

COMMITTEE ON LEGISLATIVE RESEARCH
OVERSIGHT DIVISION

FISCAL NOTE

L.R. No.: 4410H.03C
 Bill No.: HCS for HB Nos. 1955 & 2257
 Subject: Economic Development; Business and Commerce; Banks and Financial
 Institutions
 Type: Original
 Date: April 8, 2024

Bill Summary: Modifies and creates new provisions related to the regulation and treatment of certain state financial instruments.

FISCAL SUMMARY

ESTIMATED NET EFFECT ON GENERAL REVENUE FUND			
FUND AFFECTED	FY 2025	FY 2026	FY 2027
General Revenue*	\$0 or (Unknown)	(Unknown – potentially significant)	(Unknown – potentially significant)
Total Estimated Net Effect on General Revenue	\$0 or (Unknown)	(Unknown – potentially significant)	(Unknown – potentially significant)

*Oversight does not have enough information to estimate a loss to the state regarding changes to §143.121 (deduction of capital gains from sale of gold and/or silver from MAGI as well as subtraction of 100% of any amount of gain in interest derived from municipal bonds or any other debt obligation from sources in another state); however estimates from the Department of Revenue and the Office of Administration - Budget note this loss is unknown but significant. Oversight assumes this loss could exceed the \$250,000 threshold.

ESTIMATED NET EFFECT ON OTHER STATE FUNDS			
FUND AFFECTED	FY 2025	FY 2026	FY 2027
Total Estimated Net Effect on <u>Other</u> State Funds	\$0	\$0	\$0

Numbers within parentheses: () indicate costs or losses.

ESTIMATED NET EFFECT ON FEDERAL FUNDS			
FUND AFFECTED	FY 2025	FY 2026	FY 2027
Total Estimated Net Effect on <u>All</u> Federal Funds	\$0	\$0	\$0

ESTIMATED NET EFFECT ON FULL TIME EQUIVALENT (FTE)			
FUND AFFECTED	FY 2025	FY 2026	FY 2027
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 2025	FY 2026	FY 2027
Local Government	\$0	\$0	\$0

FISCAL ANALYSIS

ASSUMPTION

Section 30.266 – State Treasury keeping specie.

In response to a previous version of the bill, officials from **the Office of the State Treasurer (STO)** stated Section 30.266 of the proposal would allow that the State Treasurer “may keep” [in the state treasury] an amount of specie greater than or equal to one percent of all state fund. In general, “may” ordinarily implies discretion and this proposal gives the state treasurer discretion whether or not to keep specie in the state treasury. Absent an exercise of the Treasurer’s discretion, Section 30.266 has **no fiscal impact** to the State Treasurer’s Office. In the event a Treasurer exercises this discretion in the future, storing, protecting, assaying, and transporting specie would have a potential fiscal impact for the STO.

Officials from the **Office of Administration - Budget and Planning (B&P)** state this section would allow the STO to hold up to 1% of total invested fund in gold or silver bullion beginning January 1, 2025. B&P defers to the STO for the potential impact of this provision.

Officials from the **Department of Revenue (DOR)** assume this will not fiscally impact DOR.

Oversight notes this section allows (may keep) 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 notes as this is permissive, we will not reflect a fiscal impact for this section.

However, according to reports from the Office of the State Treasurer, the balance of all state funds in the treasury totaled \$18.0 billion at December 31, 2023. Also, the STO’s December 2023 Portfolio Management summary noted a par value of investments of \$18.2 billion and an effective rate of return for the month in December as 3.19%. Therefore, Oversight assumes if the STO were to keep in custody 1% of state funds in gold and silver, this would equate to roughly \$182 million ($\$18,200,000,000 \times 1\%$) taken out of usual investments and used to purchase/hold gold and silver. Oversight notes interest income of \$5.8 million ($\$182,000,000 \times 3.19\%$). 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 \$4.263 billion at December 31, 2023) is 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	$\$4.263 \text{ billion} \times 1\% \times 3.19\% = \$1,360,000$
All others (reflected as “Other State Funds”) ($\$18.2\text{B} - \4.263B)	$\times 1\% \times 3.19\% = \underline{\$4,440,000}$
TOTAL	$\$5,800,000$

Section 30.267 Task Force on Gold and Silver

Officials from **B&P** state this provision would create a task force to determine whether the state could issue gold and silver coins and whether the state could accept gold and silver coins for payments. The task force would begin July 1, 2025, with a final report due by June 30, 2026.

