

**MISSOURI STATE AUDITOR'S OFFICE
FISCAL NOTE (24-174)**

Subject

Initiative petition from Deirdre Hirner regarding a proposed amendment to Chapter 196 of the Revised Statutes of Missouri. (Received March 8, 2024)

Date

March 28, 2024

Description

This proposal would amend Chapter 196 of the Revised Statutes of Missouri.

The amendment is to be voted on in November 2024.

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 and Workforce Development**, the **Department of Health and Senior Services**, the **Department of Commerce and Insurance**, 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 **Missouri Department of the National Guard**, 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**, **Jennings 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**, **St. Louis Community College**, the **Children's Trust Fund of Missouri**, and the **State Auditor's office**.

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 could 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 be required to request additional appropriations.

Officials from the **Department of Agriculture** indicated no impact.

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

Officials from the **Department of Elementary and Secondary Education** indicated they have reviewed initiative petition 24-174 and determined there is no fiscal impact to their agency.

Officials from the **Department of Higher Education and Workforce Development** indicated no fiscal impact to their department.

Officials from the **Department of Health and Senior Services** indicated this initiative petition has no impact.

Officials from the **Department of Commerce and Insurance** indicated this petition, if passed, will have no anticipated 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 they anticipated no fiscal impact for the initiative petition 24-174 proposing to amend Chapter 196, RSMo.

Officials from the **Department of Revenue** (DOR) indicated IP 24-174 attempts to levy a \$0.10 sales tax beginning January 1, 2025, on the price of cigarettes. The revenue generated from this new tax is to be deposited into the newly created "Childhood Cancer Treatment and Prevention Fund".

DOR notes that in FY23, \$63,622,252 in cigarette excise taxes were collected. At \$0.17 per pack (the current tax rate), DOR estimates approximately 374,248,541 packs of cigarettes were sold.

Numerous research reports indicate that when the price of cigarettes increases the quantity sold will decrease. The National Bureau of Economic Analysis notes the elasticity for cigarette sales between \$6.00 and \$6.50 per pack is -1.02 on average. In Missouri, the average price of cigarettes currently is \$6.11 per pack and per this proposal would increase to \$6.21 per pack.

Accounting for elasticity, DOR estimates that 368,102,453 packs of cigarettes would be sold. This new tax would generate \$36,810,245 (368,102,453 packs x \$0.10) annually in new sales tax revenues.

Additionally, this will reduce sales resulting in lower existing excise and sales tax collections. Using the information from above, DOR assumes this proposal could reduce excise tax collections by \$1,044,835 and state sales tax collections by \$1,586,598 annually. Using the location weighted average local sales tax rate of 6.32% for 2023, this proposal could reduce local sales tax collections by \$2,373,324 annually.

It should be noted that St. Louis County and Jackson County each levy their own excise tax on cigarettes. Lower demand could reduce the St. Louis County excise tax collections by \$35,310 and the Jackson County excise tax collections by \$25,750 annually.

Table 1: Estimated Revenue Impact by Source

<u>State Funds</u>	<u>FY 2025</u>	<u>FY 2026+</u>
Revenue gain from new sales tax		
Childhood Cancer Treatment and Prevention Fund	\$15,337,602	\$36,810,245
Excise revenue loss from lower demand		
Health Initiatives Fund	(\$102,435)	(\$245,844)
State Schools Money Fund	(\$230,478)	(\$553,148)
Fair Share Fund	(\$102,435)	(\$245,844)
	(\$435,348)	(\$1,044,835)
Sales tax revenue loss from lower demand		
General Revenue	(\$469,407)	(\$1,126,578)
School District Trust Fund (Prop C)	(\$156,469)	(\$375,526)
Conservation	(\$19,559)	(\$46,941)
DNR	(\$15,647)	(\$37,553)
	(\$661,082)	(\$1,586,598)
Total State Impact	\$14,241,172	\$34,178,812
<u>Local Funds</u>	<u>FY 2025</u>	<u>FY 2026+</u>
Excise revenue loss from lower demand		
St. Louis County	(\$14,713)	(\$35,310)
Jackson County	(\$10,729)	(\$25,750)
Sales tax revenue loss from lower demand		
Local Sales Tax	(\$988,885)	(\$2,373,324)
Total Local Impact	(\$1,014,327)	(\$2,434,384)

