

**MISSOURI STATE AUDITOR'S OFFICE
FISCAL NOTE (20-026)**

Subject

Initiative petition from Gerald Peterson regarding a proposed amendment to Chapter 147 of the Revised Statutes of Missouri. (Received December 27, 2018)

Date

January 16, 2019

Description

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

The amendment is to be voted on in November 2020.

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**, **Malta Bend R-V School District**, **Mehlville School District**, **Wellsville-Middletown R-1 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 they anticipate no impact as a result of the proposed initiative petition.

Officials from the **Department of Elementary and Secondary Education** indicated this proposal will have an impact on the revenue stream of state and local governments; however, their department has no means to calculate such impact.

There does not appear to be any revenue estimates which makes it difficult to determine the financial impact to schools. There is no definition of "poverty level" which is problematic since their department uses free and reduced lunch rates as an indicator of poverty in districts. If that is the measure, upward of 75% of the schools in the state could be deemed to be in poverty. Regarding the distribution of funding, the use of the term "schools" could cause problems because their department distributed funds by district, not by school. Finally, there is no mechanism to distribute the funds nor monitor the implementation of the programs described in subsection 1.8. If their department were to be charged with this, there would be a fiscal responsibility placed on their department for the oversight.

Officials from the **Department of Higher Education** indicated they defer to the Office of Administration on the revenues to be generated by this change.

Officials from the **Department of Health and Senior Services** indicated this initiative petition has no 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 this initiative petition does not appear to have a fiscal impact on their department.

Officials from the **Department of Revenue** indicated:

Section 147.010

This section reinstates the annual franchise tax beginning with tax year 2021 at a rate of one percent with a threshold amount of ten million dollars, unless otherwise changed through a ballot of the citizens of Missouri.

Disposition of the tax is as follows:

- Forty percent to the Missouri State Road Fund
- Fifty percent to schools with a twelve percent or more poverty level of the citizens in the Missouri public-school system including pre-kindergarten, elementary, and secondary education.
- Ten percent to qualified students from families or individuals with an income below twelve percent poverty level as scholarships for public Missouri colleges and universities.

The corporate franchise tax is a tax on a corporation's outstanding shares and surplus within this state. In order to find the fiscal impact, they utilized data reported on the Corporate Franchise Tax Schedule (MO-FT).

In FY (fiscal year) 15, the total dollar amount of assets apportioned to Missouri was \$285,488,613,202, take that amount by the proposed tax rate of one percent for an estimated collections of \$2,854,886,132. The chart below reflects the estimated fiscal impact in the appropriate funds.

	FY20	FY21	FY22
Missouri State Road Fund	\$570,977,227	\$1,141,954,453	\$1,141,954,453
Public Schools	\$713,721,533	\$1,427,443,066	\$1,427,443,066
Scholarships	\$142,744,307	\$285,488,613	\$285,488,613

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 this initiative petition would reinstate the corporate franchise tax and then require that forty percent of the new proceeds would be deposited into the State Road Fund. Therefore, it will have a positive fiscal impact on their department. The amount of such impact is unknown. The Department of Revenue is best equipped to estimate a fiscal impact for this initiative petition, so their department therefore defers to them for a fiscal impact.

Officials from the **Office of Administration** indicated this proposal amends Section 147.010, RSMo, to enact a one-percent franchise tax beginning with tax year 2021. The first quarterly estimated payment shall be due on April 15th, 2021.

Forty percent of the proceeds will be deposited in the Missouri State Road Fund.

Fifty percent of the proceeds will go to a dedicated fund to distribute to schools with 12% or more poverty level. Schools with 10% or more minority students receiving proceeds from the dedicated fund must have a program with Administrators and School Leaders on Restorative Justice, Discipline and behavior systems or face a 10% penalty per year with a total penalty up to 30%.

Ten percent of the proceeds will go to qualified students from families or individuals with income below 12% poverty level as scholarships for use at Missouri public colleges and universities. At the end of each calendar year, any money remaining shall be used to pay off student loans of teachers at schools serving areas with incomes below 12% poverty level. Any funds remaining shall then be transferred into funds for higher education. This language also specifies that the budget for elementary and secondary education will not be replaced by this bill and that its budget will remain as specified in Chapter 163.

Based on franchise tax collections in CY (calendar year) 15, the last year a franchise tax was in place, gross collections were \$29.9 million. At a tax rate of 0.0067%, B&P (Budget and Planning) estimates that total estimates of corporations with at least \$10 million in assets was \$446.67 billion. At a tax rate of 1%, this proposal would generate approximately \$4.47 billion in new revenues once fully implemented in FY (fiscal year) 22. 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 \$2.77 billion in FY21 and \$4.47 billion in FY22 and thereafter.

The distribution of the tax revenue is shown below:

Fund	% deposited	FY21	FY22
State Road Fund	40.0%	\$1,108,000,000	\$1,786,800,000
Unspecified Dedicated Fund (for school districts with at least 12% poverty level)	50.0%	\$1,385,000,000	\$2,233,500,000
Unspecified Dedicated Fund (for use by DHE)	10.0%	\$277,000,000	\$446,700,000

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 they anticipate no fiscal impact.

Officials from the **Secretary of State's office** indicated 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. 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 (fiscal year) 2014, the General Assembly changed the appropriation so that it was no longer an estimated appropriation.

In FY19, over 5.8 million was spent to publish the full text of the measures for the August and November elections. They estimate \$65,000 per page for the costs of publications based on the actual cost incurred for the one referendum that was on the August 2018 ballot.

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 significant impact on their office.

Officials from the **State Treasurer's office** indicated this initiative petition would have no fiscal impact upon their office so long as funding would be appropriated as proposed.

Officials from **Adair County** indicated they find no known impact.

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.

Officials from **State Technical College of Missouri** indicated this could have an indirect positive fiscal impact as it could benefit students that choose to attend their college.

The State Auditor's office did not receive a response from **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, Malta Bend R-V School District, Mehlville School District, Wellsville-Middletown R-1 School District, Metropolitan Community College, University of Missouri, and St. Louis Community College.**

Fiscal Note Summary

State governmental entities expect no additional costs and estimate additional annual revenues ranging from \$2.9 billion to \$4.5 billion. Local governmental entities expect no costs or savings.