

COMMITTEE ON LEGISLATIVE RESEARCH
OVERSIGHT DIVISION

FISCAL NOTE

L.R. No.: 4939-02
Bill No.: SB 1248 With SCA 1 and 2
Subject: Corporations: Education, Elementary and Secondary; Revenue Dept; Taxation and Revenue - General, Income, Sales and Use
Type: Original
Date: March 28, 2002

FISCAL SUMMARY

ESTIMATED NET EFFECT ON STATE FUNDS			
FUND AFFECTED	FY 2003	FY 2004	FY 2005
General Revenue	(\$241,399 to UNKNOWN)	\$0	\$0
Schools of the Future Fund	\$0	\$0	\$0
State School Moneys Fund	\$0	\$0	\$0
Total Estimated Net Effect on <u>All</u> State Funds	(\$241,399 to UNKNOWN)	\$0	\$0

ESTIMATED NET EFFECT ON FEDERAL FUNDS			
FUND AFFECTED	FY 2003	FY 2004	FY 2005
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
School Districts	\$85,200,000	\$70,200,000	\$70,200,000

Numbers within parentheses: () indicate costs or losses.
This fiscal note contains 9 pages.

FISCAL ANALYSIS

ASSUMPTION

Officials from the **Department of Revenue - State Tax Commission** and the **Gaming Commission** stated this proposed legislation would have no fiscal impact on their agencies.

Officials from the **Department of Elementary and Secondary Education (DESE)** were unable to estimate the dollar impact to the "Schools of the Future Fund" resulting from the changes in this proposal; however DESE assumes the new funds deposited in the Schools of the Future Fund would appear to lessen the call on general revenue funds required to fully fund state aid to public schools.

Officials from the **Secretary of State's Office (SOS)** assumed the rules, regulations and forms issued by the Department of Revenue and the could require as many as 10 pages in the *Code of State Regulations*. For any given rule, roughly half again as many pages are published in the *Missouri Register* in the Code because cost statements, fiscal notes and the like are not repeated in the Code. These costs are estimated. The estimated cost of a page in the *Missouri Register* is \$23. The estimated cost of a page in the *Code of State Regulations* is \$27. The actual cost for FY03 is estimated at \$615 but could be more or less than the numbers given. The impact of this legislation in future years is unknown and depends upon the frequency and length of rules filed, amended, rescinded or withdrawn.

Oversight assumes the SOS could absorb the costs of printing and distributing regulations related to this proposal. If multiple bills pass which require the printing and distribution of regulations at substantial costs, the SOS could request funding through the appropriations process. Any decisions to raise fees to defray costs would be made in subsequent fiscal years.

SECTION 32.069 - Interest on State Tax Refunds

Officials from the **Office of State Treasurer (STO)** staff assume that there would be a revenue savings generated from linking the interest rate paid on refunds to the actual rate earned on state funds. However, STO will defer to the estimate provided by the Department of Revenue for this portion of the proposal.

Officials from the **Office of Administration - Division of Budget and Planning** and the **Department of Revenue** estimate the saving on non-payment of interest on tax refunds unless the payment is delayed for more than 120 days to be \$12,000,000 annually.

DOR provided the following assumptions regarding administrative impact as it relates to this portion of the proposed legislation:

ASSUMPTION (continued)

ADMINISTRATIVE IMPACT

Because the interest rate applied to an overpayment is different than delinquencies, modifications to the income, corporate, motor fuel and withholding tax systems will be needed. Information Technology will need 4 Programmers for 4 months at a cost of \$92,340 to create a system to handle this process.

This legislation will increase the printing and postage amounts utilized by the department because of the additional notices for underpays being issued to taxpayers. Because of confusion by the taxpayer on delinquent payments, it is anticipated that additional telephone calls will be received on the MOSAIX system. It is anticipated that one Tax Collection Tech I will be needed for every 24,000 calls a year resulting from the fluctuating interest rate on delinquencies.

Oversight assumes the DOR could absorb the work associated with the additional phone calls with existing staff. However, if the number of calls and related work increases significantly, the DOR may need to request additional staff through the appropriations process.

SECTION 136.320 - Amnesty of Penalties, Additions, and Interest

The following agencies responded to similar legislation (Perfected HCS for HB 1150, 1237, & 1327):

Officials from the **Department of Elementary and Secondary Education (DES)** assumes all new revenues resulting from the amnesty provision shall be deposited into the state school moneys fund and distributed to school districts.

In response to earlier legislation, officials from the **Office of the State Courts Administrator (CTS)**, the **Attorney General's Office (AGO)**, the **Office of the State Treasurer (STO)** and the **Office of Administration, Administrative Hearing Commission (AHC)** assume this section of the proposal has no fiscal impact to their agencies.

Officials of the **Department of Revenue (DOR)** state this legislation provides statutory procedures for a limited tax amnesty program.

DOR assumes the portion of the proposal indicates amnesty only applies to state taxes but it should also include local taxes DOR collects. An amnesty sales tax form will need to be developed.

