REPORT

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MISSOURI'S HANCOCK AMENDMENT: A PRIMER

By Elias Tsapelas

ADVANCING LIBERTY WITH RESPONSIBILITY BY PROMOTING MARKET SOLUTIONS FOR MISSOURI PUBLIC POLICY

KEY TAKEAWAYS

- When first approved by voters in 1980, Missouri's Hancock Amendment was thought to be one of the strongest tax and expenditure limits in the country.
- After more than 40 years, numerous weaknesses in the Hancock Amendment have rendered it incapable of effectively constraining government growth as intended.
- Colorado taxpayers have received more than $8 billion in refunds as required by that state's Taxpayer's Bill of Rights and are expected to receive billions more in the coming years. Missouri taxpayers, however, haven't received a Hancock Amendment refund since 1999 and are unlikely to receive another one without reform.
- Instead of trying to fix the Hancock Amendment, Missouri taxpayers would be better served by a revamped, stronger tax and expenditure limit—a taxpayer's bill of rights—that is more difficult to circumvent and is designed to withstand the test of time.

INTRODUCTION

On November 4, 1980, Missouri voters approved an amendment to the state's constitution—commonly referred to as the Hancock Amendment—that placed a limit on the government's ability to tax and spend its residents' money. At the time, Missouri's amendment was one of the first, and was thought to be one of the strongest, tax and expenditure limits (TELs) in the country.

Today, 30 states have established their own TELs, each of varying effectiveness.[1] No two TELs are exactly alike in their design, scope, or restrictiveness, but all share the same general goal of constraining government growth. Missouri's problem is that more than 40 years after Hancock Amendment adoption, the state's limit has grown obsolete and ineffective. In fact, as this report will explain in detail, without reform, many of the amendment's provisions will never provide a binding constraint on government growth again.

Fortunately, thanks to decades of experience with TELs across the country and economic research into their design, there are a plethora of reforms available that could restore the amendment's past protections and offer even stronger ones if Missouri voters so desire. This report will provide an overview of the research on TELs, an in-depth discussion of Missouri's Hancock Amendment, and an examination of ways in which the amendment could be improved to better serve taxpayers.

WHAT ARE TAX AND EXPENDITURE LIMITS?

Tax and expenditure limits (TELs) are exactly what their name implies: they are either statutory or constitutional constraints on government tax revenues or expenditure outlays. Generally, TELs can be classified into the following four categories:

Revenue Limits

These place restrictions on the amount of revenue a government can collect in a year. Revenues collected in excess of the limit can't be used to grow government and are instead returned to taxpayers or put aside for an agreed-upon purpose. Different approaches have been used for determining what the allowable revenue limit should be, but the most common is to tie the limit to increases in either personal income or the sum of inflation and population growth.

Expenditure Limits

These are the most common type of TEL. Similar to revenue limits, they typically tie spending to some measure of personal income or inflation plus population growth. It is important to note that expenditure limits without a revenue component have limitations. This is because 49 states (all except for Vermont) have adopted what are called Balanced Budget Requirements, meaning the states cannot spend more money than they bring in.[2] Therefore, if revenues don't exceed the expenditure limit, the spending limit doesn't limit anything. The situation in which an expenditure limit could have an impact occurs when states receive an influx of revenues that would otherwise make an increase in expenditures possible.

Appropriations Limits

These are variations on expenditure limits, but instead of tying spending to some growth metric, they tie appropriations (the authority to spend money) to a percentage of the state's revenue estimate. This means that there's no absolute limit on revenues or spending but ensures governments will spend less (typically around 95%) than what they think they'll bring in for a given fiscal year.

Hybrid Limits

States such as Colorado and Oregon have what are considered hybrid limits that combine characteristics from two or more of the other limit categories. For example, Oregon limits spending to a measure of personal income growth, but also requires refunds if revenues exceed forecasts by more than 2%.[3]

Voter Requirements for Tax Increases

Though these are not technically TELs, some states limit tax and expenditure options by making it more difficult to pass tax increases. For example, Missouri requires a public vote if the net revenue effect of all legislation passed in a given session is over a specified amount.

WHY USE LIMITS?

