

**MISSOURI STATE AUDITOR'S OFFICE
FISCAL NOTE (18-299)**

Subject

Initiative petition from Gerald Peterson regarding a proposed amendment to Chapter 147 of the Revised Statutes of Missouri. (Received October 13, 2017)

Date

November 2, 2017

Description

This proposal would amend Chapter 147 of the Revised Statutes of Missouri.

The amendment is to be voted on in November 2018.

Public comments and other input

The State Auditor's office requested input from the **Attorney General's office**, the **Department of Agriculture**, the **Department of Economic Development**, the **Department of Elementary and Secondary Education**, the **Department of Higher Education**, the **Department of Health and Senior Services**, the **Department of Insurance, Financial Institutions and Professional Registration**, the **Department of Mental Health**, the **Department of Natural Resources**, the **Department of Corrections**, the **Department of Labor and Industrial Relations**, the **Department of Revenue**, the **Department of Public Safety**, the **Department of Social Services**, the **Governor's office**, the **Missouri House of Representatives**, the **Department of Conservation**, the **Department of Transportation**, the **Office of Administration**, the **Office of State Courts Administrator**, the **Missouri Senate**, the **Secretary of State's office**, the **Office of the State Public Defender**, the **State Treasurer's office**, **Adair County**, **Boone County**, **Callaway County**, **Cass County**, **Clay County**, **Cole County**, **Greene County**, **Jackson County**, **Jasper County**, **St. Charles County**, **St. Louis County**, **Taney County**, the **City of Cape Girardeau**, the **City of Columbia**, the **City of Jefferson**, the **City of Joplin**, the **City of Kansas City**, the **City of Kirksville**, the **City of Mexico**, the **City of Raymore**, the **City of St. Joseph**, the **City of St. Louis**, the **City of Springfield**, the **City of Union**, the **City of Wentzville**, the **City of West Plains**, **Cape Girardeau 63 School District**, **Hannibal 60 School District**, **State Technical College of Missouri**, **Metropolitan Community College**, **University of Missouri**, and **St. Louis Community College**.

Assumptions

Officials from the **Attorney General's office** indicated they expect that, to the extent that the enactment of this proposal would result in increased litigation, their office can absorb

the costs associated with that increased litigation using existing resources. However, if the enactment of this proposal were to result in substantial additional litigation, they may request additional appropriations.

Officials from the **Department of Agriculture** indicated no fiscal impact on their department.

Officials from the **Department of Economic Development** indicated no impact to their department.

Officials from the **Department of Elementary and Secondary Education** indicated other than the potential impact on the revenue stream of state and local governments (which their department has no means to calculate), this proposal does not impact their department.

Officials from the **Department of Higher Education** indicated this initiative petition would reinstate the annual franchise tax, one-eighth of which would go to their department. The first \$48 million would be earmarked for the University of Missouri – Kansas City to construct a Downtown Campus for the Arts, and future funding would be added to MDHE’s budget "to spend as needed with an emphasis on increasing full time and tenured professors."

Officials from the **Department of Health and Senior Services** indicated no fiscal impact on their department.

Officials from the **Department of Insurance, Financial Institutions and Professional Registration** indicated this petition, if passed, will have no cost or savings to their department.

Officials from the **Department of Mental Health** indicated this proposal creates no direct obligations or requirements to their department that would result in a fiscal impact.

Officials from the **Department of Natural Resources** indicated they would not anticipate a direct fiscal impact from this proposal.

Officials from the **Department of Corrections** indicated no fiscal impact.

Officials from the **Department of Labor and Industrial Relations** indicated no fiscal impact on their department.

Officials from the **Department of Revenue** indicated this initiative petition will have a fiscal impact on their department. Increased operating costs to all state funds would total \$157,691 for fiscal year 2019, \$94,218 for fiscal year 2020, and \$94,990 for fiscal year 2021. Of these costs, \$79,812 are initial and one-time costs in fiscal year 2019 for equipment and changes to the current computerized system. These costs will be offset by additional revenues of \$9,021,516,453 each year for fiscal years 2019 through 2021.

