

COMMITTEE ON LEGISLATIVE RESEARCH
OVERSIGHT DIVISION

FISCAL NOTE

L.R. No.: 3721-01
Bill No.: SB 574
Subject: Taxation and Revenue - Income; Higher Education; Abortion
Type: Original
Date: January 13, 2020

Bill Summary: This proposal modifies provisions relating to taxation.

FISCAL SUMMARY

ESTIMATED NET EFFECT ON GENERAL REVENUE FUND				
FUND AFFECTED	FY 2021	FY 2022	FY 2023	Fully Implemented (FY 2024)
GENERAL REVENUE	(\$117,600,771)	(\$127,915,202)	(\$128,529,644)	(\$129,161,967)
Total Estimated Net Effect on General Revenue	(\$117,600,771)	(\$127,915,202)	(\$128,529,644)	(\$129,161,967)

ESTIMATED NET EFFECT ON OTHER STATE FUNDS				
FUND AFFECTED	FY 2021	FY 2022	FY 2023	Fully Implemented (FY 2024)
Total Estimated Net Effect on <u>Other</u> State Funds	\$0	\$0	\$0	\$0

Numbers within parentheses: () indicate costs or losses. This fiscal note contains 12 pages.

ESTIMATED NET EFFECT ON FEDERAL FUNDS				
FUND AFFECTED	FY 2021	FY 2022	FY 2023	Fully Implemented (FY 2024)
Total Estimated Net Effect on <u>All</u> Federal Funds	\$0	\$0	\$0	\$0

ESTIMATED NET EFFECT ON FULL TIME EQUIVALENT (FTE)				
FUND AFFECTED	FY 2021	FY 2022	FY 2023	Fully Implemented (FY 2024)
Total Estimated Net Effect on FTE	0	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 2021	FY 2022	FY 2023	Fully Implemented (FY 2024)
Local Government	\$0	\$0	\$0	\$0

FISCAL ANALYSIS

ASSUMPTION

Section 143.011 - Income Tax Rate Reduction

Officials from the **Office of Administration - Budget & Planning Division (B&P)** state the top individual income tax rate shall be reduced by 0.3% beginning January 1, 2021. For the purpose of this fiscal note, B&P assumes that the rate reductions currently scheduled to implement under SB 509 (2014) will occur in consecutive years from tax year 2021 through tax year 2023.

Using tax year 2017 data, the most recent complete tax year available, and accounting for the changes in individual income tax law created by SB 509 (2014), HB 2540 (2018) and the Tax Cuts and Jobs Act (TCJA) (2017), B&P estimates that this section will reduce Total State Revenue (TSR) and General Revenue (GR) by \$280.0M in Tax Year 2021. Once fully implemented in Tax Year 2023, this section will reduce TSR and GR by \$281.4M.

Table 1 shows the impact from this section by calendar year.

Tax Year	Top Tax Rate -- Current Law*	Top Tax Rate – Proposal*	GR Impact
2021	5.30%	5.00%	(\$280,001,835)
2022	5.20%	4.90%	(\$280,271,756)
2023	5.10%	4.80%	(\$281,361,967)

However, because this proposal would take effect January 1, 2021 individuals will adjust their withholdings and declarations during Fiscal Year 2021. Based on actual collections data, B&P estimates that 42% of individual income taxes are paid during fiscal year 1 (FY 2021, \$280,001,835 * 42% = \$117,600,771) and 58% are paid during fiscal year 2. Therefore, B&P estimates that this proposal will reduce TSR and GR by \$117.6M in Fiscal Year 2021. Once fully implemented in Fiscal Year 2024, and annually thereafter, this proposal will reduce TSR and GR by \$281.4M.

Table 2 shows the estimated impact from this section by fiscal year.