Economists have long called for fiscal rules (like TELs) to constrain government growth. In *The Road to Serfdom*, Friedrich Hayek famously argued:

> Nothing distinguishes the conditions in a free country from those in a country under arbitrary government than the observance in the former of the great principles known as the Rule of Law. Stripped of all technicalities, this means that government in all its actions is bound by rules fixed and announced beforehand—rules which make it possible to foresee with fair certainty how the authority will use its coercive powers in given circumstances and to plan one's individual affairs on the basis of this knowledge.[4]

States have been using fiscal rules, primarily balanced budget requirements, to keep government spending in check since the mid-1800s.[5] Balanced budget requirements, combined with the general understanding that the federal government wouldn't bail out states that go bankrupt, worked well constraining spending until the 1970s. But in the 1970s, the United States experienced historic levels of inflation as well as extraordinary growth in both state and federal expenditures.[6] Before long, it was clear states would need something stronger if they wanted to meaningfully protect against growing government.

The late 1970s and early 1980s saw what historians have called a "tax revolt."[7] Following the passage of a TEL in California called the Gann Amendment, numerous groups in states across the country pushed tax cuts along with rules to restrain taxes from being raised in the future. At the time, people argued that TELs could:

- Make government more accountable
- Force more fiscal discipline
- Control the growth of government
- Encourage efficiency
- Enable the public to better determine the level of government services provided
- Help diffuse the power of special interests
- Raise worthy questions about the advisability of some functions of government

WHY WOULD STATES NOT WANT A LIMIT?

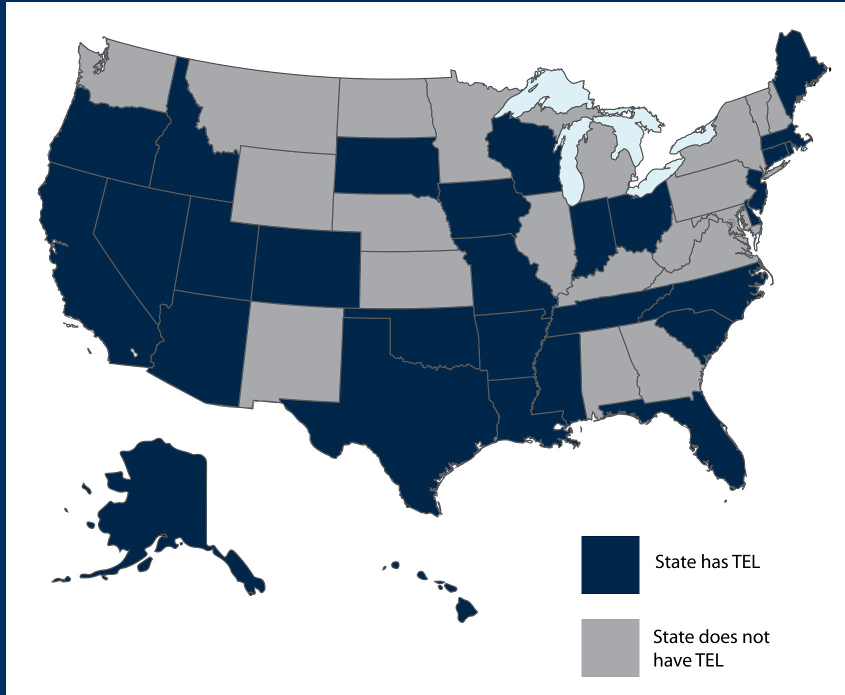
TELs are not without vocal opponents. Typically, groups that rely on significant government funding or those who prefer larger government have been among the most active TEL opponents.

Some opponents argue that TELs can contribute to the erosion of funding for necessary government services over time, and that limits can make it harder for governments to respond during economic downturns.

In these scenarios, when tax revenues decrease and government costs simultaneously increase, the fear is that a TEL could lead to significant cuts to government services if there aren't sufficient emergency provisions built in, or if the federal government doesn't step in to provide the necessary funding.

Figure 1
Tax Expenditure Limits by State

Missouri is one of 30 states that have enacted some form of tax and expenditure limit.