The legislation requires corporations organized pursuant to chapter 351 or other law of the state to pay an annual franchise tax beginning in tax year 2019.

Fiscal Note	IP 18-299		RSI - DOR		
Bill Number	IP 18-299				
Will a new system be required?	-	Yes	X	No	
Indicate fiscal year when fully implemented			FY	2019	
ESTIMATED NET EFFECT ON STATE FUNDS					
Fund Affected			FY 2018	FY 2019	FY 2020
General Revenue				\$9,021,516,453	-
Other			-	-	-
Federal Funds			-	-	-
Total				\$9,021,516,453	-
-					
It is assumed that every new IT project/system will be bid out because all ITSD resources are at full capacity.					
Bill Section(s)		140.010		-	
			FY 2018	FY 2019	FY 2020
MEDL	Rate	Hours	\$	\$	\$
IT Consultants	130	504		(\$65,520)	-
Section Total Expenditures:			-		
			(\$65,520) -		
Section Funding:	General Revenue			\$9,021,358,762	-
	Federal		-	-	-
	Other		-	-	-
Total			-		
			\$9,021,358,762 -		

The legislation creates a positive impact on Total State Revenue. The legislation increases state revenues.

Section 147.010

Beginning in tax year 2019, the legislation requires corporations to pay an annual franchise tax of two percent of its outstanding shares and surplus with a threshold amount of \$10.0 million. The legislation dedicates one-half of the tax to the Missouri State Road Fund. The legislation allocates three-quarters and one-quarter of the remaining revenue to school districts with a 12% or more poverty level and the Department of Higher Education, respectively. This legislation prohibits the use of the revenue by non-public schools within elementary and secondary education.

Administrative Impact:

To implement this legislation the Department requires forms changes and programming.

Business Tax:

Business Tax requires one (1) Revenue Processing Technician I (Range 10, Step L) for every 2,600 pieces of additional correspondence and one (1) Revenue Processing Technician I (Range 10, Step L) for every 7,800 of additional errors generated.

<u>Expenditure by Category</u> <u>Personnel by Position</u>	FTEs	Annual Salary	FY 2019	FY 2020
RPT I (Range 10, Step L)	2	\$27,185	\$45,308	\$54,914

Integrated Tax System:

If passed by voters, the Integrated Tax System incurs additional costs of \$65,520 to implement the provisions of this legislation.

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Bill Number	IP 18-299				
Will a new system be required?	–	Yes	X	No	
Indicate fiscal year when fully implemented		FY	2019		
ESTIMATED NET EFFECT ON STATE FUNDS					
Fund Affected		FY 2018	FY 2019	FY 2020	
General Revenue	-		\$9,021,516,453	-	
Other	-	-	-	-	
Federal Funds	-	-	-	-	
Total	-		\$9,021,516,453	-	
-					
It is assumed that every new IT project/system will be bid out because all ITSD resources are at full capacity.					
Bill Section(s)	115.135				-
		FY 2018	FY 2019	FY 2020	
MEDL	Rate	Hours	\$	\$	\$
IT Consultants	130	504		(\$65,520)	-
Section Total Expenditures:				-	
				(\$65,520)	-
Section Funding:	General Revenue		\$9,021,358,762	-	
	Federal		-	-	-
	Other		-	-	-
Total				\$9,021,358,762	-

Comments:

Their department would like to make sure of the intended start date of this legislation because of the provision in the legislation referring to the first estimated tax payment. A calendar year 2019 franchise return would be for the period of January 1, 2019 to December 31, 2019 and would be due April 15, 2019 (assuming that date does not fall on a holiday or weekend).