Table 2: Estimated Revenue Impact by Fund

<u>State Funds</u>	<u>FY 2025</u>	<u>FY 2026+</u>
Childhood Cancer	\$15,337,602	\$36,810,245
General Revenue	(\$469,407)	(\$1,126,578)
Education (SDTF)	(\$156,469)	(\$375,526)
Conservation	(\$19,559)	(\$46,941)
DNR	(\$15,647)	(\$37,553)
Health Initiatives Fund	(\$102,435)	(\$245,844)
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TSR Impact	\$14,241,172	\$34,178,812
<u>Local Funds</u>	<u>FY 2025</u>	<u>FY 2026+</u>
St. Louis County	(\$14,713)	(\$35,310)
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Local Sales Tax	(\$988,885)	(\$2,373,324)
Total Local Impact	(\$1,014,327)	(\$2,434,384)

Officials from the **Department of Public Safety** indicated there is no impact for their department.

Officials from the **Missouri Department of the National Guard** indicated no fiscal impact to their department.

Officials from the **Department of Social Services** indicated they do not anticipate any fiscal impact as a result of this initiative petition.

Officials from the **Governor's office** indicated this proposal relating to tobacco taxation does not directly financially impact their office.

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

Officials from the **Department of Conservation** indicated initiative petition 24-174 will have no fiscal impact on their department.

Officials from the **Department of Transportation** indicated no fiscal impact expected for their department or the Missouri Highways and Transportation Commission.

Officials from the **Office of Administration** indicated this proposal would create a \$0.10 sales tax beginning January 1, 2025. Revenue generated is to be deposited into the newly created "Childhood Cancer Treatment and Prevention Fund".

In FY23, \$63,622,252 in cigarette excise taxes were collected. At \$0.17 per pack, Budget & Planning (B&P) estimates that approximately 374,248,541 packs of cigarettes were sold.

However, the quantity of cigarettes sold declines when prices are increase. Based on data published by the National Bureau of Economic Analysis, the elasticity for cigarette sales between \$6.00 and \$6.50 per pack is -1.02 on average. The average price of cigarettes in Missouri is currently \$6.11 per pack. Under this proposal, the average price would increase to \$6.21 per pack. Therefore, B&P estimates that under this proposal only 368,102,453 packs of cigarettes would be sold.

Accounting for elasticity, B&P estimates that this proposal could generate \$36,810,245 (368,102,453 packs x \$0.10) annually in new sales tax revenues.

B&P notes that reduced sales will result in lower existing excise and sales tax collections. Using the above information, B&P estimates that this proposal could reduce excise tax collections by \$1,044,835 and state sales tax collections by \$1,586,598 annually. Using the location weighted average local sales tax rate of 6.32% for 2023, B&P estimates that this proposal could reduce local sales tax collections by \$2,373,324 annually.

B&P further notes that both St. Louis County and Jackson County levy their own excise tax on cigarettes. B&P estimates that lower demand could reduce the St. Louis County excise tax collections by \$35,310 and the Jackson County excise tax collections by \$25,750 annually.

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Total Local Impact	(\$1,014,327)	(\$2,434,384)

Officials from the **Office of State Courts Administrator** indicated in reference to Initiative Petition 24-174, a proposed statutory amendment to Chapter 196, 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 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 \$10 million based on the cost of the 2022 primary and general election reimbursements.

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 2014, the General Assembly changed the appropriation so that it was no longer an estimated appropriation.

For the FY22 petitions cycle, they estimate publication costs at \$70,000 per page. This amount is subject to change based on number of petitions received, length of those petitions and rates charged by newspaper publishers.

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 initiative petition 24-174 will have no fiscal impact on their office.

Officials from the **Office of the State Treasurer** indicated:

INITIATIVE PETITION FISCAL ESTIMATE WORKSHEET

Re: Petition approval request from Deirdre Hirner regarding a proposed statutory amendment to Chapter 196 (2024-174)

Analyst: Doug Shull, General Counsel **Date:** March 19, 2024

Agency: State Treasurer's Office **Telephone:** 573-751-4910

Division: Legal **E-Mail:** doug.shull@treasurer.mo.gov

Comments:

This proposal has a fiscal impact on the State Treasurer's Office ("STO").