Source: fiscalrules.org

Another argument against TELs is that they effectively shift decision making away from elected representatives and put more power in the hands of voters. While I would argue this point is more of a feature than a bug, it is true that voters have historically shown reluctance to support raising taxes on themselves when asked, which can clearly have a major impact on the allowable size of government under a TEL.[8]

Also of note is that many policymakers have tried to address these arguments in the construction of various TELs, some with more success than others. For example, after Colorado's TEL was approved in 1992, it was determined the provisions weren't well suited to handle economic downturns. In response, voters approved an amendment in 2005, Referendum C, to deal with this very fact.[9] In short, Referendum C allowed Colorado's state government to retain and spend all revenues collected between Fiscal Year (FY) 2005 and FY 2010 and raised the refund cap to the total amount of revenues collected in FY 2010.

TAX AND EXPENDITURE LIMIT STRUCTURE

Once a state decides to explore the adoption of a TEL, the next step is deciding how it will be designed. The Center for Tax Policy breaks the structures of TEL mechanisms into the following seven choices (**bold type** and accompanying explanations indicate characteristics of Missouri's Hancock Amendment):[10]

- Method of codification (**constitutional** or statutory)
- Method of approving limit (**public vote**, legislative referendum, legislative action)
- Limit formula (**tied to personal income**, population, inflation, etc.)
- What the limit applies to (**revenues**, spending, carve-outs, etc.)
- Treatment of any surplus (**refunds**, rainy-day funds)
    - Refund to payers of the income tax if revenues exceed limit by more than 1%
- Waiver provisions (**emergencies**, recessions, etc.)
    - Emergency declaration requires two-thirds vote of legislature

Equation 1

Revenue Limit Formula

The the Office of Administration–Division of Budget & Planning (OA-BP) calculated the 1981 base year ratio of personal income to TSR as 5.6 percent, and uses this ratio to calculate the annual revenue limit.

Section 18(a) establishes the revenue limit formula as follows:

$$\text{Revenue limit for fiscal year (FY) 20XX} = \frac{\text{Total state revenue (TSR) in FY 1981}}{\text{CY in 1979 Missouri personal income (MPI)}} \times \text{The greater of MPI in the calendar year (CY) prior to the CY in which appropriations are made for FY 20XX or average MPI for 3CYs preceding FY 20XX}$$

Source: Missouri Auditor's Office.

- Requirements for passing tax increases (legislative or **public vote**)
  - Public vote required for net revenue increases over 1% of total state revenues

See Appendix 1 for more information about each state's TEL.

MISSOURI TEL BACKGROUND

Following the successful passage of TELs in a few other states, Missouri businessman and future congressman Mel Hancock put together a petition to bring a TEL to Missouri. On November 4, 1980, Missouri voters approved the constitutional amendment with 55% of the vote.[11]

When approved, the amendment had four major provisions: a revenue ceiling and refund requirement, a prohibition on unfunded mandates, a cap on local taxes without voter approval, and the provision to taxpayers of a right to challenge the amendment's provisions. Then in 1996, the amendment was updated to add a state tax cap that required voter approval to raise revenues over a specified limit.

The constitutional codification, the voter approval requirement for tax increases, and the difficulty for overriding the limit make Missouri's Hancock Amendment one of the strictest TELs in the country according to the Center for Tax Policy's criteria.[12] Perhaps due to this strictness, the amendment was widely opposed by the governor and general assembly at the time it was adopted, and as a result no implementing legislation was passed to accompany the amendment. Without these statutory guidelines, essentially every question regarding the amendment's provisions has been left to the courts to resolve via legal challenges, of which there have been many over the past 40-plus years.

HANCOCK AMENDMENT PROVISIONS*

The following section outlines each major provision of Missouri's Hancock Amendment and explains how compliance with that provision is determined.

*Language for the Hancock Amendment included at the end of this document.

Revenue Ceiling

The idea for the revenue ceiling and refund provision is simple: if state tax revenues grow by too much, the excess should be returned to taxpayers.

More specifically, Section 18(a) of Article X places a restriction on "the total amount of taxes which the General assembly may impose in any fiscal year." In effect, the limit prohibits Missouri's government from being funded by a higher portion of personal income than when the amendment was approved, except as otherwise authorized by voters. Then, if that limit is ever exceeded by more than 1%, the excess is refunded to state income taxpayers in proportion to what they paid.