Estimated payments for income tax are due prior to the due date of the return in quarterly installments. So estimated payments for a calendar year 2015 filer would be due April, June, September and December of calendar year 2015. Since taxpayers pay franchise tax ahead, the first installments under this legislation would presumably be due April 15, 2018. Estimated payments are not required for franchise, but their department requests clarification of the intended begin date of the proposed tax rate increase.

Subsection 1(6)

Franchise tax is paid ahead, so the tax year 2019 franchise return will be due the 15th day of the fourth month following the beginning of the taxable year.

There is no provision in Chapter 147 that requires estimated payments on franchise taxes. Suggest removing this statement.

Subsection 1(7)

Franchise tax returns are filed throughout the year. Their department assumes that one-half of the franchise tax revenues will be transferred to the Missouri State Road Fund monthly.

Subsection 1(8)

Same comment as in Subsection 1(7), but three-quarters of the one-half will be transferred to a dedicated fund.

The petition does not set up the fund; nor provide authorization for anyone to administer the funds and distribute the money as needed. Since this fund is for schools, their department suggests Department of Higher Education maintain the fund and be responsible for the distribution to the school districts as their department has no way of knowing which school districts have a 12% or more poverty level.

Subsection 1(9)

They assume the one-quarter of the remaining revenue will be deposited into a fund for Department of Higher Education to administer. They assume the Department of Higher Education is responsible for tracking the \$48 to finance the UMKC arts campus.

Officials from the **Department of Public Safety - Office of the Director** indicated they see no fiscal impact due to this initiative petition.

Officials from the **Department of Social Services** indicated no fiscal impact on their department.

Officials from the **Governor's office** indicated there should be no added costs or savings to their office.

Officials from the **Missouri House of Representatives** indicated no fiscal impact to their office.

Officials from the **Department of Conservation** indicated that no adverse fiscal impact to their department would be expected as a result of this proposal.

Officials from the **Department of Transportation** indicated they defer to the Department of Revenue for potential fiscal impact.

Officials from the **Office of Administration** indicated this proposal amends Section 147.010, RSMo, to enact a two-percent franchise tax. One-half of the proceeds will be deposited in the Missouri State Road Fund. Three-fourths of the remaining one-half will go to a dedicated fund to distribute to schools with 12% or more poverty level. One-fourth of the remaining one-half will provide revenue for the Department of Higher Education. The first \$48 million of the Higher Education funding will go to help finance construction of a downtown arts campus for the University of Missouri – Kansas City with the remainder to be spent as needed with an emphasis on increasing full-time and tenured professors. This language specifies that the tax revenue will not replace the Missouri budget for elementary and secondary education or for the Department of Higher Education. It also specifies that the Department of Higher Education Budget will remain at least equal to a percent of the total budget from general revenue in future years as during 2015.

The money for use by elementary and secondary education is to be deposited into an unspecified dedicated fund. In addition, Section 147.010.1(8), RSMo, states, “No Missouri revenue will go to non-public schools”. B&P (Budget and Planning) defers to DESE and DHE for the impact of this provision.

Based on franchise tax collections in CY (calendar year) 15, the last year a franchise tax was in place, gross collections were \$29.9M. At a tax rate of 0.0067%, B&P estimates that total estimates of corporations with at least \$10M in assets was \$446.67B. At a tax rate of 2%, this proposal would generate approximately \$8.93B in new revenues once fully implemented in FY20. While the franchise tax is an annual tax, historically payments have lagged the annual due date by as much as 18 months. Therefore, B&P estimates that this proposal would increase revenues by \$5.54B in FY19 and \$8.93B in FY20 and thereafter.

The distribution of the tax revenue is shown below:

Fund	% deposited	FY19	FY20
State Road Fund	50.0%	\$2,770,000,000	\$4,466,500,000
Unspecified Dedicated Fund (for school districts with at least 12% poverty level)	37.5%	\$2,077,500,000	\$3,349,875,000
Unspecified Dedicated Fund (for DHE)	12.5%	\$692,500,000	\$1,116,625,000

This should not impact their office.