DOR assumes overtime may be incurred to have the amnesty wrapped up within the 60 days proposed in the legislation with notification back to the taxpayer of approval or not. Additional postage will be incurred, it is unknown, it could be \$10,000 or much more. It will depend on taxpayer response to the amnesty.

ASSUMPTION (continued)

DOR assumes this legislation will impact several separate and unique systems MINITS, COINS, Employer Withholding, MITS, Motor Vehicle Delinquent Fee. Each of the systems will need program changes to generate letters to notify taxpayers of the amnesty program. Approval letters will also need to be generated. Each system will need to be programmed to earmark the amount collected as a result of the amnesty to the school moneys fund instead of GR. An amnesty program will need to be developed for each tax system in order to monitor and administer the program. DOR estimates that the above program changes (to all tax systems) will require 6,055 hours of programming for a total cost of \$201,995. The State Data Center cost to implement the proposed legislation will be \$39,404.

Officials from the **Office of Administration - Division of Budget and Planning** estimated a fiscal impact of \$15,000,000 as a result of this portion of the proposed legislation. will also need to be generated. Each system will need to be programmed to earmark the amount collected as a result of the amnesty to the school moneys fund instead of GR. An amnesty program will need to be developed for each tax system in order to monitor and administer the program. DOR estimates that the above program changes (to all tax systems) will require 6,055 hours of programming for a total cost of \$201,995. The State Data Center cost to implement the proposed legislation will be \$39,404.

Officials from the **Office of Administration - Division of Budget and Planning** estimated a fiscal impact of \$15,000,000 as a result of this portion of the proposed legislation.

SECTION 143.261 - Timely Filing of Withholding Tax (REPEAL)

Officials from the **Office of Administration - Division of Budget and Planning (BAP)** estimate the elimination of the timely filing allowance for employers who submit withholding tax will result in annual income of \$18,400,000.

SECTION 143.431 - Disallows Non-Missouri Source Income for Corporate Income Tax

According to officials from the **Office of Administration - Division of Budget and Planning (BAP)** the estimated additional state revenue resulting from this portion of the proposal will be \$24,800,000 annually.

SECTION 143.435 - Add Back to Corporate Federal Taxable Income (Intangibles)

According to officials from the **Office of Administration - Division of Budget and Planning (BAP)** the estimated additional state revenue resulting from this portion of the proposal will be \$5,000,000 annually.

SECTION 144.190 - Erroneously Paid Tax

ASSUMPTION (continued)

Officials from the **Office of Administration - Division of Budget and Planning (BAP)**, based

on information provided by the **Department of Revenue**, estimated \$10,000,000 annually in decrease in sales tax refunds.

<u>FISCAL IMPACT - State Government</u>	FY 2003	FY 2004	FY 2005
GENERAL REVENUE			
<u>Income</u> - Amnesty Tax Revenue (Section 136.320)	\$15,000,000	\$0	\$0
<u>Income</u> - Additional Corporate Income Tax (Section 143.435)	\$5,000,000	\$5,000,000	\$5,000,000
<u>Savings</u> - Interest on State Tax Refunds (Section 32.069)	\$12,000,000	\$12,000,000	\$12,000,000
<u>Savings</u> - Reduction in Sales Tax Refunds (Section 144.190)	\$10,000,000	\$10,000,000	\$10,000,000
<u>Savings</u> - Disallowance of Non-Missouri Source Income for Corporate Income Tax (Section 143.431)	\$24,800,000	\$24,800,000	\$24,800,000
<u>Savings</u> - Elimination of Timely Filing Allowance (Section 143.261)	<u>\$18,400,000</u>	<u>\$18,400,000</u>	<u>\$18,400,000</u>
Total <u>Income and Savings</u> - General Revenue	<u>\$85,200,000</u>	<u>\$70,200,000</u>	<u>\$70,200,000</u>
<u>Cost</u> - Department of Revenue			
Postal	(Unknown)	\$0	\$0
Programing	(\$241,399)	<u>\$0</u>	<u>\$0</u>
	(\$241,399 to	\$0	\$0
	Unknown)		
Total <u>Cost</u> - Department of Revenue	Unknown)		
<u>Loss</u> - General Revenue			
Decrease in additions to tax, penalties and interest	(Unknown)	\$0	\$0
<u>Transfer Out</u> - Schools of the Future Fund			
Amnesty Tax Revenue (Section 136.320)	(\$15,000,000)	\$0	\$0