Missouri's revenue ceiling is what is considered an absolute limit, meaning that exceeding the limit requires that a year's ratio of total revenues to personal income be greater than what that ratio was in 1981. This is different than a relative limit, which would for example tie the revenue constraint to the prior fiscal year or prior few years rather than something specific like 1981. While the difference between limit types may seem minor at this point, Missouri's revenue ceiling being tied to a static ratio will be important later in this report and will be explained in greater detail.

The broader purposes of Missouri's revenue ceiling and refund provisions were to stop the general assembly from raising taxes without voter input and to protect against government growing faster than Missourians' pocketbooks even without an explicit tax hike. In addition, if state revenue exceeded the ceiling by more than one percent, the excess would be returned to taxpayers in the form of a pro-rated income tax refund. But in practice, determining what revenues should be counted, what qualifies as growing "too much," and even how the refund would work were far from simple.

Compliance

Since the limit is based on revenues, the first step toward determining compliance is to define which taxes and fees are included in the definition of "revenues." That's why Section 18(a) creates a term called "Total State Revenues," (TSR) which is defined as "all general and special revenues, licenses and fees, excluding federal funds, as defined in the budget message of the governor for fiscal year 1980–1981."

Then, Section 18(a) uses that definition to help establish the limit. As shown in Equation 1, the limit requires the ratio of TSR to the personal income of Missourians to be the same as the ratio calculated when the amendment was approved, which is specified as the TSR from state fiscal year 1981, and the personal income from calendar year 1979 or the average personal income of Missourians over the previous three years, whichever is greater. This ratio, often called the *base year ratio,* was calculated by the state's Office of Administration–Division of Budget & Planning to be 0.056395. This number doesn't change.

The base year ratio is then multiplied by the personal income of Missourians each year, or the average of the personal incomes for the preceding three years, whichever is higher, to determine the revenue limit. For example, the Fiscal Year 2022 calculation of the revenue ceiling used Missouri's Calendar Year 2020 personal income, $318,019.08 (in millions), and multiplied it by the base year ratio to determine the revenue limit of $17,993.39 (in millions). And if that limit had been exceeded by more than 1%, or $179.93 million, the excess would have been returned to state income taxpayers, pro rata.

Additionally, the amendment specifies that any revenues explicitly approved by voters after the passage of the amendment are excluded from TSR, meaning they are also excluded from the limit calculation.

Issues

Out of date: The first, most obvious, reason Section 18(a) is no longer leading to taxpayer refunds is that it's incredibly out of date. When approved, the revenue limit set a base year for both total state revenues and personal incomes against which each successive year was to be compared. This means that the limiting factors on Missouri's government growth are measures from 1981, not what the state's government or residents' personal incomes have looked like in recent years. As more and more years pass, Missouri's absolute revenue limit becomes less and less likely to be as binding as a relative revenue limit would be, because periods of slower revenue or income growth open the door for years of future government growth.

The revenue limit's continued ability to meaningfully constrain government growth is of the utmost importance. To provide further context, the way the limit was designed,

mechanically, ensures that any growth that Missourians experience in their personal income (compared to 1981) increases the revenue limit. In other words, private sector growth gives license for the public sector (state government) to grow, regardless of the current taxes levied or revenues raised. This means that efforts to constrain government today may only be temporary, because when personal incomes rise faster than collected revenues over time, the result is a gap between the actual and allowable size of government. This gap could then be exploited by future governors or legislatures to significantly grow government (raise revenues) without voter approval as long as the new revenues stay below the limit. Over the past decade or so, a growing gap between the revenue limit and the revenues Missouri collects is precisely what the state has experienced. For this reason, the limit no longer provides a binding constraint on government growth, and may not ever again, without reform. This issue will be discussed in greater detail later in this report.

To make matters worse, the definition for TSR also uses a base year for establishing which revenues sources are included. Today, the list of funds and revenues that are excluded is nearly eight pages long in the yearly Hancock Amendment audit.[13] The reasoning behind excluding some revenues (federal funds and earmarked funds being the two most important examples) makes sense, because those funds couldn't be refunded to taxpayers. Others make less sense, because any tax or fund that's been created, or approved by voters, since 1980 will fall outside of the revenue limit forever. In other words, over time, not only does the revenue limit grow further obsolete, one of the key definitions used to determine the yearly limit grows further out of date as well.

The result is a measure of "total state revenues" that no longer represents a comprehensive picture of the state's total collected revenues, and correspondingly, a revenue limit that fails to limit revenue growth.

