

COMMITTEE ON LEGISLATIVE RESEARCH
OVERSIGHT DIVISION

FISCAL NOTE

L.R. No.: 0989S.01I
 Bill No.: SJR 4
 Subject: Constitutional Amendments; Taxation And Revenue - Income; Taxation And Revenue - Sales And Use; Political Subdivisions
 Type: Original
 Date: February 24, 2021

Bill Summary: This joint resolution modifies provisions relating to taxation.

FISCAL SUMMARY

ESTIMATED NET EFFECT ON GENERAL REVENUE FUND			
FUND AFFECTED	FY 2022	FY 2023	FY 2024
General Revenue	\$0 or (\$7,000,000)	\$0	\$0
Total Estimated Net Effect on General Revenue	\$0 or (\$7,000,000)	\$0	\$0

*The potential fiscal impact of “(More than \$7,000,000)” in FY 2022 would be realized only if a special election were called by the Governor to submit this joint resolution to voters.

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

Numbers within parentheses: () indicate costs or losses.

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

ESTIMATED NET EFFECT ON FULL TIME EQUIVALENT (FTE)			
FUND AFFECTED	FY 2022	FY 2023	FY 2024
Total Estimated Net Effect on FTE	0	0	0

- Estimated Net Effect (expenditures or reduced revenues) expected to exceed \$250,000 in any of the three fiscal years after implementation of the act or at full implementation of the act.
- Estimated Net Effect (savings or increased revenues) expected to exceed \$250,000 in any of the three fiscal years after implementation of the act or at full implementation of the act.

ESTIMATED NET EFFECT ON LOCAL FUNDS			
FUND AFFECTED	FY 2022	FY 2023	FY 2024
Local Government	\$0*	\$0	\$0

*Transfers-in and costs (if any) net to zero (\$0)

FISCAL ANALYSIS

ASSUMPTION

Officials from the **Office of Administration – Budget & Planning Division (B&P)** state this proposal requires a voter approval; therefore, it will not impact Total State Revenue (TSR) or the calculation under Article X, Section 18(e).

This proposal is subject to voter approval during the election in November 2022. B&P assumes that, if voter approved, this proposal would not be enacted until January 1, 2023.

Article X, Section 4(d)

B&P states this section would limit the top income tax rate to 5.9%. This section does not specifically state that the limit shall apply to individual or corporate income taxes. Therefore, B&P assumes that the 5.9% limit shall apply to **both** Corporate and Individual Income Tax(es).

B&P notes that, currently, the top Individual Income Tax rate is 5.4% with further reductions scheduled to occur pending General Revenue (GR) growth requirements. B&P also notes that as of January 1, 2020, the top corporate tax rate is 4.0%. Therefore, this proposed limit on the top income tax rates will not impact state revenues as both the individual and corporate tax rates are and would already be below the 5.9% limit.

Officials from the **Missouri Department of Revenue (DOR)** state this proposal would limit the top income tax rate to 5.9%. This section does not specifically state that the limit shall apply to Individual or Corporate Income Tax(es). Therefore, DOR assumes that the 5.9% limit shall apply to both Corporate and Individual Income Tax(es).

DOR notes the current income tax rate for Fiscal Year 2021 will be 5.4% with further reductions in the individual income rate based on GR growth requirements in the future. The corporate tax rate was decreased from 6.25% to 4.0% beginning January 1, 2020.

Therefore, by the time this proposal is enacted (if voter approved) both the individual and corporate tax rates will already be below the 5.9% limit. Therefore, there is no impact from this provision on DOR.

Officials from the **University of Missouri’s Economic & Policy Analysis Research Center (EPARC)** state that capping the Individual Income Tax rate at 5.9% will not impact net general revenue.

Article X, Section 26

Officials from **B&P** state this proposal would add an exemption for subscriptions, licenses for digital products, and online purchases of tangible personal property to the sales tax prohibition for items or transactions that were not taxable as of January 1, 2015. B&P notes that these items and transactions are already taxable under the Use Tax law in Chapter 144. This provision would clarify that they could also be subject to sales tax, rather than use tax.