Officials from **DOR** state this creates a task force to study the practicality of issuing gold and silver coinage as specie. The task force is made up of various members including the Director of Revenue. The task force is to have a report done by December 31, 2025. This will not fiscally impact DOR.

Officials from the **Missouri State Senate (SEN)** anticipate a negative fiscal impact to reimburse 2 Senators for travel to Task Force On Gold And Silver committee meetings. In summary, it will cost approximately \$335 per meeting. The SEN assumes no fiscal responsibility for the other committee members.

Officials from the **Missouri House of Representatives** assume no fiscal impact. The House will absorb any reasonable expenses of their members serving on the task force.

Oversight assumes the new task force will not create a material fiscal impact to the state.

Section 143.121.3 (14) Capital Gains and MAGI

Officials from the **Office of Administration - Budget and Planning (B&P)** state 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 2025.

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 2021, the most recent complete year available, was \$10,933,232,729. 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 \$5,247,952 ($\$10,933,232,729 \times 1\% \times 4.8\%$). Therefore, B&P estimates that this provision may have an unknown, but significant, loss to TSR and GR beginning with FY26 (for tax year 2025 capital gains).

Officials from the **DOR** state this part of the proposal requires that a taxpayer be allowed to subtract the amount of capital gain they receive from the sale or exchange of specie from their Federal Adjusted Gross Income (FAGI) when calculating their Missouri Adjusted Gross Income (MAGI) thus lowering their taxable income.

Taxpayers report the sources of the capital gain on their federal tax returns and only their FAGI number is reported on the Missouri tax return. Therefore, DOR is unable to determine how much capital gain is reported from the sale or exchange of specie in Missouri.

The Internal Revenue Service SOI data for 2020 (the most complete year) shows that total capital gains reported on the returns for the State of Missouri equaled \$10,621,746,000. If just 1% of these capital gains was a result of specie this could result in a loss to general revenue of \$5,098,438 ($\$10,621,746,000 * 1\% * 4.8\%$ tax rate).

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 the individual income tax computer system. These costs are estimated at \$8,923.

Section 143.121.11 – taxability of gain on interest of municipal bonds:

Officials from the **B&P** state beginning with tax year 2025, this provision would allow for a subtraction of municipal bond interest from a taxpayer's federal adjusted gross income (FAGI). Such subtraction will only be allowed if the state where the bonds were issued does not subject their residents to a tax on the interest paid on bonds issued by a Missouri municipality.

B&P notes that most municipal bonds are tax exempt at the federal level. However, municipal bonds not used for a "public good" are taxable at the federal level. B&P further notes that the majority of such taxable bonds are used to fund shortfalls in state or local pension funds. Income from these bonds is included in a taxpayer's FAGI.

Interest earned on bonds issues by a municipality outside of Missouri is subject to Missouri income tax. Section 143.121.2(2) requires taxpayers to add such income to their FAGI in order to determine their Missouri adjusted gross income (MAGI). This proposal would then allow taxpayers to subtract off that addition if the originating state does not tax the interest on municipal bonds issued in Missouri. B&P notes that interest earned on bonds issued in states that continue to tax Missouri municipal bond interest would remain taxable under this proposal.

This proposal would still require taxpayers to add qualifying interest income to their FAGI under Section 143.121.2(2) and then they would turn around and subtraction the same income from their FAGI under this Section 143.121.11.