Formula issues: Aside from being out of date, the use of personal income in the revenue limit calculation has issues of its own. One of the primary arguments against using personal income in TELs is that it can allow governments to grow as fast as or faster than the private sector during periods of rapid economic growth. As explained previously, if an economic boom leads to faster-than-normal wage growth, this provides space under the TEL for revenues and spending to grow just as much. This is a good approximation of what's happened in Missouri.

It should be noted that if the government simply provides the same level of services per capita over time, then its size would only need to increase at the rate of population growth plus inflation. This means that anything greater represents a relative growth in the overall size of government.

One of the main problems with Missouri's absolute revenue limit is that personal incomes grew faster than governments almost everywhere in the country over the past 40 years. During this time, tax revenues also grew significantly, but since their growth wasn't as fast as income, the gap between the limit and yearly revenues grew wider. And since newly approved revenue sources are excluded from total state revenues, and voter approval is required for all major tax increases, it's nearly impossible to imagine a scenario where the current gap would ever shrink enough to become a binding constraint again.

This means that whether knowingly, or unknowingly, the revenue limit that Missouri voters approved only had a relevant shelf life of about 20 years. And if voters want the constraints that were binding when they first adopted the amendment to continue, or be relevant going forward, reform will be needed.

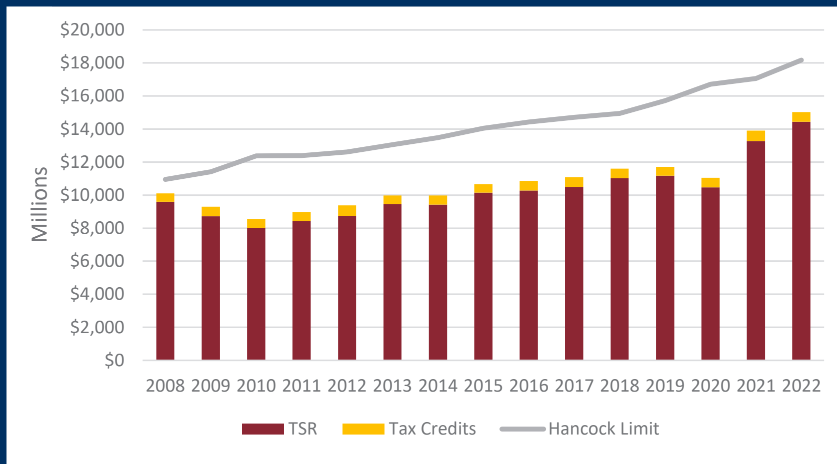
Tax credits: Perhaps an unforeseen weakness of revenue-based limits is how they interact with tax credits, otherwise known as tax expenditures. Since Missouri's Hancock Amendment went into effect without any implementing legislation, there have been several lawsuits that have clarified how tax expenditures should be treated. First, the Missouri Supreme Court found that to qualify as total state revenues, the funds must be received by the state treasury and be subject to appropriation.[14]

Further, the state supreme court held that the only tax credits that can be included in TSR are those that exceed the amount owed in taxes. For all intents and purposes, these results mean that tax credits lower total state revenues. To further clarify, since most credits aren't counted as TSR, and absent credits, those funds would be paid in taxes to the state (and would be counted as TSR), they lower the amount of revenue the state receives. And by lowering TSR, tax credits move Missouri taxpayers further away from the revenue ceiling (the threshold for triggering refunds) and provide lawmakers with an unbudgeted workaround to the revenue limit.

Figure 2

Tax Credit Impact on Total State Revenues and TELs

Tax credits reduce Total State Revenues and thus meaningfully move taxpayers further away from Hancock Amendment refunds.



Source: Missouri State Auditor's Office and State Treasurer's Office.

One of the biggest selling points for the Hancock Amendment when it was approved by voters was the promise that taxpayers had a reasonable chance of getting money back if their government grew too quickly. Between state fiscal years 1995 and 1999, Missouri taxpayers received refunds every year, with approximately $971 million being returned in total. But over the years, issues with the definitions and formulas in Section 18(a) have diminished the chance for refunds significantly. In fact, no tax dollars have been refunded since 1999, and there's little hope that taxpayers will receive another one any time soon.