Officials from **DOR** state this section states that no tax can be expanded or imposed if it was not taxed prior to January 1, 2015. This proposal would allow subscriptions, licenses for digital products and online purchases of tangible personal property to be expanded or imposed in the future. This constitutional amendment is not expected to have any additional fiscal impact. Should legislation be presented to expand the tax base, any fiscal impact from that expansion would be identified in that legislation's fiscal note request.

Officials from **EPARC** is uncertain to what extent subscriptions, licenses for digital products, and online purchases of tangible personal property are currently taxed. Therefore, EPARC provides a maximum impact estimate by assuming telecommunications and online purchase are not currently being taxed but will be taxed should this amendment be approved.

Given the expanding nature of digital subscriptions and licenses for digital products, the tax base on such products and services may encapsulate every Missourians' telecommunications budget in the future. Currently, EPARC estimates Missourians' telecommunications spending is at \$3.943 billion. Feasibly, EPARC estimates Missourians may be able to make 27% of their annual consumption expenditures through online purchasing. Currently, EPARC estimates this amount to be \$62.583 billion.

In the following table, EPARC computes the potential new revenue generated by these currently untaxed goods and services:

Fund	Sales Tax Rate	Telecommunications - Tax Base = 3.943 trillion	Online Spending Tax Base = \$62.583 trillion
General Revenue	3.000%	\$118.277 million	\$1,877.496 million
Education	1.000%	\$39.426 million	\$625.832 million
Conservation Commission	0.125%	\$4.928 million	\$78.229 million
Parks, Soil and Water	0.100%	\$3.943 million	\$62.583 million
Total	4.23%	\$166.574 million	\$2,644.141 million

EPARC has maximized the impact estimate by taxing new telecommunication services and all feasible online spending. Maximally, potentially, EPARC recognizes that net general revenue may increase by \$1.996 billion, Education Fund may increase by \$665 million, Conservation may increase by \$83 million and Parks and Soils may increase by \$66 million.

Oversight notes EPARC has provided and estimated maximum impact should this amendment result in full taxation of telecommunication services and online purchases.

Oversight assumes, whether this amendment is passed by the voters of Missouri or not, that digital products, licenses and subscriptions are currently taxable under Missouri's Use Tax law, that this proposal clarifies that such products shall be applicable to Missouri's Sales Tax law. Oversight assumes such products are currently exempt from sales tax under Chapter 144 and, thus, will not result in a fiscal impact.

Furthermore, Oversight assumes Missouri collects use tax from online purchases from out-of-state online retailers, and sales tax from online purchases of companies that have brick and mortar operations within the State of Missouri. Thus, Oversight does not anticipate a fiscal impact.

Therefore, for purposes of this fiscal note, Oversight will report a zero (\$0) fiscal impact.

Proposal As A Whole -

Officials from the **City of Springfield** anticipate a negative fiscal impact of an unknown amount due to the restriction(s) on additional subjects of sales, use, and transaction-based taxes.

Officials from the **City of Hale** anticipate this proposal will result in a fiscal impact.

Officials from the **St. Clair Fire Protection District** anticipate this proposal will result in a fiscal impact.

Officials from the **Missouri Department of Conservation (MDC)** assumes this section would have an unknown fiscal impact but greater than \$100,000.

MDC states the Conservation Sales Tax funds are derived from one-eighth of one percent sales and use tax pursuant to Article IV Section 43 (a) of the Missouri Constitution. Any change in sales and use tax collected would affect revenue to the Conservation Sales Tax funds. However, the initiative is very complex and may require adjustments to Missouri sales tax law which could cause some downside risk to the Conservation Sales Tax. MDC assumes the Missouri Department of Revenue would be better able to estimate the anticipated fiscal impact that would result from this proposal.

Officials from the **Missouri Department of Natural Resources (DNR)** state DNR's Parks and Soils Sales Tax Funds are derived from one-tenth of one percent sales and use tax pursuant to Article IV Section 47(a) of the Missouri Constitution. Any increase in sales tax collected could increase revenue to the Parks and Soils Sales Tax Funds. The Department assumes any increase in revenue to the Parks and Soils Sales Tax fund would be used for the purposes established in Article IV Section 47(a) of the Missouri Constitution.