Fiscal Year	GR Impact
FY 21	(\$117,600,771)
FY 22	(\$280,115,202)
FY 23	(\$280,729,644)
FY 24	(\$281,361,967)

ASSUMPTION (continued)

Oversight notes B&P has used a 42%/58% split when converting the estimated calendar year impact into a fiscal year impact. Oversight provides the calendar year/fiscal year split equations below:

Tax Year = January 1 - December 31		Equations for the Split	Fiscal Year = July 1 - June 30	
Calendar Year	Calendar Year Impact	Equation	Fiscal Year	Fiscal Year Impact
2021	(\$280,001,835)	$(\$280,001,835) * 42\%$	2021	(\$117,600,771)
2022	(\$280,271,756)	$(\$280,001,835) * 58\% + (\$280,271,756) * 42\%$	2022	(\$280,115,202)
2023	(\$281,361,967)	$(\$280,271,756) * 58\% + (\$281,361,967) * 42\%$	2023	(\$280,729,645)
-	-	$(\$281,361,967) * 58\% + (281,361,967) * 42\%$	2024	(\$281,361,967)

Officials from the **Missouri Department of Revenue (DOR)** note the current projected Individual Income Tax Rate is calculated with SB 509 (2014) and HB 2540 (2018) as follows:

- Tax Year 2018 it was 5.9% (.1% reduction from SB 509)
- Tax Year 2019 it was 5.4% (.1% reduction from SB 509 + .4% reduction from HB 2540)
- Tax Year 2020 it is 5.4% (no reductions)
- Tax Year 2021 will be 5.3% (.1% reduction from SB 509)
- Tax Year 2022 will be 5.2% (.1% reduction from SB 509)
- Tax Year 2023 will be 5.1% (last .1% reduction from SB 509)

DOR assumes that SB 509 triggers each year consecutively for fiscal note purposes.

This proposal would allow for another three-tenths of one percent reduction starting in calendar year 2021. Therefore, the future income tax rates per this proposal would be changed to:

- TY 2021 would be 5%.
- TY 2022 would be 4.9%
- TY 2023 would be 4.8%

DOR used its internal Income Tax Model that contains confidential taxpayer data to create the fiscal impact. The model calculates the calendar/tax year impact, then converts the data to fiscal year using a 42% in the first year and 58% in the second year split for conversion. The loss to General Revenue is projected as follows:

ASSUMPTION (continued)

The General Revenue impact would be a loss per calendar year of

TY 2021	(\$279,072,655)
TY 2022	(\$279,225,544)
TY 2023	(\$280,309,420)

This would translate into the following loss per fiscal year:

FY 2021	(\$117,210,515)
FY 2022	(\$279,136,868)
FY 2023	(\$279,680,772)

Oversight notes DOR has used a 42%/58% split when converting the estimated calendar year impact into a fiscal year impact.

Oversight notes the current tax rate and projected future tax rates when accounting for the tax law changes pursuant to SB 509 (2014) will be:

Tax Year	Tax Rate
2020	5.40%
2021	5.30%
2022	5.20%
2023 Forward	5.10%

Oversight notes this proposed legislation would allow an additional reduction to the top individual income tax rate equal to three-tenths of one percent (.3%). Oversight assumes the tax rates beginning in Tax Year 2021, while taking into consideration the reductions currently allowable SB 509 (2014) will be:

Tax Year	Tax Rate
2020	5.40%
2021	5.00%
2022	4.90%
2023 Forward	4.80%

Oversight used 2017 Federal tax data published by the Internal Revenue Service, specific to the State of Missouri, to model the changes proposed in this legislation. Oversight notes the model used begins with Federal Adjusted Gross Income (FAGI). Models used by the Office of Administration - Division of Budget & Planning and the Missouri Department of Revenue holds Missouri tax data which includes various additions, subtractions, and deductions post FAGI, which are not accounted for in the model used by Oversight. Therefore, there will always be a difference in the estimated impact(s) in relation to income tax rate reductions as shown between

ASSUMPTION (continued)

Oversight and other state agencies. Oversight notes B&P provided the calendar year revenue split to determine fiscal year impacts. Oversight used the 42 percent/58 percent split and provides the following fiscal impact as it relates to this section and accounting for the projected income tax law changes pursuant to SB 509 (2014):

Fiscal Year	Impact to General Revenue
2021	(\$140,214,393)
2022	(\$337,793,886)
2023	(\$342,310,368)
2024	(\$341,014,475)

For the purposes of this fiscal note, Oversight will use the fiscal impact (reduction) estimated for this section, using Missouri data that was provided by B&P, as it was the largest reduction while using Missouri data.

