

COMMITTEE ON LEGISLATIVE RESEARCH
OVERSIGHT DIVISION

FISCAL NOTE

L.R. No.: 4939-07
Bill No.: HCS for SS for SB 1248
Subject: Taxation and Revenue - General; Taxation and Revenue - Income; Taxation and Revenue - Sales and Use
Type: Original
Date: May 1, 2002

FISCAL SUMMARY

ESTIMATED NET EFFECT ON STATE FUNDS			
FUND AFFECTED	FY 2003	FY 2004	FY 2005
General Revenue	\$188,571,822 to \$188,661,822	\$176,019,265	\$178,167,431
Total Estimated Net Effect on <u>All</u> State Funds	\$188,571,822 to \$188,661,822	\$176,019,265	\$178,167,431

ESTIMATED NET EFFECT ON FEDERAL FUNDS			
FUND AFFECTED	FY 2003	FY 2004	FY 2005
Total Estimated Net Effect on <u>All</u> Federal Funds	\$0	\$0	\$0

ESTIMATED NET EFFECT ON LOCAL FUNDS			
FUND AFFECTED	FY 2003	FY 2004	FY 2005
Local Government	\$0	\$0	\$0

Numbers within parentheses: () indicate costs or losses.
This fiscal note contains 9 pages.

FISCAL ANALYSIS

ASSUMPTION

Most of the provisions of this proposed legislation are nearly identical to legislation proposed earlier this session. Responses from various agencies to sections of Perfected Senate Substitute for Senate Bill 1248 and Perfected House Substitute for House Committee Substitute for House Bill 1877 are as follows:

Officials from the **Department of Elementary and Secondary Education** were unable to estimate the dollar impact to the general revenue fund resulting from this proposed legislation.

Officials from the **Secretary of State's Office (SOS)** assumed the rules, regulations and forms issued by the Department of Revenue and the Missouri Gaming Commission could require as many as 16 pages in the *Code of State Regulations*. For any given rule, roughly half again as many pages are published in the *Missouri Register* in the Code because cost statements, fiscal notes and the like are not repeated in the Code. These costs are estimated. The estimated cost of a page in the *Missouri Register* is \$23. The estimated cost of a page in the *Code of State Regulations* is \$27. The actual cost for FY03 is estimated at \$984 but could be more or less than the numbers given. The impact of this legislation in future years is unknown and depends upon the frequency and length of rules filed, amended, rescinded or withdrawn.

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 appropriations process. Any decisions to raise fees to defray costs would be made in subsequent fiscal years.

SECTION 32.069 - Interest on State Tax Refunds

Officials from the **Office of State Treasurer (STO)** staff assume that there would be a revenue savings generated from linking the interest rate paid on refunds to the actual rate earned on state funds. However, STO will defer to the estimate provided by the Department of Revenue for this portion of the proposal.

Officials from the **Office of Administration - Division of Budget and Planning** and the **Department of Revenue (DOR)** estimate the saving on non-payment of interest on tax refunds unless the payment is delayed for more than 120 days to be \$12,000,000 annually.

DOR provided the following assumptions regarding administrative impact as it relates to this portion of the proposed legislation:

ADMINISTRATIVE IMPACT

Because the interest rate applied to an overpayment is different than delinquencies, modifications
ASSUMPTION (continued)

to the income, corporate, motor fuel and withholding tax systems will be needed. Information Technology will need 4 Programmers for 4 months at a cost of \$92,340 to create a system to handle this process.

This legislation will increase the printing and postage amounts utilized by the department because of the additional notices for underpays being issued to taxpayers. Because of confusion by the taxpayer on delinquent payments, it is anticipated that additional telephone calls will be received on the MOSAIX system. It is anticipated that one Tax Collection Tech I will be needed for every 24,000 calls a year resulting from the fluctuating interest rate on delinquencies.

Oversight assumes the DOR could absorb the work associated with the additional phone calls with existing staff. However, if the number of calls and related work increases significantly, the DOR may need to request additional staff through the appropriations process.

SECTION 136.320 - Amnesty of Penalties, Additions, and Interest

Officials of the **Department of Revenue (DOR)** state this legislation provides statutory procedures for a limited tax amnesty program.

DOR assumes the portion of the proposal indicates amnesty only applies to state taxes but it should also include local taxes DOR collects. An amnesty sales tax form will need to be developed.

DOR assumes overtime may be incurred to have the amnesty wrapped up within the 60 days proposed in the legislation with notification back to the taxpayer of approval or not. Additional postage will be incurred; it could be as much as \$10,000 but should not exceed \$100,000. It will depend on taxpayer response to the amnesty.

