

COMMITTEE ON LEGISLATIVE RESEARCH  
OVERSIGHT DIVISION

**FISCAL NOTE**

L.R. No.: 5242S.01I  
Bill No.: SJR 48  
Subject: Abortion; Constitutional Amendment  
Type: Original  
Date: April 5, 2022

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Bill Summary: This proposal recognizes that unborn children have equal protection of the laws, prohibits abortion, and prohibits public funding of abortion.

**FISCAL SUMMARY**

<b>ESTIMATED NET EFFECT ON GENERAL REVENUE FUND</b>			
<b>FUND AFFECTED</b>	<b>FY 2023</b>	<b>FY 2024</b>	<b>FY 2025</b>
General Revenue*	\$0 or (More than \$7,000,000)	\$0	\$0
<b>Total Estimated Net Effect on General Revenue</b>	<b>\$0 or (More than \$7,000,000)</b>	<b>\$0</b>	<b>\$0</b>

\*Impact depends on whether the Governor calls a special election.

<b>ESTIMATED NET EFFECT ON OTHER STATE FUNDS</b>			
<b>FUND AFFECTED</b>	<b>FY 2023</b>	<b>FY 2024</b>	<b>FY 2025</b>
<b>Total Estimated Net Effect on <u>Other</u> State Funds</b>	<b>\$0</b>	<b>\$0</b>	<b>\$0</b>

Numbers within parentheses: () indicate costs or losses.

<b>ESTIMATED NET EFFECT ON FEDERAL FUNDS</b>			
<b>FUND AFFECTED</b>	<b>FY 2023</b>	<b>FY 2024</b>	<b>FY 2025</b>
Federal Funds*	\$0 or (\$0 to \$166,000,000)	\$0 or (\$0 to \$166,000,000)	\$0 or (\$0 to \$166,000,000)
<b>Total Estimated Net Effect on <u>All</u> Federal Funds</b>	<b>\$0 or (\$0 to \$166,000,000)</b>	<b>\$0 or (\$0 to \$166,000,000)</b>	<b>\$0 or (\$0 to \$166,000,000)</b>

\*Potential impact depends on passage of the constitutional amendment, as well as decisions by the courts and actions taken (if any) of the federal government.

<b>ESTIMATED NET EFFECT ON FULL TIME EQUIVALENT (FTE)</b>			
<b>FUND AFFECTED</b>	<b>FY 2023</b>	<b>FY 2024</b>	<b>FY 2025</b>
<b>Total Estimated Net Effect on FTE</b>	<b>0</b>	<b>0</b>	<b>0</b>

- 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.

<b>ESTIMATED NET EFFECT ON LOCAL FUNDS</b>			
<b>FUND AFFECTED</b>	<b>FY 2023</b>	<b>FY 2024</b>	<b>FY 2025</b>
<b>Local Government</b>	<b>\$0*</b>	<b>\$0</b>	<b>\$0</b>

\*Potential cost for a special election and reimbursement by the state net to \$0.

## FISCAL ANALYSIS

### ASSUMPTION

#### SJR – Protects unborn children, prohibits abortion and prohibits public funding of abortion

Officials from the **Department of Social Services (DSS)** state the proposed language in Senate Joint Resolution 48 may be subject to legal challenge on the grounds that it may conflict with current federal law governing the Medicaid program to the extent that it would prohibit the Missouri Medicaid program from paying for abortions in cases of pregnancies arising from rape, incest, or to save the life of the mother. Under current federal law, state Medicaid programs are not allowed to pay for abortions except in cases of rape, incest, and when necessary to save the life of the mother. This is known as the Hyde Amendment. The current version of the Hyde amendment is included in the federal appropriation bill for the Medicaid program. See Public Law 116-260 (2020), which was extended by Public Law 117-43 (2021) and Public Law 117-70 (2021). In 1994, the United States District Court entered an injunction against Missouri directing Missouri to comply with the requirements of the Hyde Amendment. *Stangler v. Shalala*, 1994 WL 764104 (W.D.Mo 1994). Failure to comply with the requirements of current federal law could subject Missouri to the risk of litigation and sanction, including the possibility of deferral or disallowance of federal financial participation in Missouri's Medicaid program.

The Department is not certain how the Centers for Medicare & Medicaid Services (CMS) would respond to the proposed SJR language. The cost is presented as a range from \$0 to approximately 2% of the total Title XIX federal claim for the last four quarters (\$166 million).

**Oversight** does not have any information to the contrary. Since this is a proposed constitutional amendments and must be passed by Missouri voters, Oversight will present DSS' impact as \$0 or (\$0 to \$166,000,000) to Federal funds.

Officials from the **Kansas City Board of Elections** state the cost to conduct an election for the Kansas City portion of Jackson County is roughly \$625,000. The State would be responsible for their pro-rata share based on voter registration.

**Oversight** does not have any information to the contrary. Oversight notes the State would reimburse local election authority costs for a special election.

Officials from the **Office of the Secretary of State (SOS), Elections Division** 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 RSMo 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.

