

COMMITTEE ON LEGISLATIVE RESEARCH
OVERSIGHT DIVISION

FISCAL NOTE

L.R. No.: 0466S.07P
 Bill No.: Perfected SS for SCS for SB 100
 Subject: State Treasurer; Taxation and Revenue - Income; Property, Real and Personal
 Type: Original
 Date: February 7, 2023

Bill Summary: This proposal creates and modifies provisions relating to gold and silver.

FISCAL SUMMARY

ESTIMATED NET EFFECT ON GENERAL REVENUE FUND			
FUND AFFECTED	FY 2024	FY 2025	FY 2026
General Revenue*	(Could exceed \$1,476,972)	(Could substantially exceed \$1,489,874)	(Could substantially exceed \$1,491,584)
Total Estimated Net Effect on General Revenue	(Could exceed \$1,476,972)	(Could substantially exceed \$1,489,874)	(Could substantially exceed \$1,491,584)

*Oversight notes the stated amounts above (\$1,476,972 in FY 2024, and roughly \$1.5 million per year thereafter) only reflect the lost interest revenue and additional FTE costs for the DOR to hire an assayer to verify “the weight and purity of any gold or silver coinage during any such transaction” as the state shall now accept gold and silver coins as payment. Any other state department that accepts payments may also incur similar costs. Oversight does not have enough information to estimate a loss to the state regarding §143.121 (deduction of capital gains from sale of gold and/or silver from MAGI); however estimates from the Department of Revenue and the Office of Administration - Budget note this loss is unknown but significant and is reflected above as “could substantially exceed”.

ESTIMATED NET EFFECT ON OTHER STATE FUNDS			
FUND AFFECTED	FY 2024	FY 2025	FY 2026
Other State Funds**	(\$2,335,333)	(\$2,802,400)	(\$2,802,400)
Total Estimated Net Effect on Other State Funds	(\$2,335,333)	(\$2,802,400)	(\$2,802,400)

**Oversight assumes a loss of interest income if 1% of all state funds shall be held in gold and silver and not invested in interest-bearing securities by the Office of the State Treasurer.

Numbers within parentheses: () indicate costs or losses.

ESTIMATED NET EFFECT ON FEDERAL FUNDS			
FUND AFFECTED	FY 2024	FY 2025	FY 2026
Total Estimated Net Effect on <u>All</u> Federal Funds	\$0	\$0	\$0

ESTIMATED NET EFFECT ON FULL TIME EQUIVALENT (FTE)			
FUND AFFECTED	FY 2024	FY 2025	FY 2026
General Revenue*	Could exceed 1 FTE	Could exceed 1 FTE	Could exceed 1 FTE
Total Estimated Net Effect on FTE	Could exceed 1 FTE	Could exceed 1 FTE	Could exceed 1 FTE

*DOR assumed the need for an additional FTE Assayer to verify “the weight and purity of any gold or silver coinage during any such transaction” as the state shall now accept gold and silver coins as payment. Other state departments that accept payments may also find the need for additional FTE.

- 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 2024	FY 2025	FY 2026
Local Government	\$0	\$0	\$0

FISCAL ANALYSIS

ASSUMPTION

Section 30.266 – STO Budget Reserve Fund Investment

In response to the introduced version of the bill, officials from **the Office of the State Treasurer (STO)** stated investments made by the Missouri State Treasurer's Office are determined by the state constitution, not by statute. The fiscal impact to the State Treasurer's Office would be unknown.

Officials from the **Office of Administration - Budget and Planning (B&P)** state this section requires the State Treasurer's Office to invest in gold or silver. B&P defers to STO for the potential impact of this provision.

Officials from the **Department of Revenue (DOR)** state this requires the STO to invest in gold or silver. This will not fiscally impact DOR.