DOR assumes this legislation will impact several separate and unique systems MINITS, COINS, Employer Withholding, MITS, Motor Vehicle Delinquent Fee. Each of the systems will need program changes to generate letters to notify taxpayers of the amnesty program. Approval letters will also need to be generated. Each system will need to be programmed to earmark the amount collected as a result of the amnesty to the school moneys fund instead of GR. An amnesty program will need to be developed for each tax system in order to monitor and administer the program. DOR estimates that the above program changes (to all tax systems) will require 6,055 hours of programming for a total cost of \$201,995. The State Data Center cost to implement the proposed legislation will be \$39,404.

SECTION 143.261 - Timely Filing of Withholding Tax

Officials from the **Office of Administration - Division of Budget and Planning (BAP)** estimate the elimination of the timely filing allowance for employers who submit withholding tax ASSUMPTION (continued)

will result in annual income of \$18,400,000. The timely filing allowance will be reinstated

beginning January 1, 2006.

SECTION 143.431 - Disallows Non-Missouri Source Income for Corporate Income Tax

According to officials from the **Office of Administration - Division of Budget and Planning (BAP)** the estimated additional state revenue resulting from this portion of the proposal will be \$24,800,000 annually.

This proposed legislation indicates a transfer of funds to the schools of the future fund created in Section 313.822; however, no reference is made in that section to the schools of the future fund. **Oversight** therefore assumes there would be no transfer from General Revenue Fund.

SECTION 143.435 - Add Back to Corporate Federal Taxable Income (Intangibles)

According to officials from the **Office of Administration - Division of Budget and Planning (BAP)** the estimated additional state revenue resulting from this portion of the proposal will be \$5,000,000 annually.

SECTION 143.811

Officials from the **Office of Administration - Division of Budget and Planning (BAP)** assume this portion of the proposal will generate \$6,000,000 in savings annually to due elimination of interest on carrybacks of tax credits.

Officials from the **Department of Revenue (DOR)** assume this legislation prevents interest on refunds due to tax credit carrybacks. This will have no administrative impact to DOR.

SECTION 144.190 - Erroneously Paid Tax

Officials from the **Office of Administration - Division of Budget and Planning (BAP)** estimated \$10,000,000 annually in decrease in sales tax refunds, based on information provided by the **Department of Revenue (DOR)**.

BAP and DOR assume that Senate Amendment 3 permits class action suits for claims relating to sales tax overcharges. According to BAP, if the taxpayers prevail, Article X of the Missouri Constitution requests the state to pay plaintiff attorney fees. This could result in significant costs to the state. In addition, the potential loss in revenues could offset the potential gain associated with the refunds to purchasers provision. **Oversight** assumes there would be a limited number of suits and impact to revenue would be minimal.

ASSUMPTION (continued)

Section 313.820 - Increases the admission fee charged against an excursion gambling boat

Officials from the **Department of Public Safety - Gaming Commission** estimated annual revenues from the increase in admission fees from \$2 to \$3 to be \$47,661,000. This estimate was determined by using current trends applied to historical data detail by casino.

Since the proposed legislation does not identify what fund the increase in admission fees is to go to, **Oversight** assume the fees will go to the General Revenue Fund.

SECTIONS WITH CHANGES

Section 313.822 - Increasing Gaming Tax

A tax is imposed on the adjusted gross receipts received from gambling games by licensees to be pro-rated as follows:

Up to \$25 million of adjusted gross receipts	=	14%
More than \$25 million to less than \$50 million	=	18%
More than \$50 million to less than \$75 million	=	23%
More than \$75 million	=	28%

Officials from the **Department of Public Safety - Gaming Commission** estimated revenues from the increase in gaming tax to be \$50,052,221 in FY 03; \$52,158,265 in FY 04; \$54,306,421 in FY 05. These estimates assumed flat patron volume and 2% annual gaming revenue increase.

FISCAL IMPACT - State Government FY 2003 FY 2004 FY 2005

GENERAL REVENUE

<u>Income</u> - Amnesty Tax Revenue (Section 136.320)	\$15,000,000	\$0	\$0
<u>Income</u> - Additional Corporate Income Tax (Section 143.435)	\$5,000,000	\$5,000,000	\$5,000,000
<u>Income</u> - Increase in admission fee for gambling boat from \$2 to \$3 (Section 313.820)	\$47,661,000	\$47,661,000	\$47,661,000
<u>Income</u> - Increase in gaming tax on adjusted gross receipts	\$50,052,221	\$52,158,265	\$54,306,431

GENERAL REVENUE (continued)