Section 146.200 - Endowment Tax

Officials from **B&P** state this section would create a 1.9% tax on qualifying endowments, beginning with tax year 2021. B&P notes that because the tax covers tax year 2021, final returns by impacted institutions would not be filed until 2022. Endowment is defined as a permanent fund held by an institution of higher education consisting of property, cash, cash equivalents, stocks, bonds, or any other marketable security; is used for specific purposes indicated by donors or related to the mission of the higher education institution; and the institution attempts to maintain and grow the principle of such fund while annually dispersing at least a portion of the investment earnings. Revenues generated by the endowment tax shall be deposited into the states's General Revenue Fund (GR).

A tax of 1.9% shall be levied on such endowment if an institution of higher education: is affiliated with or provides medical faculty to an abortion facility, offers specific medical fellowships in performing or inducing abortions, or supports abortion facilities in any manner, when the abortions are not necessary to save the life of the mother. B&P notes that Washington University is the only institution of higher education located in Missouri that would meet this standard. Based on Washington University's 2019 annual financial report, the University had an endowment of \$8,008,925,000. Therefore, B&P estimates that a 1.9% endowment tax would increase General Revenue (GR) and Total State Revenue (TSR) by \$152.2M annually beginning in FY22.

Officials from the **DOR** note there are six (6) Universities in the state of Missouri that provide medical facilities; however only Washington University (Wash U) is known to support abortion services. According to the Washington University website, under University Facts, as of June 30, 2019 Wash U's endowment had a market value of \$8,130,483,000.

ASSUMPTION (continued)

This proposal requires a tax be assessed, starting January 1, 2021, on a qualifying higher education institution's endowment of 1.9% annually. DOR notes the collection of the tax would be in FY 2022 when tax returns are filed for Calendar Year 2021. Using Washington University information, this would result in a tax producing revenue gains of:

FY 2021	\$0
FY 2022	\$154,479,177
FY 2023	\$154,479,177

Oversight notes this proposed legislation imposes a tax, beginning on January 1, 2021, on the aggregate fair market value of the assets of endowment funds held by qualifying institutions equal to one and nine-tenths percent (1.9%). Oversight notes this impacted entity would not report their final tax until after January 1, 2022 (Fiscal Year 2022).

Oversight also notes the financial statements published by Washington University states, for Year Ending June 30, 2019, the Total Endowment Net Assets by Purpose is \$8,008,925,000 and reports the University's endowment assets at June 30, 2019 to be \$8,130,483,000. For purposes of this fiscal note, Oversight will show the smallest estimated increase to GR reported for this section provided by B&P, \$152,200,000, beginning in Fiscal Year 2022.

Section 188.800 - Excise Tax on the Sale of Fetal Organs and Tissues

Officials from **B&P** state this section would create a 10% excise tax on the sale of fetal organs and tissues. Revenues generated from this excise tax shall be deposited into GR. B&P notes that Subsection 188.036.5, RSMo, prohibits the sales of fetal organs and tissues. Therefore, B&P estimates that this section will not impact Total State Revenue (TSR) or General Revenue (GR).

Oversight notes Section 188.036 provides that no person shall knowingly offer or receive any valuable consideration for the fetal organs or tissue resulting from an abortion, provided that nothing in this subsection shall prohibit payment for burial or other final disposition of the fetal remains, or payment for pathological examination, autopsy or postmortem examination of fetal remains. Oversight is unaware of any legal or illegal sales of fetal tissue and/or organs in the State of Missouri. Therefore, Oversight, for purposes of this fiscal note, will show a zero fiscal impact for this section.

Officials from **DOR** note the sale of fetal tissue and certain donations of fetal tissue are prohibited under 42 USC 289g-1 to 289g-2, as well as section 188.036.5 RSMo: " No person shall knowingly offer or receive any valuable consideration for the fetal organs or tissue resulting from an abortion, provided that nothing in this subsection shall prohibit payment for burial or other final disposition of the fetal remains, or payment for a pathological examination, autopsy or postmortem examination of the fetal remains."

ASSUMPTION (continued)

If this is to add a second layer to the sale of an already prohibited practice (fetal tissue sales), DOR would not have any information to suggest that this is currently happening illegally and would not be able to determine a fiscal impact. DOR assumes this provision would not have a fiscal impact.

