COMMITTEE ON LEGISLATIVE RESEARCH
OVERSIGHT DIVISION

FISCAL NOTE

L.R. No.: 3138H.03I
Bill No.: HJR 126
Subject: Taxation and Revenue - General; Department of Revenue; Constitutional Amendments; Appropriations; Elections
Type: Original
Date: April 8, 2024

Bill Summary: This resolution proposes a constitutional amendment 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 or (Unknown)**
Total Estimated Net Effect on General Revenue	**$0 or (More than $8,000,000)**	**$0**	**$0 or (Unknown)**

*The potential fiscal impact of "(More than $8,000,000)" would be realized only if a special election were called by the Governor to submit this joint resolution to voters.
** Oversight will show an unknown impact to General Revenue **if** certain taxes are not reauthorized by voters.

ESTIMATED NET EFFECT ON OTHER STATE FUNDS			
FUND AFFECTED	FY 2025	FY 2026	FY 2027
Various State Funds*	$0	$0	$0 or (Unknown)
Total Estimated Net Effect on Other State Funds	**$0**	**$0**	**$0 or (Unknown)**

Numbers within parentheses: () indicate costs or losses.
* Oversight will show an unknown impact to various other state funds **if** certain taxes are not reauthorized by voters.

ESTIMATED NET EFFECT ON FEDERAL FUNDS			
FUND AFFECTED	FY 2025	FY 2026	FY 2027
Total Estimated Net Effect on All 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 or (Unknown)****

*Transfer out and transfer in nets to zero **if** the Governor calls a special election.
** Oversight will show an unknown impact to local political subdivisions **if** certain taxes are not reauthorized by voters.

FISCAL ANALYSIS

ASSUMPTION

Section 6 Property Tax Decrease

Officials from the **Department of Revenue (DOR)** note this proposal would allow the elected governing body of a county to have the authority to decrease property tax. Currently that authority is for the voters of a county only. DOR does not handle property tax. It is handled by the County Assessors and the State Tax Commission. DOR defers to them for impact.

Officials from the **Office of Administration - Budget and Planning (B&P)** note this proposal would allow a county governing body to reduce the special property tax levy on utility, industrial, commercial, railroad, and other subclass 3 real property. Currently, this tax levy can only be reduced by a public vote. B&P notes that this levy was created to offset a reduction in property taxes due to certain property exemptions.

This proposal would also apply Article X, Section 22 to this special tax levy. B&P notes that Article X, section 22 requires voter approval for tax increases and requires jurisdictions to roll back their property taxes when assessed valuations increase. B&P further notes that subsection 2 already prohibits this special levy from increasing.

Therefore, this proposal would now require jurisdictions to lower their special tax levy if the assessed value for applicable property increases. B&P notes that jurisdictions would not be able to increase their levy if assessed values decrease due to the existing prohibition in subsection 2.

Sections 17, 18, & 18(e) Hancock Amendment

Officials from the **Department of Revenue (DOR)** note this proposal changes the definition of "total state revenue" used, in what is commonly referred to as the Hancock Amendment. The Hancock Amendment established a baseline of revenue that if exceeded would result in refund checks being returned to the taxpayers. The Hancock Amendment requires a calculation to be done annually to determine the new limit.

The Office of Administration's Division of Budget and Planning is responsible for the calculation of the Hancock Amendment limits each year and the determination of whether or not the refund check provision is activated. Should the refund check provision be triggered, then DOR may be impacted by what tax changes end up being enacted by the General Assembly to ensure it does not trigger in the future. Additionally, if triggered, DOR would be responsible for the administration of handling the refund checks. For informational purposes only, DOR last year estimated that should refund checks need to be issued to Missouri's 3.4 million tax filers, it would cost DOR over $1 million for mailing, programming and staff time to get them all out.

Since B&P handles the calculations necessary for the Hancock Amendment and its trigger, DOR will defer to them for the estimate of the impact.