Oversight notes this section requires the Office of the State Treasurer to keep in custody an amount of gold and silver greater than or equal to one percent (1%) of all state funds. Oversight assumes a loss of interest income to the state if the STO is no longer allowed to invest those monies in interest bearing securities. According to reports from the Office of the State Treasurer, the balance of all state funds in the treasury totaled \$16.96 billion at January 31, 2023. Also, the STO's December Portfolio Management summary noted a par value of investments as of December 31, 2022 of \$16.5 billion and an effective rate of return for the month of December as 2.48%. Therefore, Oversight assumes if the STO keeps in custody 1% of state funds in gold and silver, this would equate to roughly \$169 million ($\$16,960,871,122 \times 1\%$) taken out of usual investments and used to purchase/hold gold and silver. Oversight will reflect a loss of interest income to General Revenue and Other state funds of \$4.2 million ($\$169,000,000 \times 2.48\%$). Oversight is unsure of the breakout of interest being credited to General Revenue versus other state funds; therefore, for simplicity, Oversight will assume interest proceeds from the General Revenue Fund (balance of \$5.6 billion at January 31, 2023) will be credited back to that fund, and all other interest will be credited to their original state funds, which Oversight will lump into "other state funds".

General Revenue Fund	$\$5.6 \text{ billion} \times 1\% \times 2.48\% = \$1,388,800$
All others (reflected as "Other State Funds")	$(\$16.9B - \$5.6B) \times 1\% \times 2.48\% = \$2,802,400$

Section 143.121 Capital Gains and MAGI

DOR notes this requires that a taxpayer subtract the amount of capital gain on the sale or exchange of gold or silver from their Missouri adjusted gross income if it was reported in their federal adjusted gross income. The Department is unable to determine how many people report

capital gains on gold or silver or how much would be subtracted from their Missouri adjusted gross income. Should subtracting this capital gain decrease a taxpayer's adjusted gross income, then this could result in a loss of revenue to the state. The impact is unknown but could be significant, over \$1 million.

This will require an additional line be added to the MO-A form, information would need to be added to their website and this would need to be added to their individual income tax computer system. These costs are estimated at \$7,193.

B&P notes this section would allow Missouri taxpayers to subtract any capital gains from the sale or exchange of gold and/or silver from the taxpayer's Missouri Adjusted Gross Income (MAGI), if such capital gains were included in the taxpayer's Federal Adjusted Gross Income (FAGI), beginning with tax year 2024.

B&P is unable to determine how the amount of capital gains claimed by Missouri taxpayers. However, the total amount of capital gains claimed during tax year 2020, the most recent complete year available, was \$6,397,177,469. If even 1% of the capital gains resulted from the sale or exchange of gold and/or silver, B&P estimates that the loss to GR would have been \$3,166,603 ($\$6,397,177,469 \times 1\% \times 4.95\%$). Therefore, B&P estimates that this provision may have an unknown, but significant, loss to TSR and GR beginning with FY25 (for tax year 2024 capital gains).

Oversight has no basis to provide an estimate; therefore, will reflect an unknown loss, potentially significant, to the General Revenue Fund from this section.

Section 408.010 Legal Tender

DOR notes this provision allows gold and silver coins to serve as legal tender of the U.S. for payment of debts. It should be noted that if they are minted by the U.S. Mint they are already considered legal tender, though not widely used in financial transactions. However, if a person makes the coinage themselves, that is not considered legal tender and would be a violation of 18 U.S. § 486.

This proposal will require DOR to accept gold and silver coinage as payment of all taxes or obligations. For purposes of the fiscal note, they assumed that they only must accept gold and silver coinage that is legal tender. This proposal would require the Department to bear the cost of the verification of the weight and purity of the gold or silver upon acceptance. It should be noted that verification of gold and silver is done by an Assayer. DOR does not currently have one on staff. Research indicates their average salary is around \$61,000 annually and currently there are only 4 working in Missouri at this time. If DOR is required to accept gold or silver at all of their locations (5) and licenses offices (173) they would need an Assayer at each location. DOR assumes they will need to have one full-time Assayer in their headquarters building where the majority of all payments are received. For purposes of the fiscal note, they assume all

taxpayers wishing to pay in gold or silver would need to do so in their Jefferson City Headquarters Building.