<u>Savings</u> - Interest on State Tax Refunds (Section 32.069)	\$12,000,000	\$12,000,000	\$12,000,000
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<u>FISCAL IMPACT - State Government</u>	FY 2003	FY 2004	FY 2005
<u>Savings</u> - Elimination of interest on carrybacks of tax credits (Section 143.811)	\$6,000,000	\$6,000,000	\$6,000,000
<u>Savings</u> - Reduction in Sales Tax Refunds (Section 144.190)	\$10,000,000	\$10,000,000	\$10,000,000
<u>Savings</u> - Elimination of Timely Filing Allowance (Section 143.261)	\$18,400,000	\$18,400,000	\$18,400,000
<u>Savings</u> - Disallowance of Non-Missouri Source Income for Corporate Income Tax (Section 143.431)	\$24,800,000	\$24,800,000	\$24,800,000
<u>Loss</u> - General Revenue Decrease in additions to tax, penalties and interest	(Unknown)	\$0	\$0
<u>Cost</u> - Department of Revenue			
Postal	(\$10,000 to \$100,000)	\$0	\$0
Programing	(\$241,399)	\$0	\$0
Total <u>Cost</u> - Department of Revenue	(\$251,399 to \$341,399)	\$0	\$0
ESTIMATED NET EFFECT TO THE GENERAL REVENUE FUND	<u>\$188,571,822 to \$188,661,822</u>	<u>\$176,019,265</u>	<u>\$178,167,431</u>

<u>FISCAL IMPACT - Local Government</u>	FY 2003	FY 2004	FY 2005
	<u>\$0</u>	<u>\$0</u>	<u>\$0</u>

FISCAL IMPACT - Small Business

Small Businesses can expect to be fiscally impacted due to this proposed legislation.

DESCRIPTION

This proposed legislation modifies various provisions related to collection and refund procedures
 LMD:LR:OD (12/01)

of sales and income taxes:

- (1) Section 32.068 - Requires the State Treasurer's Office to determine, on a quarterly basis, the average rate of return on the investment of state funds over the prior twelve months. This rate will be provided to the Director of Revenue and used to calculate the amount of interest owed by the State on various tax refunds-essentially linking the rate paid on refunds to the actual return on state funds.
- (2) Section 32.069 - Allows interest to be paid on state tax refunds only if payment is delayed for more than 120 days;
- (3) Section 136.320 - Requires that amnesty shall be granted for all interest and additions to tax with respect to unpaid taxes that are paid in full between August 1, 2002, and September 30, 2002; such amnesty shall not apply to persons involved in a criminal or civil litigation related to the tax liability nor to persons involved in an appeal to the Administrative Hearing Commission or a protest with the department of revenue regarding such tax liability; certain other requirements must be met and a collection fee may be imposed;
- (4) Section 143.225 - Modifies the payment of refunds or overpayments to taxpayers in that no interest shall be applied to a repayment that is made within 120 days of the date of return, or the last day for filing.
- (5) Sections 143.431 & 143.451 - Disallows non-Missouri source income for corporate income tax;
- (6) Section 143.811 - Modifies the carry-back of overpayments to tax with respect to tax credits which are retroactively claimed by a taxpayer by amended return so that such taxpayer will not receive the benefit of retroactive interest for such claimed overpayment;
- (7) Section 144.190 - Prohibits retailers from obtaining refunds of sales taxes without crediting the original purchasers, except that it allows over-collections of less than \$1000 to be refunded without the higher burden of returning the funds to the purchaser; this \$1000 threshold is an aggregate sum over a five year period; the proposal also permits any taxpayer to sue the state on behalf of a class of all taxpayers for refunds of sales taxes which have been incorrectly or illegally collected.

DESCRIPTION (continued)

- (8) Section 143.261 - Eliminates the timely filing allowance for employers who submit withholding tax. The current allowance ranges from 0.5% to 2% depending on the amount withheld. The timely filing allowance will be reinstated beginning January 1, 2006.
- (9) Section 143.435 - Requires the add back to corporate federal taxable income of a related-company's royalties, patents, or copyright fees or other intangible property expenses

deducted on corporate federal tax returns.

(10) Section 313.820 - Increases the admission fee charged against an excursion gambling boat for each patron entering from \$2 to \$3; and

(11) Section 313.822 - Increases the adjusted gross receipts tax paid by excursion gambling boats.

Section 1 – Requires that within sixty days the state gaming commission shall provide the general assembly with a report indicating the extent to which the admission fee to excursion gambling boats must be increased to provide sufficient revenue to enable a three percent pay increase for all state employees;

Section 2 – The aggregate increase in revenue produced by this proposed legislation shall be considered part of general revenue, and shall be considered as a source of revenue to fund section 163.031, RSMo.

The proposal contains an emergency clause.

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

THIS PROPOSAL WILL INCREASE TOTAL STATE REVENUE

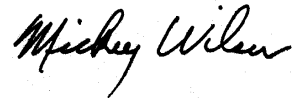
SOURCES OF INFORMATION

Department of Elementary and Secondary Education
Department of Revenue
Office of Administration
Division of Budget and Planning
Office of Secretary of State
Administrative Rules Division

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Office of State Treasurer
Missouri Gaming Commission

A handwritten signature in black ink that reads "Mickey Wilson". The signature is written in a cursive, flowing style.

Mickey Wilson, CPA
Acting Director
May 1, 2002