The proposal creates the Childhood Cancer Treatment and Prevention Fund ("the fund"). (Proposal Section 196.1131.2). The proposal states that the "Children's Trust Fund Board shall administer the fund," (Proposal Section 196.1131.4), but requires that the state treasurer "shall credit to and place in [the fund] all moneys collected as a result of the tax imposed by [Proposal] subsection 1...as said moneys are received." (Proposal Section 196.1131.4). This language appears to split administration of the fund and, consequently, has an estimated cost to the STO ranging from \$ 133,930 to \$ 210,746 in FY 2025, ranging from \$ 154,028 to \$ 238,691 in FY 2026, and ranging from \$ 156,507 to \$242,564 in FY 2027. This cost is based on the additional 2 FTE required for the STO's administration responsibilities as enumerated in the current proposal. Please see the attached Exhibit A that provides additional details related to this calculation.

Additionally, the STO is concerned with the proposal's statement including "without legislative action" contained in subsection 3. (Proposal Section 196.1131.3). The inclusion of this statement in the proposal appears to require the STO and the Children's Trust Fund Board to violate the Missouri Constitution. The constitutional requirement is that "[n]o money shall be withdrawn from the state treasury except by warrant drawn in accordance with an appropriation made by law, nor shall any obligation for that payment of money be incurred unless the commissioner of administration certifies it for payment and certifies that the expenditure is within the purpose as directed by the general assembly of the appropriation and that there is in the appropriation an unencumbered balance sufficient to pay it." (Mo. Const. art. IV, § 28). This conflict could create litigation costs that are too speculative to estimate but could be substantial.

Exhibit A

	FY 2025	FY 2026	FY 2027
Cost Summary			
Salaries	(\$105,000) - (\$70,000)	(\$128,520) - (\$85,680)	(\$131,090) - (\$87,394)
Fringe Benefits	(\$78,246) - (\$52,164)	(\$94,871) - (\$63,248)	(\$95,868) - (\$63,912)
Equipment	(\$15,000) - (\$7,600)		
Expense	(\$12,500) - (\$4,167)	(\$15,300) - (\$5,100)	(\$15,606) - (\$5,202)
Other Cost			
Total Estimated Cost	(\$210,746) - (\$133,930)	(\$238,691) - (\$154,028)	(\$242,564) - (\$156,507)
Savings Summary			
Salaries			
Fringe Benefits			
Equipment			
Expense			
Other Savings			
Total Savings			
Total Revenue Gain			
Total Revenue Loss			
Estimated Net Effect	(\$210,746) - (\$133,930)	(\$238,691) - (\$154,028)	(\$242,564) - (\$156,507)

AMENDED INITIATIVE PETITION FISCAL ESTIMATE WORKSHEET

Re: Petition approval request from Deirdre Hirner regarding a proposed statutory amendment to Chapter 196 (2024-174)

Analyst: Doug Shull, General Counsel **Date:** March 26, 2024

Agency: State Treasurer's Office **Telephone:** 573-751-4910

Division: Legal **E-Mail:** doug.shull@treasurer.mo.gov

Comments:

This proposal has a fiscal impact on the State Treasurer's Office ("STO").

The proposal creates the Childhood Cancer Treatment and Prevention Fund ("the fund"). (Proposal Section 196.1131.2). The proposal states that the "Children's Trust Fund Board shall administer the fund," (Proposal Section 196.1131.4), but requires that the state treasurer "shall credit to and place in [the fund] all moneys collected as a result of the tax imposed by [Proposal] subsection 1...as said moneys are received." (Proposal Section 196.1131.4). This language appears to split administration of the fund and, consequently, has an estimated cost to the STO ranging from \$ 133,930 to \$ 210,746 in FY 2025, ranging from \$ 154,028 to \$ 238,691 in FY 2026, and ranging from \$ 156,507 to \$242,564 in FY 2027. This cost is based on the additional 2 FTE required for the STO's administration responsibilities as enumerated in the current proposal. Please see the attached Exhibit A that provides additional details related to this calculation.