It should be noted that gold and silver are commodities that change in value daily like stocks on the stock exchange. This proposal will require DOR to accept gold and silver coinage at its spot price plus market premium rather than at its par value (value printed on the coin). The market premium on gold adds an additional 2% to 3.75% to the spot price. The par value of gold today (2/2/2023) is \$44.22 per ounce while its spot price was trading for \$1,932. Once the price is determined by the time DOR is able to process the payments and get them to the bank to convert to dollars, the spot price could have changed again.

The Department is unable to determine how many people will want to pay with gold and silver rather than dollar bills. This proposal removes the restriction that does not allow a person to use coins to pay their debt. At this time, DOR does not accept coins. Since this would allow for the payment of coins, they would need at least 2 coin counters with counterfeit detection devices. These are estimated at \$1,000 apiece.

Additionally, this proposal will require they have larger safes to store gold and silver until bank transfer and additional security features for the three rooms in their headquarters where money is accepted. Additionally, security services may be needed if a large volume of gold and silver is received. The impact from the equipment upgrades could exceed \$200,000 and the impact from the acceptance of gold or silver is unknown to general revenue, total state revenue and numerous other state and local funds.

This proposal in 408.010.4 prevents all state and local governmental bodies from seizing any gold or silver that is owned by a person. If a taxpayer owes DOR back taxes, they would have the opportunity to move all their income to gold or silver and prohibit DOR from being able to collect the back taxes owed. DOR is unable to determine how this will impede their collection efforts. The impact is negatively unknown.

B&P notes section 408.010 would allow gold and silver coinage to be legal tender in Missouri. B&P notes that certain gold and silver coins are already considered legal tender under Federal law. However, federal law prohibits the use of privately created gold and/or silver coins from being used as currency.

In addition, state agencies would be required accept gold and silver at their spot price plus market premium, rather than at their par value. B&P notes that the spot price changes daily, which in turn impacts the market premium. B&P further notes that under current law the par value for gold is \$42.22 per ounce. While the spot price for gold on 2/2/2023 was \$1,932.00 and the spot price for silver was \$0.76 per gram. In addition, the market premium for gold is currently 2% - 3.75%. This proposal does not specify which rate the state should use when calculating a dollar value for the market premium. Therefore, on 2/2/2023 the state would have to accept an ounce of gold for \$ 1,070.64 to \$2,004.45 per ounce. B&P notes that because the spot price changes daily, it is possible that an agency could accept a certain dollar value of gold

and/or silver one day, but receive a different amount when those assets were converted to dollars. Therefore, this provision may have an unknown impact on TSR, GR, and other state funds.

Subsection 408.010.4 prevents all state and local government bodies and courts from seizing any gold and silver held by a person. B&P notes that this would allow individuals and businesses to store or move assets into gold and/or silver in order to avoid having assets seized. This would allow taxpayers to move their assets to gold and/or silver coins in order to avoid paying back taxes to the state. Therefore, this provision may have a negative unknown impact to TSR, GR, as well as other state and local funds.

Oversight will reflect a potential cost to various state agencies and local political subdivisions that accept payments – if they are now required to verify the weight and purity of any gold or silver coinage used as currency. For simplicity, Oversight will only reflect this potential cost to the state in the General Revenue Fund

Bill as a whole:

In response to a previous version, officials from the **Office of Administration** assumed the proposal would not fiscally impact their agency.

In response to a previous version, the **Joint Committee on Administrative Rules** assume this proposal is not anticipated to cause a fiscal impact beyond its current appropriation.

In response to a previous version, officials from the **Office of the Secretary of State (SOS)** noted 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 Assembly in a given year and that collectively the costs may be in excess of what the office can sustain with its 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.