As seen in Figure 3, the Hancock revenue ceiling grows over time at the rate of income, but actual Total State Revenue (TSR) has experienced several years of slower growth. As a result, there is now a $3.7 billion gap between current TSR and the revenue threshold that would trigger refunds, which makes it highly unlikely that refunds are ever triggered again. In fact, the figure also reveals the dramatic increase in TSR between 2020 and 2022—much faster than income growth—but because the increase was not large enough to offset the accumulated gap from years prior, no refunds were awarded, and Missouri's government continued growing essentially unchecked."

An example might help illustrate the issue. Because tax credits rarely directly pass through the state legislature and are not currently subject to appropriation, the supreme court's rulings create a far-reaching loophole that allows the state to "relabel" government subsidies as tax cuts for credit recipients instead of direct spending. Let's suppose that TSR in some future year was at risk of crossing the Hancock refund threshold. If lawmakers were to decide to spend more money on a subsidy program through the budget (the normal appropriations process), that action would have no effect on TSR, and the Hancock refunds would be triggered. If, however, lawmakers were to issue more subsidies via tax expenditures (typically tax credits), those subsidies would count against revenue and could potentially push the state back below the Hancock threshold, thus preventing taxpayers from receiving refunds. As Figure 2 shows, while tax credit spending is low relative to total state revenues, they meaningfully move Missourians further away from the revenue limit refund threshold.

Tax Cap

In 1996, Section 18(e) was approved to place a cap on the amount Missouri's legislature can raise taxes or fees in one fiscal year without approval via a public vote.[15] This addition to the Hancock Amendment came after Missourians recognized that lawmakers had figured out how to avoid the limit established in Section 18(a) and could grow government or raise taxes without voter input, all without ever providing a tax refund. Section 18(e) represents an attempt to address the problem of Section 18(a)'s absolute revenue limit by applying an annual tax growth cap, with the hopes that the relative limit would ensure all substantive tax hikes are subject to voter approval.

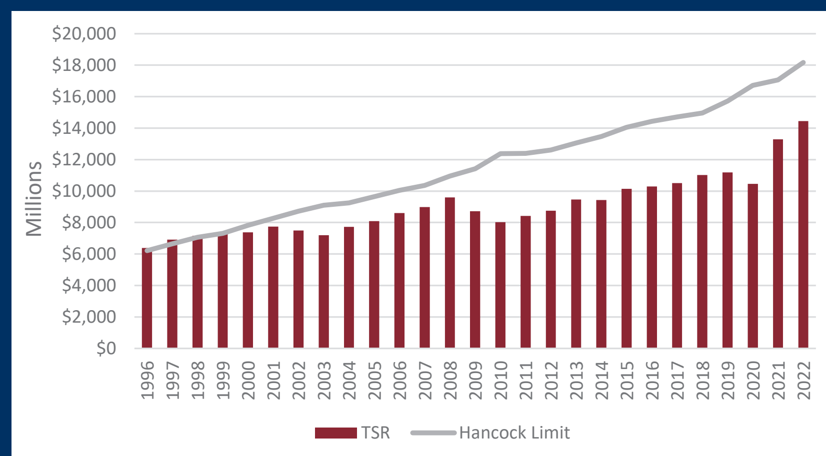
The section prohibits Missouri's general assembly from raising taxes or fees in any fiscal year that would produce "new annual revenues" in excess of $50 million (in 1996 dollars adjusted annually by the state's growth in personal income) or 1% of total state revenues from the year before the state legislature took action, whichever is less.

Then, once the legislative session is complete and it's possible to determine whether the general assembly exceeded the limit, if it's determined that any tax or fee increases exceed the limit, the taxes or fees would be put up for a public vote, starting with the most expensive then listed in descending order until the revenue generated by the remaining increases is below the established limit.

Figure 3

Revenue Gap Widening

Missouri now sits more than $3.7 billion below the Hancock Amendment's revenue ceiling.



Source: Missouri State Auditor's Office.

Compliance

As established, determining compliance with Section 18(e) is complex and difficult to understand.

First, the section defines the term "new annual revenues." These revenues are defined as "the net increase in annual revenues produced by the total of all tax or fee increases enacted by the general assembly in a fiscal year, less applicable refunds and less all contemporaneously occurring tax or fee reductions." Notably, new annual revenues do not include interest earnings on the proceeds of the tax or fee increase.