DNR assumes the Missouri Department of Revenue would be better able to estimate the anticipated fiscal impact that would result from this proposal should this proposal pass and is subsequently approved by the voters.

Officials from the **Secretary of State (SOS)** state 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 requires the state to pay the costs. The cost of the special election has been estimated to be \$7 million based on the cost of the 2020 Presidential Preference Primary.

SOS 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. Funding for this item is adjusted each year depending upon the election cycle. A new decision item is requested in odd numbered fiscal years and the amount requested is dependent upon the estimated number of ballot measures that will be approved by the General Assembly and the initiative petitions certified for the ballot. In Fiscal Year 2014, the General Assembly changed the appropriation so that it was no longer an estimated appropriation.

In Fiscal Year 2019, over 5.8 million dollars was spent to publish the full text of the measures for the August and November elections. SOS estimates \$65,000 per page for the costs of publications based on the actual cost incurred for the one referendum that was on the August 2018 ballot.

SOS 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.

For the purposes of this fiscal note, **Oversight** has reflected the cost to the state for reimbursing local political subdivisions the cost for having this joint resolution voted on during a special election in Fiscal Year 2022. This reflects the decision made by the Joint Committee on Legislative Research that the cost of special elections should be shown in the fiscal note. The next scheduled General Election is in November 2022 (both in FY 2023). It is assumed the subject matter within this proposal could be on the ballot of this election; however, it could also be on a special election called for by the Governor (a different date). Therefore, Oversight will reflect, in this fiscal note, the potential election cost of the reimbursement to local political subdivisions in Fiscal Year 2022 if a special election is called. Potential election costs will be ranged from \$0 (no special election) to \$7 million (special election is called) (as estimated by Secretary of State’s Office).

Officials from the **City of Ballwin**, the **City of Corder**, the **Mexico Department of Public Safety**, the **Crawford County 911 Board**, and the **Nodaway County Ambulance District** do not anticipate this proposal will result in a fiscal impact on their organizations. Oversight does not have any information to the contrary. Therefore, Oversight will not report a fiscal impact for these organizations.

<u>FISCAL IMPACT – State Government</u>	FY 2022 (10 Mo.)	FY 2023	FY 2024
GENERAL REVENUE			
<u>Transfer Out – Reimbursement Of Cost To Local Election Authorities if A Special Election Is Called For By The Governor</u>	<u>\$0 or (\$7,000,000)</u>	<u>\$0</u>	<u>\$0</u>
ESTIMATED NET EFFECT ON GENERAL REVENUE FUND	<u>\$0 or (\$7,000,000)</u>	<u>\$0</u>	<u>\$0</u>

<u>FISCAL IMPACT – Local Government</u>	FY 2022 (10 Mo.)	FY 2023	FY 2024
LOCAL ELECTION AUTHORITY			
<u>Transfer In – Reimbursement To Local Election Authorities For Cost Of Special Election if Called For By The Governor</u>	\$0 or \$7,000,000	\$0	\$0
<u>Cost – Cost To Local Election Authorities For Special Election if Called For By The Governor</u>	\$0 or (\$7,000,000)	\$0	\$0
ESTIMATED NET EFFECT ON LOCAL ELECTION AUTHORITY	<u>\$0</u>	<u>\$0</u>	<u>\$0</u>

FISCAL IMPACT – Small Business

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

FISCAL DESCRIPTION

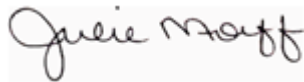
This constitutional amendment, if approved by the voters, prohibits the General Assembly from setting an income tax rate exceeding 5.9%.

This amendment also modifies a provision prohibiting sales taxes levied on transactions not taxed as of January 1, 2015, by providing an exception for sales and use taxes on subscriptions, licenses for digital products, and online purchases of tangible personal property.

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 – Budget & Planning Division
Missouri Department of Natural Resources
Missouri Department of Revenue
Missouri Department of Conservation
Missouri Secretary of State’s Office
City of Hale
City of Springfield
City of Ballwin
City of Corder
Mexico Department of Public Safety
St. Clair Fire Protection District
Crawford County 911 Board
Nodaway County Ambulance District
University of Missouri’s Economic & Policy Analysis Research Center



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