<u>FISCAL IMPACT – State Government</u>	FY 2024 (10 Mo.)	FY 2025	FY 2026
GENERAL REVENUE			
<u>Loss</u> - §30.266 – of interest income if STO must hold at least 1% of All State Funds in gold and/or silver p. 3	(\$1,157,333)	(\$1,388,800)	(\$1,388,800)
<u>Loss</u> – DOR §143.121 – capital gains on the exchange of gold and silver now a deduction for MAGI calculation	\$0	(Unknown – potentially significant)	(Unknown – potentially significant)
<u>Costs</u> – DOR §408.010			
Personal Service	(\$50,833)	(\$62,220)	(\$63,464)
Fringe Benefits	(\$31,532)	(\$38,284)	(\$38,738)
Expense & Equipment	(\$17,274)	(\$570)	(\$582)
Security items & materials	(\$220,000)	(\$0)	(\$0)
<u>Total Costs</u>	(\$319,639)	(\$101,074)	(\$102,784)
FTE Change	1 FTE	1 FTE	1 FTE
<u>Costs</u> – Various other State Agencies - §408.010 – potential cost to verify the weight and purity of any gold or silver coinage received as payment	\$0 or (Unknown)	\$0 or (Unknown)	\$0 or (Unknown)
ESTIMATED NET EFFECT TO GENERAL REVENUE	<u>Could exceed \$1,476,972</u>	<u>Could substantially exceed \$1,489,874</u>	<u>Could substantially exceed \$1,491,584</u>
Estimated Net FTE Change on General Revenue	Could exceed 1 FTE	Could exceed 1 FTE	Could exceed 1 FTE

<u>FISCAL IMPACT – State Government</u>	FY 2024 (10 Mo.)	FY 2025	FY 2026
OTHER STATE FUNDS			
Loss - §30.266 – of interest income if STO must hold at least 1% of All State Funds in gold and/or silver p. 3	(\$2,335,333)	(\$2,802,400)	(\$2,802,400)
ESTIMATED NET EFFECT TO OTHER STATE FUNDS	<u>(\$2,335,333)</u>	<u>(\$2,802,400)</u>	<u>(\$2,802,400)</u>

<u>FISCAL IMPACT – Local Government</u>	FY 2024 (10 Mo.)	FY 2025	FY 2026
LOCAL POLITICAL SUBDIVISIONS			
Costs – Local governments - §408.010 – potential cost to verify the weight and purity of any gold or silver coinage received as payment	\$0 or (Unknown)	\$0 or (Unknown)	\$0 or (Unknown)
ESTIMATED NET EFFECT TO LOCAL POLITICAL SUBDIVISIONS	<u>\$0 or (Unknown)</u>	<u>\$0 or (Unknown)</u>	<u>\$0 or (Unknown)</u>

FISCAL IMPACT – Small Business

Small businesses that invest in gold and silver could be impacted by this proposal.

FISCAL DESCRIPTION

This act modifies and creates new provisions relating to bullion, or gold and silver.

CUSTODY OF GOLD AND SILVER BY STATE TREASURER (Section 30.266)

The act requires the State Treasurer to keep in the custody of the state treasury an amount of gold and silver greater than or equal to 1% of all state funds.

INCOME TAXATION ON GOLD AND SILVER

(Section 143.121)

Current law exempts all purchases of bullion and investment coins from all state and local sales taxes. This act additionally exempts from state income tax the portion of capital gain on the sale or exchange of gold and silver that are otherwise included in the taxpayer's federal adjusted gross income.

LEGAL TENDER

(Sections 408.010 and 408.012)

The act declares that gold and silver shall be accepted as legal tender at their spot price plus market premium and shall be receivable in payment of all debts, public and private, contracted for in the state of Missouri. Costs incurred in the course of verification of the weight and purity of any gold or silver during any such transaction shall be borne by the receiving entity. No person or entity shall be required to use gold or silver issued by the federal government in the payment of any debt. Nothing in this act shall prohibit the use of Federal Reserve notes in the payment of any debt.

The act also prohibits public entities from requiring payment in the form of any digital currency, as defined in the act. Payment by means of cash, debit card, or credit card shall be accepted by all public entities. Payment in gold or silver coinage shall also be considered legal tender and shall be accepted by all public entities.

This act contains a severability clause.

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 and Planning

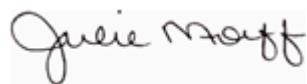
Department of Revenue

Office of Administration

Office of the State Treasurer

Joint Committee on Administrative Rules

Office of the Secretary of State



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February 7, 2023



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February 7, 2023