

COMMITTEE ON LEGISLATIVE RESEARCH
OVERSIGHT DIVISION

FISCAL NOTE

L.R. NO.: 3524-01
BILL NO.: HB 1392
SUBJECT: Education - Elementary and Secondary; Taxation and Revenue - Income
TYPE: Original
DATE: February 5, 2002

FISCAL SUMMARY

ESTIMATED NET EFFECT ON STATE FUNDS			
FUND AFFECTED	FY 2003	FY 2004	FY 2005
General Revenue	(\$65,642) to \$3,420,927	(Unknown) to \$11,689,782	(Unknown) to \$12,154,574
Total Estimated Net Effect on <u>All</u> State Funds *	(\$65,642) to \$3,420,927	(Unknown) to \$11,689,782	(Unknown) to \$12,154,574

* Possible expenditures could exceed \$100,000.

ESTIMATED NET EFFECT ON FEDERAL FUNDS			
FUND AFFECTED	FY 2003	FY 2004	FY 2005
None			
Total Estimated Net Effect on <u>All</u> Federal Funds	\$0	\$0	\$0

ESTIMATED NET EFFECT ON LOCAL FUNDS			
FUND AFFECTED	FY 2003	FY 2004	FY 2005
Local Government*	(Unknown) to \$342,092,667	(Unknown) to \$1,168,978,240	(Unknown) to \$1,215,457,370

* **This proposal is permissive. Voter approval would be required before fiscal impact would be realized.**

Numbers within parentheses: () indicate costs or losses

This fiscal note contains 9 pages.

FISCAL ANALYSIS

ASSUMPTION

Officials from the **Department of Revenue (DOR)** state the following:

Section 162.1150

this section creates the School District Income Tax Surcharge Act and defines certain terms found in this act.

Section 162.1152.1

This section allows a school district, by a majority vote of its school board, to impose a surcharge of 5 or 10% on the income tax of the residents of the school district. This will not be effective unless the school board submits to the voters of the district (and a majority approves) a proposal to authorize the school board to impose the income tax surcharge.

Section 162.1154

The secretary of the school board will forward within 10 days after the certification of the vote approving any resolution or order imposing the income tax surcharge. If the notice of adoption of the surcharge is received by DOR prior to July 1st of any calendar year the tax shall become effective on January 1st of the immediately succeeding calendar year. If received after July 1st it will then be effective January 1st of the second succeeding calendar year.

Section 162.1156

DOR, after the effective date, will do all functions to administer, collect, enforce the income tax surcharge. The Director will collect the surcharge in addition to the income tax. The surcharge will be collected with the State income tax and reported on such forms. DOR to file rules.

Section 162.1158

Includes the following provisions that govern collections of the surcharge:

1. all applicable provisions in Chapter 143;
2. the surcharge is imposed on the tax due in Chapter 143 and shall be paid annually.
3. Penalties provided in Chapter 143 are applicable.

Section 162.1160

Establishes a 1% collection fee. Also creates the School District Income Tax Surcharge Trust Fund. The moneys shall not be deemed to be state funds and shall not be commingled with any funds of the state. This section indicates that DOR shall keep accurate records of the amount of money in the trust fund and that the records will be open for inspection.

ASSUMPTION (continued)

Section 162.1160.1

Indicates that the distribution of the fund should be completed by June 15th by DOR to the school boards.

Section 162.1160.2

Includes the refund language. After one year has elapsed, the DOR must remit the balance in the account to the school district and close the account of that school district. This section also indicates that if any refunds paid or checks redeemed after the close of the account of any school district shall be charges against the amounts payable to the school district pursuant to Chapter 163. DOR is to notify each school district of each instance of any amount refunded or any check redeemed from receipts due the school district.

Section 162.1160.3

Indicates that DOR is to provide each school district imposing the tax with a detailed accounting of the source. It also indicates "Notwithstanding any other provisions of law, the state auditor shall annually audit the trust fund."

Section 162.1160.4

This section lists the bonding requirements for DOR.

Section 162.1162.1

Allows the school board to join in delinquency cases filed. However, before DOR files, DOR is to notify the school board. It also indicates that DOR is to promptly notify the treasurer of the school district if a surcharge is delinquent.

Section 162.1162.2

Allows the school district to join in a seizure of property with DOR.

Section 162.1164

Distributes the unidentified moneys after 3 years to each school district currently participating. The distribution shall be apportioned to the amount the district is receiving.

Section 162.1166

Authorizes the director to invest the trust fund moneys.

Section 162.1168

Excludes corporations from the surcharge.

ASSUMPTION (continued)

Section 162.1170

Terminates the surcharge three years from the date tax was imposed unless the school district abolishes sooner.

Section 162.1172

Excludes surcharge income received by the School District from the state aid calculation.

Section 162.1174.1

Authorizes a sales tax on all retail sales for up to 3 year if the school board imposes.