Second, the section clarifies that "enacted by the general assembly" means any and all bills that are truly agreed to and finally passed by the legislature in that fiscal year, and eventually signed by the governor, or if vetoed, are overridden by the general assembly.

Third, the section specifies that each individual tax or fee increase shall be measured by the "estimated" new annual revenues collected during the first fiscal year that it is fully effective. The section then clarifies that "increase taxes or fees" means any law passed by the general assembly after May 2, 1996, that increases the rate of an existing tax or fee, imposes a new tax or fee, or broadens the scope of a tax or fee to include an additional class of property, activity, or income, but doesn't include the extension of existing taxes or fees that were set to expire.

Fourth, the section outlines the process for overriding the cap in an emergency. This is the same as was established in Section 19 of the original amendment approved in 1980. Section 19 requires: (1) the governor to request the general assembly approve an emergency, (2) specifics as to the nature of the emergency, including the cost and method it will be funded, and (3) a two-thirds vote in favor in each chamber of the general assembly.

Fifth, subsection 4 states that compliance with the limit described in the section will be measured by calculating the "aggregate actual new annual revenues produced in the first fiscal year that each individual tax or fee change is fully effective." This stands in contrast to the earlier discussion of measuring individual tax or fee increases by their "estimated" new annual revenues.

Finally, the section outlines how a taxpayer or statewide elected official can challenge the enforcement of this provision. The Missouri Supreme Court has original jurisdiction, and a successful challenge will result in the new taxes or fees being invalidated, with any excess funds collected before this judgment being refunded to taxpayers.

Issues

Since its adoption in 1996, according to the Missouri State Auditor's office, the tax cap has only been "projected to be exceeded" once, in 2016.[16] Despite this, no definitive ruling has been made regarding whether the cap has actually been exceeded, nor have any tax or fee increases been placed on the ballot for a public vote as a result of a violation of Hancock Amendment provisions. There are several reasons why this may be the case.

Definitional questions: When reading Section 18(e), the first issue that jumps out are the definitions. Subsection 1 establishes the tax cap by limiting "new annual revenues" to $50 million (in 1996 dollars adjusted annually by the state's growth in personal income) or 1% of total state revenues from the year before the state legislature acted, whichever is less. Subsection 2 then defines "new annual revenues," but doesn't specify whether new annual revenues are just new total state revenues or a different term altogether.

As mentioned previously, there are issues with the measurement of TSR. But the most important for this case is that any new funding source established since 1980, or at one point approved by voters, is excluded from the TSR calculation. This then means that if "new annual revenues" are in fact new TSR, and the funding source is excluded from TSR, the tax cap may not apply to a tax hike that generates revenue for this fund. It could also mean that if voters approve a tax hike for a fund once, then future tax increases may not be subject to a public vote as seemingly required by the Hancock Amendment.

Compliance clarity: Section 18(e) also includes some confusing language regarding how compliance is measured. Subsection two states that "each individual tax or fee increase shall be measured by the estimated new annual revenues collected during the first fiscal year that it is fully effective." But subsection four states that compliance shall be measured by "calculating the aggregate actual new annual revenues produced in the first fiscal year that each individual tax or fee change is fully effective." So, questions have inevitably been raised regarding whether compliance is measured with estimated revenues or actual ones.

The following specific language used by the Office of Administration, Division of Budget and Planning, as well as the Missouri State Auditor's Office when describing compliance is instructive.[17]

> For the year ended June 30, 2022, the Office of Administration, Division of Budget and Planning (OA-BP) determined based on fiscal notes prepared for each bill, net taxes and fees are projected to decrease by a total of $44.7 million, which is under the tax and fee increase revenue limit of $104.6 million. The projected net decrease does not include 4 bills for which the Section 18(e) fiscal impact could not be projected.
>
> Actual compliance with the Section 18(e) revenue limit is determined by measuring the aggregate actual new annual revenues produced in the first fiscal year each tax and fee increase and decrease is fully effective.

First, you can see that OA-BP is estimating compliance after the completion of the 2022 legislative session. But this compliance determination isn't final, because it doesn't include a measure of "4 bills for which the Section 18(e) fiscal impact could not be projected." Second, the subsequent paragraph notes that actual compliance can only be determined after "each tax and fee increase and decrease is fully effective."