<u>FISCAL IMPACT - State Government</u>	FY 2003	FY 2004	FY 2005
<u>Transfer Out</u> - Schools of the Future Fund Corporate Income Tax (Section 143.435)	(\$5,000,000)	(\$5,000,000)	(\$5,000,000)
<u>Transfer Out</u> - Schools of the Future Fund Savings Due to Reduction in Sales Tax Refunds (Section 144.190)	(\$10,000,000)	(\$10,000,000)	(\$10,000,000)
<u>Transfer Out</u> - Schools of the Future Fund Savings Due to Not Paying Interest on State Tax Refunds (Section 32.069)	(\$12,000,000)	(\$12,000,000)	(\$12,000,000)
<u>Transfer Out</u> - Schools of the Future Fund Savings Due to Disallowance of Non- Missouri Source Income for Corporate Income Tax (Section 143.431)	(\$24,800,000)	(\$24,800,000)	(\$24,800,000)
<u>Transfer Out</u> - Schools of the Future Fund Savings Due to Elimination of Timely Filing Allowance (Section 143.261)	<u>(\$18,400,000)</u>	<u>(\$18,400,000)</u>	<u>(\$18,400,000)</u>
Total <u>Costs</u> - General Revenue	<u>(\$85,441,399 to Unknown)</u>	<u>(\$70,200,000)</u>	<u>(\$70,200,000)</u>
ESTIMATED NET EFFECT TO THE GENERAL REVENUE FUND	<u>(\$241,399 to Unknown)</u>	<u>\$0</u>	<u>\$0</u>
SCHOOLS OF THE FUTURE FUND			
<u>Transfer In</u> - General Revenue	\$85,200,000	\$70,200,000	\$70,200,000
<u>Transfer Out</u> - Transfer to State School Moneys Fund	<u>(\$85,200,000)</u>	<u>(\$70,200,000)</u>	<u>(\$70,200,000)</u>
ESTIMATED NET EFFECT TO THE SCHOOLS OF THE FUTURE FUND	<u>\$0</u>	<u>\$0</u>	<u>\$0</u>
STATE SCHOOL MONEYS FUND			
<u>Transfer In</u> - Transfer from Schools of the Future Fund	\$85,200,000	\$70,200,000	\$70,200,000

<u>FISCAL IMPACT - State Government</u>	FY 2003	FY 2004	FY 2005
<u>Transfer Out - State Aid Distributions to School Districts</u>	<u>(\$85,200,000)</u>	<u>(\$70,200,000)</u>	<u>(\$70,200,000)</u>
NET EFFECT ON STATE SCHOOL MONEYS FUND	<u>\$0</u>	<u>\$0</u>	<u>\$0</u>

<u>FISCAL IMPACT - Local Government</u>	FY 2003	FY 2004	FY 2005
SCHOOL DISTRICTS			
<u>Income - State Aid Distributions from State School Moneys Fund</u>	<u>\$85,200,000</u>	<u>\$70,200,000</u>	<u>\$70,200,000</u>

FISCAL IMPACT - Small Business

Small Businesses can expect to be fiscally impacted due to this proposed legislation.

DESCRIPTION

This proposed legislation modifies various provisions of law for the purpose of funding the "Schools of the Future Fund". The proposal:

- (1) Section 32.068 - Revises the Treasurer's method of calculating interest, and such method is to be used by the director of revenue by January 1, 2003;
- (2) Section 32.069 - Modifies the repayment of refunds or overpayments to taxpayers in that no interest shall be applied to a repayment that is made within 120 days of the date of the return or the last day for filing;
- (3) Section 136.320 - Requires that amnesty shall be granted for all interest and additions to tax with respect to unpaid taxes that are paid in full between August 1, 2002, and September 30, 2002; such amnesty shall not apply to persons involved in a criminal or civil litigation related to the tax liability nor to persons involved in an appeal to the Administrative Hearing Commission or a protest with the department of revenue regarding such tax liability; certain other requirements must be met and a collection fee may be imposed;

DESCRIPTION (continued)

- (4) Section 143.431 - Modifies multistate allocation of corporate income for Missouri corporate income tax purposes to apply multistate apportionment principles to the same;
- (5) Section 143.435 - Creates a new section with respect to affiliated groups and related entities;

with respect to those parties, the act modifies the way losses and operating expenses are deducted among such parties for various types of property, including intellectual property; minimum standards are established regarding what connections among various corporate entities constitute related parties and affiliated groups for multistate corporate income purposes;

- (6) Section 143.911 - Modifies the carry-back of overpayments to tax with respect to tax credits which are retroactively claimed by a taxpayer by amended return so that such taxpayer will not receive the benefit of retroactive interest for such claimed overpayment;
- (7) Section 144.190 - Permits overcollected or overpaid sales taxes to be credited to a retailer only if the retailer can demonstrate to the satisfaction of the director of revenue that the amounts refunded were or will be returned to the party who originally paid the tax;
- (8) Section 143.261 (REPEAL) - Eliminates the timely filing allowance for employers who submit withholding tax. The current allowance ranges from 0.5% to 2% depending on the amount withheld;

All additional revenues accrued by any of the above listed modifications or changes to policy shall be deposited in the Schools of the Future Fund, which is created in the proposed legislation. Money in the fund shall be appropriated solely for the purpose of fully funding state aid to public schools.

The proposal contains an emergency clause.

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

THIS PROPOSAL WILL INCREASE TOTAL STATE REVENUE

SOURCES OF INFORMATION

Department of Elementary and Secondary Education
Missouri Gaming Commission
Department of Revenue
Missouri Tax Commission

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Bill No. SB 1248 with SCA 1 and 2
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Office of Administration
Division of Budget and Planning
Office of Secretary of State
Administrative Rules Division
Office of State Treasurer

A handwritten signature in black ink that reads "Mickey Wilson". The signature is written in a cursive, flowing style.

Mickey Wilson, CPA
Acting Director
March 28, 2002