The 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, RSMo. 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 FY 2014, the General Assembly changed the appropriation so that it was no longer an estimated appropriation.

For the FY22 petition cycle, the SOS estimates publication costs at \$70,000 per page. The amount is subject to change based on the number of petitions received, length of those petitions and rates charged by newspaper publishers.

The 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, the SOS reserves the right to request funding to meet the cost of its publishing requirements if the Governor and the General Assembly again change the amount or continue to not designate it as an estimated appropriation.

SEQ CHAPTER \h \r 1SEQ CHAPTER \h \r 1**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 2023. 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 2022 and the next scheduled general election is in November 2022 (both in FY 2023). 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 (a different date). Therefore, Oversight will reflect a potential election cost reimbursement to local political subdivisions in FY 2023.

Officials from the **Department of Health and Senior Services**, the **Office of the State Public Defender**, the **Cities of: Claycomo, Kansas City, O'Fallon, Springfield** and **St. Louis Budget Division**, the **Jackson County Board of Elections**, the **Platte County Election Authority**, the **St. Louis County Election Authority**, the **Kansas City Health Department**, the **Newton County Health Department**, the **St. Louis County Health Department**, the **Missouri Office of Prosecution Services** and the **Office of the State Courts Administrator** each assume the proposal will have no 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 agencies.

**Oversight** only reflects the responses received from state agencies and political subdivisions; however, other cities, local election authorities, various county officials, local public health departments, schools, hospitals and colleges and universities were requested to respond to this proposed legislation but did not. A listing of political subdivisions included in the Missouri Legislative Information System database is available upon request.

Officials from the **Attorney General’s Office** did not respond to **Oversight’s** request for a statement of fiscal impact.

<u>FISCAL IMPACT – State Government</u>	FY 2023 (10 Mo.)	FY 2024	FY 2025
<b>GENERAL REVENUE</b>			
<u>Transfer Out - SOS - reimbursement of local election authority election costs if a special election is called by the Governor</u>	<u>\$0 or (More than \$7,000,000)</u>	<u>\$0</u>	<u>\$0</u>
<b>ESTIMATED NET EFFECT ON THE GENERAL REVENUE FUND</b>	<b><u>\$0 or (More than \$7,000,000)</u></b>	<b><u>\$0</u></b>	<b><u>\$0</u></b>
<b>FEDERAL FUNDS</b>			
<u>Costs – DSS – potential loss of Medicaid funds for non-compliance with federal law</u>	<u>\$0 or (\$0 to \$166,000,000)</u>	<u>\$0 or (\$0 to \$166,000,000)</u>	<u>\$0 or (\$0 to \$166,000,000)</u>
<b>ESTIMATED NET EFFECT ON FEDERAL FUNDS</b>	<b><u>\$0 or (\$0 to \$166,000,000)</u></b>	<b><u>\$0 or (\$0 to \$166,000,000)</u></b>	<b><u>\$0 or (\$0 to \$166,000,000)</u></b>

<u>FISCAL IMPACT – Local Government</u>	FY 2023 (10 Mo.)	FY 2024	FY 2025
<b>LOCAL POLITICAL SUBDIVISIONS</b>			
<u>Transfer In</u> - Local Election Authorities - reimbursement of election costs by the State for a special election	\$0 or More than \$7,000,000	\$0	\$0
<u>Costs</u> - Local Election Authorities - cost of a special election if called for by the Governor	\$0 or (More than \$7,000,000)	\$0	\$0
<b>ESTIMATED NET EFFECT ON LOCAL POLITICAL SUBDIVISIONS</b>	<b><u>\$0</u></b>	<b><u>\$0</u></b>	<b><u>\$0</u></b>

FISCAL IMPACT – Small Business

This proposal is not expected to impact small businesses.

FISCAL DESCRIPTION

This constitutional amendment, if adopted by the voters, recognizes that unborn children shall have equal protection of the laws of this state and that a living human child, from the moment of conception, is entitled to the same rights, powers, privileges, justice, and protections as are secured or granted by the laws of this state to any other human person. No law, ordinance, order, regulation, or policy of this state or any political subdivision of this state shall provide for a right to any form of an abortion, surgical or medical, or otherwise provide for the use of public funds for any form of an abortion.

This legislation is not federally mandated, would not duplicate any other program and would not require additional capital improvements or rental space.0

SOURCES OF INFORMATION

Department of Health and Senior Services

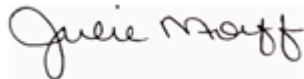
L.R. No. 5242S.011

Bill No. SJR 48

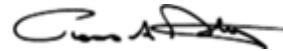
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Department of Social Services  
Office of the Secretary of State  
Office of the State Public Defender  
City of Claycomo  
City of Kansas City  
City of O'Fallon  
City of Springfield  
St. Louis Budget Division  
Jackson County Board of Elections  
Kansas City Board of Elections  
Platte County Election Authority  
St. Louis County Election Authority  
Kansas City Health Department  
Newton County Health Department  
St. Louis County Health Department  
Missouri Office of Prosecution Services  
Office of the State Courts Administrator



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April 5, 2022



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