Officials from the **Office of State Courts Administrator** indicated there is no fiscal impact on the courts.

Officials from the **Missouri Senate** indicated as written, they would anticipate a negative impact to the budget. The amount of impact is zero to unknown since the amount of potential shortfall is unknown. Additionally, the Elected Officials and General Assembly budget would require funds to be appropriated to cover the potential shortfall.

Officials from the **Secretary of State's office** indicated many bills considered by the General Assembly include provisions allowing or requiring agencies to submit rules and regulations to implement the act. Their office 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 their office for Administrative Rules is less than \$2,500. Their office recognizes that this is a small amount and does not expect that additional funding would be required to meet these costs. However, we also recognize 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 their office can sustain with their core budget. Therefore, they reserve 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.

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, Referendums are submitted to the people at the next general election. Article III section 52(b) of the Missouri Constitution authorizes the general assembly to order a special election for measures referred to the people. If a special election is called to submit a Referendum 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 \$7.8 million based on the cost of the 2016 Presidential Preference Primary.

Their 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. Their office is provided with core funding to handle a certain amount of normal activity resulting from each year's legislative session. Funding for this item is adjusted each year depending upon the election cycle with \$1.3 million historically appropriated in odd numbered fiscal years and \$100,000 appropriated in even numbered fiscal years to meet these requirements. Through FY 2013, the appropriation has historically been an estimated appropriation because the final cost is dependent upon the number of ballot measures approved by the General Assembly and the initiative petitions certified for the ballot. In FY 2015, the General Assembly changed the appropriation so that it was no longer an estimated appropriation. In FY 2017 their office was appropriated \$2.6 million to publish the full text of the measures. In FY 2017, at the August and November elections, there were 6 statewide Constitutional Amendments or ballot propositions that cost \$2.4 million to publish (an average of \$400,000 per issue). Their 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, they reserve the right to request funding to meet the cost of their publishing requirements if the Governor and the General Assembly again change the amount or continue to not designate it as an estimated appropriation.

Officials from the **Office of the State Public Defender** indicated this initiative petition will not have any impact on their office.

Officials from the **State Treasurer's office** indicated if this initiative petition is approved by voters and the obligations created thereby are met by the General Assembly, then there would be no fiscal impact upon their office. If this initiative petition is approved by voters, but the obligations created thereby are not met by the General Assembly, then the potential impact upon their office is virtually unlimited, and could conceivably result in the cessation of their office's operations. There is no stated limit regarding what portion of their office's budget may be used to make up for any shortfall. Further, if their office is unable to pay and employ staff, then it would be unable to perform its essential functions, such as investing the state's funds (by which Missouri derived approximately \$29,600,000 in investment income in FY 2017), processing state payments (\$27,300,000,000 in FY 2017), and administering Missourians' unclaimed property (\$44,300,000 paid on 166,000 accounts in FY 2017), which would result in a severe, generalized impact upon the citizens of this state.

Officials from **Greene County** indicated there are no estimated costs or savings to report from their county for this initiative petition.

Officials from the **City of Kansas City** indicated this amendment will have no fiscal impact on their city.

The State Auditor's office did not receive a response from **Adair County, Boone County, Callaway County, Cass County, Clay County, Cole County, Jackson**

County, Jasper County, St. Charles County, St. Louis County, Taney County, the City of Cape Girardeau, the City of Columbia, the City of Jefferson, the City of Joplin, the City of Kirksville, the City of Mexico, the City of Raymore, the City of St. Joseph, the City of St. Louis, the City of Springfield, the City of Union, the City of Wentzville, the City of West Plains, Cape Girardeau 63 School District, Hannibal 60 School District, State Technical College of Missouri, Metropolitan Community College, University of Missouri, and St. Louis Community College.

Fiscal Note Summary

State governmental entities estimate initial and one-time costs of approximately \$80,000, annual costs of approximately \$95,000, and annual revenues of approximately \$9 billion. Local governmental entities expect no costs or savings.