Section 162.1174.2

Includes the information on the ballot to the people on the sales tax increase.

Section 162.1174.2

sets the effective date of the sales tax to the first day of the 2nd calendar quarter after the Director receives notification only if the voters approved the school board authorizing the sales tax.

Section 162.1174.3

Instructs where the revenue is to be deposited by the school board.

Section 162.1174.4

Gives the time limits on the duration of the tax, which can not exceed 3 years from the date it was initially imposed.

Section 162.1176

Directs the director to deposit the funds to the state treasurer in a fund known as the School District Sales Tax Trust Fund. The legislation indicates that the director is to keep accurate records of the amount of money in the trust fund and the records shall be open.

Section 162.1176.1

Directs the director on the distribution of the funds and that the distribution is to be by the 10th day of each month. Also indicates that all expenditures of funds arising from the trust fund shall be by an appropriation act to be enacted by the school board.

Section 162.1176.2

Contains the refunding language and the abolishment requirement of the school board to notify DOR at least 90 days prior to the effective date of the repeal of the sales tax. Also indicates what to do with funds in the account and how long to maintain the 2% for possible refunds or overpayment.

ASSUMPTION (continued)

Section 162.1178

Exempts the sales tax from the school districts calculation for state aid.

The DOR assumes the total fiscal impact of the legislation is unknown. The number of FTEs required would depend on how many school districts (if any) would approve such a surcharge and if the 1 percent collection fee would cover the DOR's expenses. Therefore, any FTE needed will be requested through the normal budget process based on the following information:

One FTE would be needed for every 500,000 persons that would file a surcharge income tax return. The DOR would have to obtain names of persons who live in the specific school district in order to enforce and administer the surcharge.

The DOR anticipates a minimum of 5% impact to processing time. This will require (2) Temporary Clerk for 5 months for every 150,000 returns impacted by this legislation. Also (1) Tax Processing Tech I for five months for every additional 30,000 errors generated. Personal tax will also require (1) Tax Processing Tech 1 for every 3,000 pieces of correspondence received associated with this tax. The variation of surcharge rates could make this difficult in the development of the forms/instructions and system edits. Because not all school districts are authorized to collect, it may be difficult to properly enforce and/or edit, assuming DOR bases it on the school district number indicated by the taxpayer. This would make the surcharge a passive collection process. Based on the accounting and audit process, this could put DOR at risk in regards to collection and enforcement. The cost will depend on how it is handled.

In Section 162.1176, DOR is to keep accurate records of the money collected in each school district imposing a sales tax. If the split is to be based on point of sale, the DOR would have to identify all businesses in a particular school district and code them accordingly. An employee will have to work with the districts to obtain and maintain lists. Business Tax will need (1) Tax Processing Tech I for Technical Support to work with the districts for identifying businesses, maintaining the registered businesses, and checking distribution.

DOR assumes both surcharges would require modification to programs. They would also require separate deposit tickets for the regular tax and the surcharge. In most cases one check will be sent for both taxes, which will require separate capture fields when adding the checks for deposit.

If a check is sent with an even return, a voucher may be required for depositing the check. This will require at least one additional Account Clerk II to process the deposit tickets.

DOR assumes a new field will be added to the MO-1040, M0-1040A and MO-1040B for reporting of the School district income Tax Surcharge Trust Fund. MINITS System changes, E-

ASSUMPTION (continued)

File; and PC Speedup will need to be modified. Depending on when the school district enacted this legislation, the costs would be associated with that Fiscal Year. If the DOR is to enhance the programs in anticipation of a school district imposing, the costs would be immediate. DOR estimates that 1,204 hours of overtime programming are required at a cost of \$36,207. The State Data Center implementation costs would be \$10,451, with ongoing annual costs of \$878.

DOR assumes the sales tax is a county tax for school districts within a county. No impact is estimated on collecting the tax. Distribution is based on Student population requiring distribution-programming changes. DOR estimates 519 hours of overtime programming will be needed at a cost \$15,606. The State Data Center implementation costs would be \$3,378.

Officials from the **Department of Elementary and Secondary Education (DES)** state this proposal authorizes a school board to present to the voters an income tax surcharge. The board cannot impose these taxes without a majority vote of the voters on the ballot issue. DES assumes there is no cost to their agency since they are not involved in administering or overseeing the collection and distribution of these taxes. DES also states there would be an unknown increase to the General Revenue Fund, because the Department of Revenue is authorized to collect a 1% administration fee.

Officials from the **Office of Administration, Budget and Planning (BAP)** did not respond to our fiscal note request. However, in response to similar legislation last session, BAP stated the anticipated revenues would be unknown because of the uncertainty of which school districts would be able to pass such measures in an election. Also BAP stated that the estimated revenue from Individual Income Tax for Missouri for FY 2002 is roughly \$4.4 billion, which would translate to \$223 million in revenue statewide for the school districts if all the school districts in the state passed a 5 percent income tax surcharge measure.