Oversight notes the National Institutes of Health Revitalization Act of 1993 - 42 U.S.C. 289(g)-1 to 289(g)-2 provides that it shall be unlawful for any person to knowingly acquire, receive, or otherwise transfer any human fetal tissue for valuable consideration if the transfer affects interstate commerce. Oversight assumes both federal and state law prohibit the sale of fetal organs and tissue. Oversight is not aware of any legal or illegal sales of fetal tissue and/or organs in the State of Missouri. Therefore, Oversight, for the purposes of this fiscal note, will show a zero fiscal impact for this section.

Officials from the **St. Louis County Police Department** state the proposed legislation would modify provisions relating to taxation, specifically on fetal organ and tissue. The St. Louis County Police Department believes that the passage of this legislation would have a fiscal impact.

The legislation requires that stamps be issued for the sale and taxes of fetal organs or tissue. All commissioned officers (1,040) would require one hour of training to learn how to properly identify both the fetal tissue and the authenticity of the stamps issued by the Department of Revenue. The average pay for Police Officers including fringe benefits is \$46.72 an hour. The total cost for one hour of training is \$48,589 ($\$46.72 \times 1,040$).

To accompany the training, a new policy would be required which results in 8 hours of research, 4 hours of development, and 2 hours of review and presentation. Based on the average Police Officer pay with fringe benefits (\$46.72), the total cost of policy creation is \$654 ($\46.72×14).

The proposed legislation does not identify which tests would be required on the fetal organs and tissue, nor does it identify whom will be conducting the testing. If the St. Louis County Police Department Laboratory conducts a paternity trio, each test would cost \$500. If the St. Louis County Police Department Laboratory were to receive 10 cases annually, the estimated cost would be \$5,000.

However, if the legislation requires a DNA profile on the fetal organs or tissue, the St. Louis County Police Department Laboratory could conduct the testing but would usually refer to a medical doctor or the Medical Examiner to confirm that the DNA profile came from a fetus.

Finally, because the Department would be required to seize the suspected fetal organs and tissue, additional storage space would be necessary. The Saint Louis County Police Department estimates the cost of a new freezer at approximately \$2,000.

ASSUMPTION (continued)

The anticipated fiscal impact on the St. Louis County Police Department for year one is \$56,243. The total cost for all three years is \$66,243.

Oversight notes a total of zero stamps should be created and issued for the sale of fetal organs and tissue by the Missouri Department of Revenue as both federal and state law prohibit such sale(s). Oversight will show a \$0 impact to police departments.

Officials from the **Joint Committee on Administrative Rules (JCAR)** assume this proposal is not anticipated to cause a fiscal impact beyond current appropriations.

Oversight assumes JCAR will be able to administer any rules resulting from this proposal with existing resources.

Officials from the **Missouri Office of Prosecution Services (OPS)** assume there is no measurable fiscal impact to their agency. The creation of a new crime creates additional responsibilities for county prosecutors which may in turn result in additional costs which are difficult to determine.

Oversight has no information to the contrary. Therefore, Oversight will reflect a zero fiscal impact in this fiscal note for this agency.

Oversight notes the **Missouri Attorney General's Office**, the **Missouri Department of Higher Education & Workforce Development**, the **Missouri Department of Health and Senior Services**, the **Missouri Department of Public Safety**, the **Missouri Office of State Courts Administrator**, the **University of Missouri**, the **City of Springfield Police Department** and the **St. Louis County Department of Justice Services** have each stated the proposed legislation would not have a direct fiscal impact on their respective organizations. Oversight does not have any information to the contrary. Therefore, Oversight will reflect a zero impact in the fiscal note for these organizations.

Officials from the **Office of the Secretary of State (SOS)** state many bills considered by the General Assembly include provisions allowing or requiring agencies to submit rules and regulations to implement the act. The SOS is provided with core funding to handle a certain amount of normal activity resulting from each year's legislative session. The fiscal impact for this fiscal note to the SOS for Administrative Rules is less than \$5,000. The SOS recognizes that this is a small amount and does not expect that additional funding would be required to meet these costs. However, the SOS also recognizes that many such bills may be passed by the General

ASSUMPTION (continued)

Assembly in a given year and that collectively the costs may be in excess of what the office can sustain with the core budget. Therefore, the SOS reserves the right to request funding for the cost of supporting administrative rules requirements should the need arise based on a review of the finally approved bills signed by the governor.

