

COMMITTEE ON LEGISLATIVE RESEARCH
OVERSIGHT DIVISION

FISCAL NOTE

L.R. No.: 5045H.01I
 Bill No.: HJR 111
 Subject: Taxation and Revenue - Income; Constitutional Amendments; Taxation and Revenue - General; Taxation and Revenue - Sales and Use; Department of Revenue
 Type: Original
 Date: February 5, 2024

Bill Summary: This proposal modifies provisions relating to taxation.

FISCAL SUMMARY

ESTIMATED NET EFFECT ON GENERAL REVENUE FUND			
FUND AFFECTED	FY 2025	FY 2026	FY 2027
General Revenue*	\$0 or (More than \$8,000,000)	\$0	\$0
Total Estimated Net Effect on General Revenue	\$0 or (More than \$8,000,000)	\$0	\$0

*The potential fiscal impact of “(More than \$8,000,000)” in FY 2025 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 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

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

FISCAL ANALYSIS

ASSUMPTION

Article X, Section 4(d) Limit the Top Income Tax Rate

Officials from the **Department of Revenue (DOR)** note this proposal in Article X, Section 4(d) would limit the top state income tax rate to 5.5%. This section does not specifically state that the limit shall apply to individual or corporate income taxes. Therefore, DOR assumes that the 5.5% limit would apply to both corporate and individual income taxes.

DOR notes the current income tax rate for TY 2023 is 4.95% and for TY 2024 is 4.8% with further reductions in the individual income rate based on General Revenue growth requirements in the future. The corporate tax rate is 4%.

Therefore, by the time this proposal is enacted (if voter approved in November 2024) both the individual and corporate tax rates will already be below the 5.5% limit. Therefore, there is no impact from this provision on DOR.

Officials from the **Office of Administration - Budget and Planning (B&P)** note this section would limit the top income tax rate to 5.5%. This section does not specifically state that the limit shall apply to individual or corporate income taxes. Therefore, B&P assumes that the 5.5% limit shall apply to both corporate and individual income taxes.

B&P notes that currently the top individual income tax rate is 4.8% with further reductions scheduled to occur pending General Revenue growth requirements. B&P also notes that as of 1/1/2020, 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 be already below the 5.5% limit.

This proposal requires a voter approval; therefore, it will not impact TSR or the calculation under Article X, Section 18(e).

Article X, Section 26 Exception for Sales and Use Tax on Subscriptions, Licenses Digital Products, and Online Purchases of Tangible Personal Property

Officials from the **Department of Revenue (DOR)** note Section 26 currently 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 provision 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. This amendment then adds language that if a new sales tax is imposed after January 1, 2025, then based on the amount of revenue collected there shall be a corresponding decrease in the top rate

of the state income tax. However, this proposal does not indicate whether the state income tax decrease is to be applied to the individual income tax rate, the corporate tax rate or both. Additionally, this proposal does not indicate when the reduction is to occur. Should legislation be presented to expand the tax base any fiscal impact from that expansion would be identified in that legislation's fiscal note.

Officials from the **Office of Administration - Budget and Planning (B&P)** note 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 under current law 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.

This provision also states that if any new sales tax is imposed on subscriptions, licenses for digital products, or online purchases of tangible personal property, then the top income tax rate must be reduced so that any new revenues from the sales tax are offset. B&P notes that this proposal does not specify whether the rate reduction should apply to individual income tax, corporate income tax, or both. B&P further notes that this proposal does not specify when the income tax rate should be reduced.

This proposal is subject to voter approval during the election in November 2023. B&P assumes that if voter approved, this proposal would not be enacted until January 1, 2025.

Officials from the **Department of Natural Resources** defer to the **Department of Revenue** for the potential fiscal impact of this proposal.

Officials from the **Missouri Department of Conservation** assume an unknown fiscal impact. 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. The Department defers to the Department of Revenue as it is responsible for tax collection and would be better able to estimate the anticipated fiscal impact that would result from this proposal.

Responses regarding the proposed legislation as a whole

Officials from **Office of the Secretary of State (SOS)** assume, 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 \$8 million based on the cost of the 2022 primary and general election reimbursements.

The Secretary of State's office 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 FY25 petitions cycle, the SOS estimates publication costs at \$60,000 per page. This amount is subject to change based on number of petitions received, length of those petitions and rates charged by newspaper publishers.

The Secretary of State's office 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 the publishing requirements if the Governor and the General Assembly again change the amount or continue to not designate it as an estimated appropriation.

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 2025. 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 general election is in November 2024 (FY 2025). It is assumed the subject within this proposal could be on this ballot; 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 2025.

Officials from the **City of Kansas City** assume the proposal will have no fiscal impact on their organization.

Oversight only reflects the responses received from state agencies and political subdivisions; however, other local political subdivisions were requested to respond to this proposed legislation but did not. A listing of political subdivisions included in the Missouri Legislative Information System (MOLIS) database is available upon request.

<u>FISCAL IMPACT – State Government</u>	FY 2025 (10 Mo.)	FY 2026	FY 2027
GENERAL REVENUE			
<u>Transfer Out</u> – Reimbursement Of Cost To Local Election Authorities if A Special Election Is Called For By The Governor	\$0 or <u>(More than \$8,000,000)</u>	<u>\$0</u>	<u>\$0</u>
ESTIMATED NET EFFECT ON GENERAL REVENUE FUND	\$0 or <u>(More than \$8,000,000)</u>	<u>\$0</u>	<u>\$0</u>

<u>FISCAL IMPACT – Local Government</u>	FY 2025 (10 Mo.)	FY 2026	FY 2027
LOCAL ELECTION AUTHORITY			
<u>Transfer In</u> – Reimbursement To Local Election Authorities For Cost Of Special Election if Called For By The Governor	\$0 or More than \$8,000,000	\$0	\$0
<u>Cost</u> – Cost To Local Election Authorities For Special Election if Called For By The Governor	\$0 or More than <u>(\$8,000,000)</u>	<u>\$0</u>	<u>\$0</u>
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

Upon voter approval, this Constitutional amendment prohibits a state income tax rate of more than 5.5%.

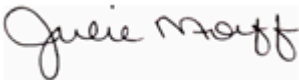
Currently, the Missouri Constitution prohibits an increase of services or transactions upon which a sales tax may be imposed that was not already subject to a sales tax as of January 1, 2015. This Constitutional amendment creates an exception for subscriptions, licenses for digital products, and online purchases of tangible personal property.

Beginning January 1, 2025, any new such sales tax shall result in a reduction in the top rate of the state income tax rate that results in a reduction in income tax revenue that is substantially equivalent to the revenue generated by such new sales tax.

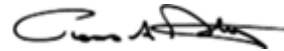
This legislation is not federally mandated, would not duplicate any other program and would not require additional capital improvements or rental space.

SOURCES OF INFORMATION

Department of Revenue
Office of Administration - Budget and Planning
Department of Natural Resources
Missouri Department of Conservation
Office of the Secretary of State
City of Kansas City



Julie Morff
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February 5, 2024



Ross Strope
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February 5, 2024