Officials from the Office of the **Secretary of State (SOS)** assume this proposal would not fiscally impact their agency.

Officials from the **Office of the Attorney General (AGO)** did not respond to our fiscal note request. However, in a response to similar prior legislation, AGO assumed the proposal would not fiscally impact their agency.

Officials from the **State Auditor's Office (SAU)** assume this bill will have an unknown impact on General Revenue Funds. In addition, there would be a fiscal impact to the SAU to audit the monies collected, deposited and credited to the School District Income Tax Surcharge Trust Fund; and determine whether distribution of such funds is in compliance with state law.

ASSUMPTION (continued)

However, the impact is undeterminable since SAU does not currently have access to income tax returns.

Oversight assumes this proposal is permissive and would require voter approval before any positive fiscal impact would be realized by the state. Oversight presented the fiscal impact in a range of no voters passing such measures to all school districts in the state passing **both** the income tax surcharge and the sales tax measures. Oversight assumed a 4 percent growth rate in sales tax revenue from the FY03 projections for FY04 and FY05. Oversight assumed the Income Tax Surcharge, at the earliest, would be passed by the voters in October, 2002 and therefore, would not be effective until January 1, 2003, at which time employers would withhold from earnings and remit to the state. Oversight also assumed the Local Sales Tax, at the earliest, would be passed by voters in October, 2002, and therefore, would become effective April 1, 2003. With a month of lag time, only 2 months of revenue would be realized in FY 2003. Oversight also assumes the DOR would complete the programming changes related to the Local Sales Tax and the Income Tax Surcharge in FY 2003.

<u>FISCAL IMPACT - State Government</u>	FY 2003	FY 2004	FY 2005
	(6 Mo.)		
GENERAL REVENUE FUND			
<u>Income</u> - Department of Revenue			
1% collection fee from sales tax at the local level	\$0 to \$2,320,000	\$0 to \$4,820,000	\$0 to \$5,010,000
<u>Income</u> - Department of Revenue			
1% collection fee from income tax surcharge at the local level	\$0 to \$1,100,927	\$0 to \$6,869,782	\$0 to \$7,144,574
<u>Costs</u> - Department of Revenue			
Costs associated with collecting and administering tax surcharge	(\$46,658) to (Unknown)	(Unknown)	(Unknown)
<u>Costs</u> - Department of Revenue			
Costs associated with collecting and administering the local sales tax	(\$18,984)	\$0	\$0
ESTIMATED NET EFFECT ON GENERAL REVENUE FUND	(\$65,642) to <u>\$3,420,927</u>	(Unknown) to <u>\$11,689,782</u>	(Unknown) to <u>\$12,154,574</u>

<u>FISCAL IMPACT - Local Government</u>	FY 2003 (6 Mo.)	FY 2004	FY 2005
LOCAL SCHOOL DISTRICTS			
<u>Costs</u> - Election Costs	(Unknown)	(Unknown)	(Unknown)
<u>Revenue</u> - Income Tax Surcharge	\$0 to \$232,000,000	\$0 to \$482,000,000	\$0 to \$501,000,000
<u>Revenue</u> - Local Sales Tax	\$0 to <u>\$110,092,667</u>	\$0 to <u>\$686,978,240</u>	\$0 to <u>\$714,457,370</u>
ESTIMATED NET EFFECT TO LOCAL SCHOOL DISTRICTS*	(Unknown) to (Unknown) to (Unknown) to <u>\$342,092,667 \$1,168,978,240 \$1,215,457,370</u>		

*Note: Voter approval at local elections of the Income Tax Surcharge and/or the Local Sales Tax measures must occur to realize the impact. For fiscal note purposes, Oversight presented the fiscal impact in a range of no school districts approving the measures to all school districts approving the measures at their legal extent.

This proposal would result in an increase in Total State Revenue.

FISCAL IMPACT - Small Business

Small businesses would be fiscally impacted to the extent they must keep track of and pay an additional income tax or sales tax.

DESCRIPTION

This bill allows school districts to adopt by voter approval a personal income tax, sales tax, or both. Moneys raised by the taxes would not be deducted from a district's state school aid. For either tax, the school district must specify the purpose of the tax and the period of time for which the tax will be imposed, not to exceed 3 years. The income tax is a 5 or 10% surcharge on state personal income tax. The sales tax may be up to one cent, in eighth-cent increments. The sales tax will be voted on by the school districts within a county and apportioned county. The bill contains technical provisions for the handling and transfer of funds and for the conduct of the elections.

DESCRIPTION (continued)

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
Department of Elementary and Secondary Education
Secretary of State
State Auditor

NOT RESPONDING:
Office of Administration
 Budget and Planning
Attorney General



Mickey Wilson, CPA
Acting Director

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