The following table shows when the interest on bonds is and would be taxable:

Bond Location	Tax MO Bonds	Bond use	Federally Taxable	Current		Proposed	
				MO Taxable	Statute	MO Taxable	Change
Missouri	N/A	Public	No	No	N/A	No	N/A
Missouri	N/A	Private	Yes	Yes	IRC Section 103(b)	No	N/A
Other	No	Public	No	Yes	Addition - Section 143.121.2(2)	No	Subtraction - Section 143.121.11
Other	Yes	Public	No	Yes	Addition - Section 143.121.2(2)	Yes	N/A
Other	No	Private	Yes	Yes	IRC Section 103(b)	No	Subtraction - Section 143.121.11
Other	Yes	Private	Yes	Yes	IRC Section 103(b)	Yes	N/A

B&P notes that this proposal would grant a subtraction for both federally exempt and federally taxable bonds, if issued in a state that does not tax MO bond interest. However, the interest earned on federally taxable bonds issued within Missouri would continue to be subject to Missouri income tax.

B&P is unable to determine the amount of interest that would no longer be taxable under this provision. Therefore, this provision may reduce TSR and GR by an unknown, could be significant, amount beginning FY26 (for tax year 2025).

Officials from the **Department of Revenue** state this proposal requires that a taxpayer be allowed to subtract 100% of any gain in interest derived from municipal bonds from their Federal Adjusted Gross Income (FAGI) when calculating their Missouri Adjusted Gross Income (MAGI) thus lowering their taxable income. This proposal only allows this subtraction under certain circumstances.

A municipal bond is a debt security used to fund capital expenditures for counties, cities or the state. A municipal bond is commonly tax free at the federal level if they are used to finance projects for the public benefit. Since they are tax free at the federal level, they would not be in a taxpayer's FAGI and therefore, this will not have a fiscal impact.

However, if a municipal bond is used to benefit private industry, then the municipal bonds are taxable at the federal level. DOR assumes that this proposal is attempting to make the interest on taxable municipal bonds tax exempt in Missouri.

Taxpayers report the sources of the interest on their federal tax returns and only their FAGI number is reported on the Missouri tax return. Therefore, DOR is unable to determine how much actual interest from taxable municipal bonds is earned in Missouri.

Additionally, this would only allow this subtraction if Missouri met certain conditions. Those conditions include having a reciprocal agreement with other states or those states having no tax on income. At this time, it is unclear if this provision would be enacted per these conditions.

This could result in a \$0 to Unknown over \$250,000 impact to the state. This will require them modify the MO-1040 and their computer systems at a cost of \$8,923.

Section 408.010 – Constitutional Money Act

B&P states 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.

This section requires all state agencies to accept gold and silver as payment for debts and all costs incurred during value verification shall be paid by the state.

This section further prevents all state and local government bodies and courts from seizing any gold and silver held by a person, except as provided under the Criminal Activity Forfeiture Act. B&P notes that this would allow individuals and businesses to store or move assets into gold and/or silver to avoid having assets seized. This would allow taxpayers to move their assets to gold and/or silver coins 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.

Subsection 5 indicates that gold and silver purchased after January 1, 2026, and held for less than one year, would still be subject to income tax gain/loss provisions. However, Section 143.121.2(14) exempts capital gains from gold and silver sales from Missouri income tax. Therefore, it appears that this provision would still allow taxpayers to claim any losses due to the sale of gold or silver, but they would not have to claim any gains.

Officials from the **Department of Revenue** state they receive, process and deposit the majority of all state revenue. DOR receives sales tax, individual income tax, corporate tax and various taxes and fees collected by state agencies that is then brought to DOR for deposit.

DOR currently accepts the following types of payments which are considered physical currency:
Coins created by the U.S. Mint including pennies, nickels, dimes and quarters.
Dollar Bills printed by the Bureau of Engraving and Printing
Personal/ Business Checks
Money Orders
Cashier's Check

Debit Cards
Credit Cards
Bank Transfers via electronic means

Currently, Missouri is allowed to accept as payment of any debt silver coins issued by the United States that are legal tender. This proposal adds the definition of bullion, legal tender, and specie to the statutes.

