

Analysis of Tax Provisions in Senate Bill 153

Both the House and Senate versions of Senate Bill 153 address a tax loophole known as the “Wayfair Fix,” but other tax changes included in the bills would have far different impacts on Missouri taxpayers. Specifically, SB 153 as perfected by the Senate, would provide a boost to Missourians working for low wages through a Working Families Tax Credit, in addition to a change in the top income tax rate. The House Committee Substitute for HB 153 would instead target tax reductions to the wealthiest Missourians and pay for a portion of those reductions with a tax increase on middle-income families.

The Impact of Wayfair

Lawmakers can level the playing field for Missouri’s bricks-and-mortar retailers and provide much-needed resources that our local communities need to prosper by adopting the “Wayfair Fix,” which allows the state to capture sales taxes owed for online retail purchases. Missouri is the only state in the country that has not updated its tax policy to address this outdated loophole.

Many Wayfair proposals presented to the Legislature over the past five years have attempted to divert potential revenue gains to new tax reductions. However, as states began to collect sales taxes from remote sellers, many large online retailers began to voluntarily capture and remit Missouri’s state sales tax – making it difficult to assess the impact of the Wayfair Fix on state revenue.

Senate Bill 153 – Senate Perfected Version

In addition to the Wayfair Fix, the version of SB 153 perfected by the Senate would:

Enact a Working Families Tax Credit

- Using a portion of the projected state revenue gained from Wayfair, this targeted tax reduction for Missourians working for low wages would provide a much-needed boost for hardworking families – particularly those who were hardest hit by the economic fallout of the COVID crisis.
- More than 250,000 families, in every county of the state, would benefit from this credit. Because it is targeted to Missourians who are working for low wages, its likely to be spent quickly on goods and services in local communities, stimulating local economies.
- The credit is based on a percent of the federal Earned Income Tax Credit (EITC), making it easy for the state to administer, and the fully implemented cost of the credit falling within Wayfair revenue projections. (see appendix for a breakdown of the impact of the credit by income quintile).

Lower the Top Income Tax Rate

- The bill would reduce the top rate of income tax by 0.3 percentage points. When fully implemented, the reduction in income tax coupled with the remaining cuts from Senate Bill 509 (2014), would result in a top rate of income tax of 4.8%.

Senate Bill 153 - Senate Perfected							
COMBINED Impact of Working Families Tax Credit & Income Tax Rate Change							
Cost: \$388 million							
Income Quintiles	Lowest 20%	Second 20%	Middle 20%	Fourth 20%	Next 15%	Next 4%	Top 1%
Income Range	<\$21,000	\$21,000 - \$38,000	\$38,000 - \$61,000	\$61,000 - \$100,000	\$100,000 - \$205,000	\$205,000- \$487,000	>\$487,000
Average Income	\$12,000	\$29,000	\$48,000	\$79,000	\$137,000	\$293,000	\$1,359,000
Average Tax Cut For Those With Cut	(\$19)	(\$95)	(\$107)	(\$108)	(\$239)	(\$589)	(\$3,016)

Source: Institute on Taxation & Economic Policy, March 2021

Senate Bill 153 – House Committee Substitute

By contrast, the House Committee Substitute version of the bill would **target tax reductions at the wealthiest Missourians and pay for a portion of those reductions with a tax increase on middle-income families.**

In addition to the Wayfair Fix, the House Committee Substitute would:

- Cut the top rate of income tax by 0.1 percentage points
- Increase the state standard deduction by \$4,000 for single taxpayers and \$8,000 for married filing jointly; and
- Implement a flat income tax rate (5.0%, in conjunction with the SB 509 (2014) tax changes, when fully implemented)

Instituting the flat tax would lower the threshold of income at which the top rate of income tax applies, so that the first dollar of taxable income is subject to the same rate of tax as higher levels of income.

- Currently, taxable income below \$8,584 is subject to a lower tax rate ranging from 0% - 5%.
- By creating a flat tax rate, that income will be subject to a higher tax rate.

This results in a tax increase for nearly 20% of Missouri families whose incomes fall below \$100,000 per year, despite the increase in the standard deduction. At the same time, 85% of the wealthiest Missourians would receive a significant tax cut. **In other words, tax increases borne by low- and middle-income families would help pay for tax decreases for the wealthiest.**

**Senate Bill 153 - House Committee Substitute
COMBINED Impact of Increased Standard Deduction, Rate Reduction, & Flat Tax**

Cost: \$322 million

Income Quintiles	Lowest 20%	Second 20%	Middle 20%	Fourth 20%	Next 15%	Next 4%	Top 1%
Income Range	<\$21,000	\$21,000 - \$38,000	\$38,000 - \$61,000	\$61,000 - \$100,000	\$100,000 - \$205,000	\$205,000- \$487,000	>\$487,000
Average Income	\$12,000	\$29,000	\$48,000	\$79,000	\$137,000	\$293,000	\$1,359,000
Average Increase For Those With increase	\$39	\$103	\$100	\$73	\$84	\$40	\$55
Average Tax Cut For Those With Cut	(\$52)	(\$80)	(\$130)	(\$197)	(\$276)	(\$379)	(\$1,870)

Source: Institute on Taxation & Economic Policy, March 2021

APPENDIX I:

Annual, Fully Implemented Cost of Senate Bill 153

Senate Perfected Version
Senate Bill 153
Amounts in Millions

Wayfair Fix	\$67
EITC (20% nonrefundable)	(\$50)
Income Tax Rate Cut of 0.3 Points	(\$338)
NET COST	(\$321)

House Committee Substitute
Senate Bill 153
Amounts in Millions

Wayfair Fix	\$67
Increase Standard Deduction, Rate Reduction, & Flat Tax	(\$322)
NET COST	(\$255)

APPENDIX II:

Background on the “Wayfair Fix”

Missouri tax laws have failed to keep pace with a changing economy, reducing the state’s ability to invest in the well-being of its citizens. In 2018, the Supreme Court ruling in *South Dakota vs. Wayfair* allowed the states to compel online retailers to capture and remit sales taxes due for online retail purchases. Every state that has a sales tax, except Missouri, has now taken advantage of the opportunity provided by the Supreme Court ruling. Most recently, Florida’s Governor signed legislation that will take effect on July 1st.ⁱ Over time, consumer habits have been shifting toward online retail. The pandemic accelerated this shift, making it more important than ever to close this outdated loophole in Missouri’s tax structure.

Fiscal Notes Reflect the Uncertainty of the Impact of Wayfair Fix on State Revenue

Many Wayfair proposals presented to the Legislature over the past five years have attempted to divert potential revenue gains to new tax reductions. However, those proposals often overestimate the amount of state revenue that Missouri will gain from Wayfair and would result in significant revenue reductions. The uncertainty in estimating Wayfair gains, as demonstrated in the broad range provided in the fiscal note, is understandable. As more states have implemented policies to collect sales tax from remote sellers, many of the online retail giants have already begun to voluntarily capture and remit Missouri’s state sales tax. Amazon, for instance, comprises about 50% of the online retail market and began remitting state sales tax to Missouri in 2017.ⁱⁱ Because of this, even the most reliable estimates often overstate the impact of the Wayfair Fix on state revenue.

The most recent estimate provided by the U.S. Government Accountability Office (GAO), was produced in 2017, at the same time Amazon was just beginning to implement collections in Missouri.ⁱⁱⁱ As a result, the GAO estimates of revenue gains, as shown in the table below, are likely high compared to what Missouri might expect to collect.

Potential State and Local Sales Tax Revenue for Missouri
Resulting from Compelling Online Retail Collections

State General Revenue (3% rate)	\$67.32 million
State Earmarked Revenue (1.225% rate)	\$27.45 million
Local Revenue (3.805% average rate)	\$85.23 million
TOTAL State and Local (8.03% combined average rate)	\$180 million

Wayfair Fix Particularly Important for Localities

It's important to recognize that while the state is likely already capturing a significant portion of the state sales taxes due for online retail purchases, localities may be missing out on local tax revenue. Many online retailers, particularly smaller vendors, aren't yet able to easily calculate and remit sales tax. Implementing the collections mechanisms described in Senate Bill 153 will make it easier for those retailers - small independent sellers and large retail giants alike- to calculate and remit sales taxes that are due to the state and localities.

**Appendix III:
Working Families Tax Credit**

Credits like the Working Families Tax Credit have proven to build the middle class, spur local economic growth, and improve outcomes for children. Children whose families receive the federal EITC are healthier, do better and go farther in school, and enjoy greater earnings as adults, establishing a more productive and skilled workforce for Missouri's future. **Recent research has also linked state-level Working Families Credits with marked reductions in the rates of child maltreatment and reduced foster care entries.**^{iv} It is also targeted and cost-effective, with the fully implemented cost of the credit falling within Wayfair revenue projections. Similar tax credits have been enacted in 30 other states,

Senate Bill 153 Working Families Credit

A non-refundable credit based on 20% of the Federal EITC

Number of Eligible Tax Returns: 256,000				
Cost: \$50 million				
Income Quintiles – Income Range	<\$21,000	\$21,000 - \$38,000	\$38,000 - \$61,000	\$61,000 - \$100,000
Average Income	\$12,000	\$29,000	\$48,000	\$79,000
Average Tax Cut for Those Eligible	(\$19)	(\$183)	(\$274)	(\$235)
Percent of Income Group with Tax Cut	4%	22%	14%	3%

Source: Institute on Taxation & Economic Policy, March 2021

Missourians who are eligible for the federal EITC would simply check a box on their state tax return. As a nonrefundable credit, Missourians would receive a credit only if they have state income tax liability, up to a value equaled to 20% of the federal credit.

Notes

- i. Retail Dive, “Florida is the latest state to create e-commerce tax”, April 22, 2021 <https://www.retaildive.com/news/florida-is-the-latest-state-to-create-e-commerce-tax/598880/>
- ii. Governing, “Coming Soon to 6 States: Online Sales Taxes From Amazon”, January 27, 2017
- iii. United States Government Accountability Office (GAO), “SALES TAXES: States Could Gain Revenue from Expanded Authority, but Businesses Are Likely to Experience Compliance Costs”, November 2017
- iv. See: Missouri Budget Project, “A Missouri Earned Income Tax Credit Can Improve Child Wellbeing”, March 23, 2021, available at: <https://www.mobudget.org/wp-content/uploads/2021/03/EITC-Child-Welfare.pdf>