Oversight assumes the SOS could absorb the costs of printing and distributing regulations related to this proposal. If multiple bills pass which require the printing and distribution of regulations at substantial costs, the SOS could request funding through the appropriation process.

<u>FISCAL IMPACT -</u> <u>State Government</u>	FY 2021 (10 Mo.)	FY 2022	FY 2023	Fully Implemented (FY 2024)
GENERAL REVENUE FUND				
<u>Revenue Reduction -</u> Section 143.011 - Income tax rate reduction of .3% p. 3, 5				
	(\$117,600,771)	(\$280,115,202)	(\$280,729,644)	(\$281,361,967)
<u>Revenue Gain -</u> Section 146.200 - Endowment tax p. 6, 7				
	<u>\$0</u>	<u>\$152,200,000</u>	<u>\$152,200,000</u>	<u>\$152,200,000</u>
ESTIMATED NET EFFECT ON GENERAL REVENUE FUND	<u>(\$117,600,771)</u>	<u>(\$127,915,202)</u>	<u>(\$128,529,644)</u>	<u>(\$129,161,967)</u>

FISCAL IMPACT -
Local Government

FY 2021
(10 Mo.)

FY 2022

FY 2023

Fully
Implemented
(FY 2024)

\$0

\$0

\$0

\$0

FISCAL IMPACT - Small Business

No direct fiscal impact to small businesses would be expected as a result of this proposal.

FISCAL DESCRIPTION

For all tax years beginning on or after January 1, 2021, this act reduces the top rate of tax by 0.3%, with an eventual top rate of tax of 4.8%. (Section 143.011)

For all tax years beginning on or after January 1, 2021, this act imposes a tax on the endowments of qualifying institutions of higher education at a rate of 1.9% of the aggregate fair market value of the assets of such endowments. The tax shall apply to the endowments, as defined in the act, of higher education institutions that 1) are affiliated with, or provide medical faculty to, any abortion facility, 2) offer specific medical fellowships that offer training in performing or inducing abortions, or 3) support in any manner any abortion facility where abortions are performed or induced when not necessary to save the life of the mother.

All revenues generated by the endowment tax shall be deposited in the General Revenue Fund. (Section 146.200)

This act imposes an excise tax on the sale of fetal organs or tissue at the rate of 10% of the sale price or valuable consideration received by the seller. The Director of Revenue shall issue stamps to accompany fetal organs or tissue to indicate the tax has been paid.

Law enforcement agencies shall report to the Department of Revenue within forty-eight hours after seizing fetal organs or tissue, or making an arrest of an individual in possession of fetal organs or tissue, upon which a stamp has not been fixed. The Director shall assess and collect the tax, penalties, and interest on unpaid taxes, as described in the act.

The provisions of the act shall not be construed to confer any immunity from criminal prosecution or conviction for a violation of law with respect to the sale of fetal organs or tissue.

Any person required under this act to pay any tax, keep any records, or supply any information, who with intent to defraud willfully fails to pay such tax, keep such records, or supply such information, shall, in addition to other penalties provided by law, be guilty of a Class A

FISCAL DESCRIPTION (continued)

misdemeanor.

The tax collected under this act shall be deposited in the General Revenue Fund. (Section 188.800)

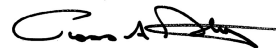
This legislation is not federally mandated, would not duplicate any other program and would not require additional capital improvements or rental space.

SOURCES OF INFORMATION

Office of Administration - Division of Budget & Planning
Missouri Department of Revenue
Missouri Secretary of State's Office
Joint Committee on Administrative Rules
Missouri Office of Prosecution Services
St. Louis County Police Department
Missouri Attorney General's Office
Missouri Department of Higher Education & Workforce Development
Missouri Department of Health and Senior Services
Missouri Department of Public Safety - State Highway Patrol Division
Missouri State Public Defender's Office
University of Missouri
Springfield Police Department
St. Louis County - Department of Justice Services
Missouri Office of State Courts Administrator



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