On March 25, 2024, the State Auditor's Office requested additional detail regarding the responsibilities of the 2 estimated FTE. As stated in the above paragraph the estimated FTE are required due to the administration duties delegated to the STO by this proposal. The duties relate to the language stating to "credit to and place in [the fund] all moneys collected as a result of the tax imposed by [Proposal] subsection 1...as said moneys are received," (Proposal Section 196.1131.4). The proposal's language appears to require the STO to deposit moneys for this fund. Generally, the STO does not collect and deposit monies for individual state funds and those individual state funds are administered and managed by other state agencies. The assumption is that these additional administrative duties may take up to 2 additional FTE.

The additional administrative duties would include, among other duties, verifying the accuracy of fund accounting records by performing daily reconciliations with source

documents and corresponding appropriation and general ledger accounts; calculate prior period adjustments and document prior period adjustments; ensure accuracy and consistency of data between fund documents and annual reports and the Children's Trust Fund Board; track and manage fund balance changes and ensure a prudent reserve is maintained, and enter & approve documents in the statewide financial system for both incoming revenues & outgoing expenditures.

Additionally, the STO is concerned with the proposal's statement including "without legislative action" contained in subsection 3. (Proposal Section 196.1131.3). The inclusion of this statement in the proposal appears to require the STO and the Children's Trust Fund Board to violate the Missouri Constitution. The constitutional requirement is that "[n]o money shall be withdrawn from the state treasury except by warrant drawn in accordance with an appropriation made by law, nor shall any obligation for that payment of money be incurred unless the commissioner of administration certifies it for payment and certifies that the expenditure is within the purpose as directed by the general assembly of the appropriation and that there is in the appropriation an unencumbered balance sufficient to pay it." (Mo. Const. art. IV, § 28). This conflict could create litigation costs that are too speculative to estimate but could be substantial.

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Other Cost			
Total Estimated Cost	(\$210,746) - (\$133,930)	(\$238,691) - (\$154,028)	(\$242,564) - (\$156,507)
Savings Summary			
Salaries			
Fringe Benefits			
Equipment			
Expense			
Other Savings			
Total Savings			
Total Revenue Gain			
Total Revenue Loss			
Estimated Net Effect	(\$210,746) - (\$133,930)	(\$238,691) - (\$154,028)	(\$242,564) - (\$156,507)

Officials from **Clay County** indicated they estimate no impact from this petition.

Officials from **Greene County** indicated there are no estimated costs or savings to report from the County of Greene for initiative petition, 24-174 proposing to amend Chapter 196, RSMo.

Officials from **St. Louis County** indicated this proposed amendment has no financial impact on their county.

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

Officials from **Metropolitan Community College** indicated no fiscal impact to their college.

Officials from the **University of Missouri** indicated the University of Missouri Health Care has reviewed the proposed legislation and has determined that as written it should not create expenses in excess of \$100,000.

Officials from the **St. Louis Community College** indicated they have reviewed the initiative petition and determined it has no direct impact on the college either revenue or expense. This is not a statement of the college's approval or disapproval of the petition.

Officials from the **Children's Trust Fund of Missouri** (CTF) indicated it is hard for them to do a cost estimate for how it will affect CTF without a better understanding of how much funding the tax would collect. Do you have any estimates on how much revenue it would generate? Without that, it's hard to say what the cost for them would be. They would likely need to hire staff to administer the fund, but the number of staff would depend on how large the fund would be.

Their best estimate would be 1% or \$340k to administer the funds and another 1% or \$340k for evaluation. This would be a rough estimate at this time.

Officials from the **State Auditor's office** indicated there would be a fiscal impact on their office. They believe this would create the need for a stand-alone performance audit consisting of 500 hours. 500 hours multiplied by \$90.00 per hour (current average audit cost per staff hour) equals a \$45,000 impact.

The State Auditor's office did not receive a response from **Adair County, Boone County, Callaway County, Cass County, Cole County, Jackson County, Jasper County, St. Charles 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, Jennings School District, Malta Bend R-**

V School District, Mehlville School District, Wellsville-Middletown R-1 School District, and State Technical College of Missouri.

Fiscal Note Summary

State government entities estimate annual increased revenue of approximately \$34 million, one-time costs of up to \$15,000, and annual increased costs of at least \$879,000. The revenue for local government entities could decrease by \$2.4 million annually due to decreased cigarette sales.