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

This proposal in section 408.010.5 prevents the state from imposing any additional tax, fee or penalty on transactions involving the use of gold or silver as legal tender that is more than the fee used for other currency. Currently, DOR does not assess a fee on a person using cash or checks to pay their outstanding debt. However, credit and debit card payments are subject to a fee as a third-party vendor handles those payments for the Department. This provision would allow DOR to assess a similar fee as to the current charges. No additional fiscal impact is expected as a result of this provision.

This proposal in Section 408.010.4(3 & 4) would allow taxpayers to pay using specie legal tender. Per this proposal specie legal tender includes any coin issued by the Federal government, and any other specie. DOR assumes no impact from the acceptance of federal government coins as they are already accepted by DOR. However, the acceptance of "any other specie", may be problematic. As long as the "specie" is printed by the federal government then it would be considered legal tender and would not have a fiscal impact. However, if "specie" includes coins that people make themselves, other governments issue, businesses issue or even the state of Missouri issues then, DOR notes that would violate federal law. Accepting any coinage that is in violation of 18 U.S. § 486 would be accepting something not considered legal tender per this federal statute; which would result in felony charges being brought by the Federal Government.

This provision is attempting to change what is to be accepted as legal tender in Missouri and shall be allowed for the payment of all public debts. This proposal defines legal tender as a medium of exchange authorized by the United States and the state of Missouri. Specie in this section is defined as bullion fabricated into coins that are used for currency. Specie legal tender could include any coins issued by the U.S. Mint or Federal Government. It should be noted that Missouri and DOR already accept coins issued by the U.S. Mint.

However, should this proposal allow bullion fabricated into coins created by taxpayers or other governments or businesses and not exclusively the U.S. Mint then this will result in a violation of federal law. DOR is unable to determine the impact of acceptance of items in violation of federal law.

The impact of these changes is unknown but could result in significant impact to DOR.

Bill as a whole:

Officials from the **Department of Commerce and Insurance** state they believe the costs of this bill can be absorbed within their current appropriations. However, should the cost be more than anticipated, the department would request an increase to their FTE and/or appropriations as appropriate through the budget process.

Oversight notes that the above mentioned agency has stated the proposal would not have a direct fiscal impact on their organization. Oversight does not have any information to the contrary. Therefore, Oversight will reflect a zero impact on the fiscal note.

Rule Promulgation

Officials from the **Joint Committee on Administrative Rules** assume this proposal is not anticipated to cause a fiscal impact beyond its current appropriation.

Officials from the **Office of the Secretary of State (SOS)** note 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 2025 (10 Mo.)	FY 2026	FY 2027
GENERAL REVENUE			
<u>Loss</u> – DOR §143.121.3 (14) – capital gains on the exchange of gold and silver now a deduction for MAGI calculation	\$0	(Unknown – potentially significant)	(Unknown – potentially significant)
<u>Loss</u> – DOR §143.121.11 – subtraction of interest on municipal bonds	\$0	(Unknown)	(Unknown)
<u>Loss</u> – DOR §408.010.4 – removal of gold and silver coins as seizable assets	\$0 or (Unknown)	\$0 or (Unknown)	\$0 or (Unknown)
ESTIMATED NET EFFECT TO GENERAL REVENUE	\$0 or (Unknown)	(Unknown – potentially significant)	(Unknown – potentially significant)

<u>FISCAL IMPACT – Local Government</u>	FY 2025 (10 Mo.)	FY 2026	FY 2027
	<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.

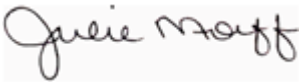
FISCAL DESCRIPTION

This proposal modifies provisions relating to certain financial instruments.

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 the State Treasurer
Department of Revenue
Office of Administration - Budget and Planning
Department of Commerce and Insurance
Office of the Secretary of State
Missouri House of Representatives
Missouri Senate
Joint Committee on Administrative Rules



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