Officials from the **Office of Administration - Budget and Planning (B&P)** note Section 17 would update the definition of TSR to include revenues contained with the governor's budget. B&P notes that currently the definition of TSR is based on revenues contained in the FY 1981 governor's budget.

Section 18 changes the annual revenue (TSR) limit calculation beginning with FY25.

Currently, the limit is based on the ratio of FY 1981 TSR to calendar year 1979 Missouri personal income (MOPI). B&P notes that this formula is static, with a ratio value of 0.056, which is then multiplied by MOPI to determine the annual limit.

This provision would change the ratio to TSR in the previous fiscal year to the MOPI from the calendar year prior to the fiscal year. This ratio is then multiplied by MOPI to determine the annual limit. For example: FY25 TSR / calendar year 2023 MOPI

B&P notes that under current law, FY22 (the most recent finalized year available) TSR was $3.73 billion below the allowable limit. Applying the updated ratio formula, the estimated FY22 TSR would have been $203.7 million below the updated allowable limit. <u>This could result in additional refunds being required in the future.</u>

B&P notes Section 18 removes "contemporaneously occurring tax or fee reductions" from the calculation. B&P notes that the language would now limit the revenue increase for each bill rather than the total changes for all bills passed during a legislative session. This would disallow using revenue reduction bills to offset separate revenue increasing bills to stay under the 18(e) limit.

This provision also changes how compliance with the 18(e) limit shall be calculated. Currently, each tax or fee change is measured by the estimated annual revenue change in the first full year it is fully implemented. Compliance is then measured using the annual new revenue produced in the first fiscal year that the change is fully effective.

Under this proposal each tax or fee increase shall be measured by the increase in TSR in the first fiscal year following enactment. For bills that are phased in, the revenue increase in the first year will be used to estimate the total increase once the bill has fully implemented.

B&P notes that using the first-year revenue changes to estimate the fully implemented revenue gain could be problematic for bills with multiple provisions phased-in at different times.

Section 27 Tax Increases Voted on by the People.

Officials from the **Department of Revenue (DOR)** note the current MO Constitution grants authority to the members of the General Assembly to levy taxes. These constitutional provisions change how tax increases are to be handled by the General Assembly.

The first provision requires that if a tax is set to expire, it must have statewide approval to continue into the future. At this time, the individual income tax, corporate tax, sales tax and the other taxes at DOR do not have sunset or expiration dates on them. Therefore, DOR assume no additional impact from this provision.

The second provision requires that no state funds can be expended without first being appropriated by the General Assembly. DOR notes this provision will not impact the department's administrative budget as all the department's funding is appropriated. DOR notes that MoDOT and Conservation may be impacted, and DOR defers to them for that impact.

The department also notes that DOR administers refundable tax credits like the Senior Property Tax Credit (PTC). DOR does so without any separate appropriation line. If this proposal is interpreted to require a separate appropriation line prior to paying out the credits then this would impact state revenue by at least $70 million paid out in the PTC program.

The third provision requires the Office of the Secretary of State (SOS) to place all taxes imposed through the constitution upon the next general election ballot. This requires that the citizens vote to continue the constitutionally created taxes. The next general election ballot after this proposal is in effect would be November 2026. Taxes imposed by the constitution include.

Conservation sales tax – created & rate set (Article IV, Section 43(a))
Park, Soil & Water sales tax – created & rate set (Article IV, Section 47(a))
Motor Fuel Tax – created (Article IV, Section 309a) & rate is to be set by the Legislature
Medical Marijuana – created & rate set (Article XIV, Section 1)
Recreational Marijuana- created & rate set (Article XIV, Section 2)
Blind Pension fund (Article III, Section 38(b))
Property Tax - created (Article X, Section 4(a) & (b)) & rate is set by the Legislature

Individual Income Tax -created (Article X, Section 4(d)) & rate is to be set by General Assembly
Sales Tax – created (Article X, Section 3) & rate is to be set by General Assembly.

