Government</u>	FY 2019 (10 Mo.)	FY 2020	FY 2021
<b>GENERAL REVENUE</b>			
<u>Transfer Out-</u> to Local Election			
Authorities the cost of a special election if called by the Governor	\$0 or (\$7,800,000)	\$0	\$0
<u>Cost - DOR</u>			
Personal Service	\$0	\$0 or (\$26,603)	\$0 or (\$26,869)
Fringe Benefits	\$0	\$0 or (\$18,689)	\$0 or (\$18,768)
Equipment & Expenses & Computer upgrades	<u>\$0</u>	<u>\$0 or (\$83,704)</u>	<u>\$0 or (\$777)</u>
<u>Total Cost - DOR</u>	\$0	\$0 or (\$128,996)	\$0 or (\$46,414)
FTE Change on DOR	0 FTE	0 or 1 FTE	0 or 1 FTE
<b>ESTIMATED NET EFFECT ON THE GENERAL REVENUE FUND</b>	<b><u>\$0 or (\$7,800,000)</u></b>	<b><u>\$0 or (\$128,996)</u></b>	<b><u>\$0 or (\$46,414)</u></b>
Estimated Net FTE Change on General Revenue	0 FTE	0 or 1 FTE	0 or 1 FTE
<b>MO LAW ENFORCEMENT FUND</b>			
<u>Additional Revenue</u> - creation of the new 0.4% sales tax	<u>\$0</u>	\$0 or <u>\$335,400,000</u>	\$0 or <u>\$335,400,000</u>
<b>ESTIMATED NET EFFECT ON MO LAW ENFORCEMENT FUND</b>	<b><u>\$0</u></b>	<b><u>\$0 or \$335,400,000</u></b>	<b><u>\$0 or \$335,400,000</u></b>



<u>FISCAL IMPACT - Local Government</u>	FY 2019 (10 Mo.)	FY 2020	FY 2021
<b>LOCAL ELECTION AUTHORITIES</b>			
<u>Transfer In</u> - to Local Election Authorities the cost of a special election	\$0 or \$7,800,000	\$0	\$0
<u>Cost</u> - Local Election Authorities the cost of the special election <b>if</b> called for by the Governor	\$0 or <u>(\$7,800,000)</u>	<u>\$0</u>	<u>\$0</u>
<b>ESTIMATED NET EFFECT ON LOCAL ELECTION AUTHORITIES</b>	<b><u>\$0</u></b>	<b><u>\$0</u></b>	<b><u>\$0</u></b>

FISCAL IMPACT - Small Business

This legislation would impact any small businesses that collects sales/use tax on tangible items or services provided.

FISCAL DESCRIPTION

This constitutional amendment, if approved by the voters, provides for a sales tax at the rate of 0.4% to provide for adequate law enforcement on state roads. The revenue generated by such sales tax shall be deposited in the Missouri Law Enforcement Trust Fund, which is created by the amendment. Moneys in the fund shall not revert to the General Revenue Fund, and shall be used solely for the actual costs of the state highway patrol in administering and enforcing any state motor vehicle laws or traffic regulations, or for such other state highway patrol functions as the General Assembly deems appropriate, for grants to municipal and county law enforcement agencies for equipment and training, to provide for the families of law enforcement officers killed in the line of duty, and for the actual cost of an annual audit of all funds generated by the sales tax and expended as authorized by the amendment. The State Auditor shall conduct such annual audit.

The provisions of this amendment shall become effective on July 1, 2019.

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  
Missouri Department of Transportation  
Office of Administration Division of Budget and Planning  
Office of the Secretary of State  
Office of the State Auditor  
Office of the State Treasurer  
St. Louis County Department of Justice Services

Ross Strope



Acting Director  
March 27, 2018