It is unclear by the wording of this proposal if all the taxes will be listed in one ballot measure or if they will be separate ballot issues. It is also unclear if this is to include only those taxes whose rates are actually set in the Constitution, or all taxes created even when authority was given to the General Assembly to set the actual rate.

If these taxes are voted to be expired, then they shall terminate at the end of the second fiscal year after the election was held. Therefore, the first taxes eliminated would occur in June 2028.

If they are approved to continue, they will continue at least another four years until they must be voted on again. This could have significant impact on DOR and state revenue should a tax be eliminated. The actual impact would depend on which specific tax is eliminated. DOR has listed where the money goes from these taxes.

Conservation sales tax – main funding source of the Conservation Commission
Park, Soil & Water sales tax – main funding source of DNR
Motor Fuel Tax – main funding source of MODOT
Medical Marijuana – pays for Veteran's services
Recreational Marijuana- pays for Veteran's services
Blind Pension fund – used to make payments to the Blind
Property Tax – main funding source of local governments
Individual Income Tax -main funding source of General Revenue
Sales Tax- main funding source of General Revenue

The fourth provision regards all taxes even those previously approved, to be brought before the voters every four years, to see if the tax should continue. The tax will continue to be brought to the voters until such time as they vote to expire the tax. Bringing issues to the ballot will result in costs to the state for the election. DOR defers to the SOS for the election costs. DOR notes this could have significant impact on DOR should a tax be eliminated. The actual impact would depend on the specific tax.

Officials from the **Office of Administration - Budget and Planning (B&P)** note Section 27.1 defines "tax increase" as any tax rate increase or increasing the people/items subject to taxation. "Tax increase" does not include changes to tax credits, deductions, subtractions, or exemptions. B&P notes that under this definition the removal of a tax credit, deduction, subtraction, or exemption would not be considered a tax increase even though the change would effectively increase the people/items subject to taxation.

Section 27.2 requires voter approval for all state tax increases or extensions. B&P notes that this provision would require voter approval for each FRA tax extension.

Section 27.3 requires all state funds to be appropriated before they can be expended.

Section 27.4 requires every tax imposed by the Missouri constitution to be reauthorized by voters every four years, beginning in 2026. B&P notes that it is unclear whether this language only applies to taxes directly imposed by the constitution (ex: Blind Pension) or if taxes created based on enabling language within the constitution (i.e., bond repayments) would also need to be reauthorized.

At a minimum, this would require public votes for the following taxes:

- Blind Pension Trust Fund (Article III, Section 38(b))
- Fuel tax (Article IV, Section 30(a))
- Conservation (Article IV, Section 43(a))

- DNR (Article IV, Section 47(a))
- Medical Marijuana (Article XIV, Section 1)
- Recreational Marijuana (Article XIV, Section 2)

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.

Oversight notes officials from the Office of Administration - Budget and Planning assume the proposed changes to the TSR limit could result in additional refunds being required in the future. Therefore, Oversight will show a range of $0 (no refunds are issued) to an unknown negative fiscal impact to the general revenue fund beginning in FY 2027.

Oversight assumes this proposal requires every tax imposed by the Missouri Constitution to be reauthorized by voters every four years, beginning in 2026. Oversight is uncertain which taxes would be impacted by this proposal. Some may not be reauthorized. Oversight will show an unknown impact to General Revenue, various other state funds and local political subdivisions if certain taxes are not reauthorized by voters.

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.

Officials from the **City of Kansas City** assume the proposed legislation has a negative fiscal impact of an indeterminate amount.

Officials from the **Department of Economic Development**, **Department of Natural Resources**, **Platte County Board of Elections**, **St Louis City Board of Elections**, **St Louis County Board of Elections**, **Missouri House of Representatives**, **Missouri Senate**, **State Tax Commission**, and the **Missouri Department of Transportation**, 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 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.

FISCAL IMPACT – State Government	FY 2025 (10 Mo.)	FY 2026	FY 2027
GENERAL REVENUE			
Transfer Out - SOS - reimbursement of local election authority election costs **if** a special election is called by the Governor	$0 or (More than $8,000,000)	$0	$0
Potential Revenue Reduction – Potential refund due to changes in the allowable total state revenues limit – dependent upon future revenue collections	$0	$0	$0 or (Unknown)
Potential Revenue Reduction - Tax(es) **not** reauthorized by voters (pending voter approval)	$0	$0	$0 or (Unknown)
ESTIMATED NET EFFECT ON GENERAL REVENUE	**$0 or (More than $8,000,000)**	**$0**	**$0 or (Unknown)**
OTHER STATE FUNDS			
Potential Revenue Reduction - Tax(es) **not** reauthorized by voters (pending voter approval)	$0	$0	$0 or (Unknown)
ESTIMATED NET EFFECT ON OTHER STATE FUNDS	**$0**	**$0**	**$0 or (Unknown)**

FISCAL IMPACT – Local Government	FY 2025 (10 Mo.)	FY 2026	FY 2027
LOCAL POLITICAL SUBDIVISIONS			
Transfer In - Local Election Authorities - reimbursement of election costs by the State for a special election	$0 or More than $8,000,000	$0	$0
Costs - Local Election Authorities - cost of a special election **if** called for by the Governor	$0 or (More than $8,000,000)	$0	$0
Potential Revenue Reduction - Tax(es) **not** reauthorized by voters (pending voter approval)	$0	$0	$0 or (Unknown)
ESTIMATED NET EFFECT ON LOCAL POLITICAL SUBDIVISIONS	**$0**	**$0**	**$0 or (Unknown)**

FISCAL IMPACT – Small Business

No direct fiscal impact to small businesses would be expected as a result of this proposal.

FISCAL DESCRIPTION

Currently, certain real and personal property are exempt from taxation. Any county that loses revenue as a result of these exemptions can replace such revenue by imposing a tax on commercial real property within the county's border. If a county chooses to impose such a tax, a majority of voters within the county may decrease the newly imposed tax on commercial real property.

This resolution allows the governing body of a county to decrease the newly imposed tax on commercial real property. This bill also applies the provisions of Section 22, Article X of the Missouri Constitution to the newly imposed tax on commercial property .

Currently, the calculation of "total state revenues" includes certain revenue, fees, and funds, as defined for fiscal year 1980- 1981. This resolution repeals the base year of 1980-1981.

Currently, there is a limit on the total amount of taxes which may be imposed in any fiscal year on taxpayers. The limit is calculated by using the total state revenues from fiscal year 1980- 1981 and the personal income of Missouri in calendar year 1979. This resolution changes the effective date of implementation from fiscal year 1980-1981 to fiscal year 2024-2025. This resolution also changes the limiting calculation by using total state revenues from the previous fiscal year before implementation and the personal income of Missouri from the calendar year prior to the previous fiscal year before implementation.

This resolution requires voter approval before any tax increase imposed by state statute may go into effect or for any existing tax imposed by statute to continue. During the general election of 2026, or at a special election called by the governor, the voters shall be asked the following question: "Shall the taxes imposed in (list of Articles and Sections imposing a tax) of this Constitution expire?" If a majority of the qualified voters answer in favor of the question, the listed taxes shall expire at the end of the second fiscal year after the election was held.

If a majority answer no, the listed taxes shall not expire and shall remain effective unless and until the questions is resubmitted. Additionally, if a majority answer no, the Secretary of State shall resubmit the question at the general election every four years thereafter until the termination of such taxes is approved.

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 Economic Development
Department of Natural Resources
Department of Revenue
Missouri Department of Conservation
Missouri Department of Transportation
City of Kansas City
Platte County Board of Elections
St. Louis City Board of Elections
St. Louis County Board of Elections
Missouri House of Representatives
Missouri Senate

Julie Morff
Director
April 8, 2024

Ross Strope
Assistant Director
April 8, 2024