This means the compliance discussion following a legislative session is only preliminary, with the final determination only coming once actual revenues from each tax or fee change that has been fully implemented can be measured. Or, in other words, it means that Section 18(e) cannot force a public vote on a tax or fee increase until after it has gone into effect, which may be why the section also describes a potential refund mechanism for wrongfully collected taxes.

The quote selected above also raises the question of what it really means for a tax increase to be "fully effective." Is a tax increase fully effective when people start paying it? Or, when it's been in effect for an entire state fiscal year? Or, when every bill with a cost or revenue impact from an entire legislative session has been fully implemented (meaning any delays or included triggers have already occurred)[†] There may even be other interpretations, but in my opinion, the first two options seem the most reasonable, with the third being how Missouri's government appears to interpret the subsection.

Waiting until every bill has been fully implemented to measure compliance raises a few new issues. Can the state government, for example, accurately compare the revenues collected from a tax change that went into full effect in 2018 to one that went into full effect five years later? The answer is probably not, at least for some types of taxes or fees, because too much will have changed as a result of other legislative tax or fee changes, or due to other changes in the economic environment, to disentangle the actual revenue effects.

Further, what if it turns out the cap is exceeded, and refunds are required? How could the state ever pay back wrongfully collected taxes? For example, imagine Missouri's currently rising gas tax is determined to have violated Section 18(e) once the hike is fully implemented. The amendment provides no real way for the state government to possibly calculate and refund the wrongfully collected taxes. Not only would the total amount owed be difficult to calculate, but it would also be difficult to determine whom to give refunds to and how much they should receive. And perhaps most importantly, it would be difficult to find the funds to send to taxpayers because those collected gas taxes already will have been spent.

After combing through every annual audit of Hancock Amendment compliance, I find it notable that not a single audit mentions anything about the findings of actual compliance from past years. In fact, the 2003 Missouri audit says, "There does not appear to be sufficient guidance to evaluate compliance with Article X Section 18e. Absent such guidance, a definitive conclusion regarding the state's compliance with Article X Section 18e cannot be determined."[18] Due to the difficulties mentioned above, I take this to mean that actual compliance is never actually determined, putting the final nail in the coffin for Section 18(e)'s effectiveness.

Unlike the revenue-ceiling provision, the more recent tax cap has been subject to far fewer court challenges. There's a chance taxpayers will have to wait for a Missouri Supreme Court case to provide a definitive answer to the questions raised in this section. But until then, it appears that the implementation of tax or fee changes over multiple years has rendered the measurement of Section 18(e) compliance impossible.

Unfunded Mandate

Sections 16 and 21 effectively ban what are often referred to as "unfunded mandates." This provision is common among TELs because it addresses a specific concern from local governments. With restrictions placed on state taxes and spending, the fear is that when money is tight, states would shift their responsibilities onto local governments. Additionally, since the amendment also caps local taxes and makes them harder to raise, local governments wanted protection from the state requiring them to take on greater costs, at least without paying for them.

These sections specifically prohibit the state from reducing the proportion of funding it pays for local activities from the level they were at when the Hancock Amendment was adopted, which was November 4, 1980. In addition, the sections prohibit the state from requiring local governments to provide new or additional activities or services without the state agreeing to pay the costs.

Compliance

There have been several lawsuits relating to these provisions, which have allowed the courts to better define what constitutes an unfunded mandate, what the state government needs to do to avoid issuing them, and what local governments need to be able to show to prove a Hancock violation.

[†] In recent years, Missouri's General assembly has passed legislation that go into effect over several years. For instance, SB5 from the 2022 Special Session lowered the state individual income tax rate by 0.5%, but also included triggers that could lower the rate further upon the state tax revenues meeting certain benchmarks. Additionally, in 2021 the legislature voted to raise the gas tax by 2.5 cents per gallon for each of the next five years.

Specifically, several court cases have clarified that a violation of this provision occurs when the state requires a new or increased activity of a political subdivision, and the political subdivision experiences an increase in costs as a result of the state-mandated new or increased activity.[19]

Then, if increased costs are shown, the state must make a specific appropriation that funds the costs of the state-mandated program. In addition, there is recourse for a political subdivision if an appropriation is not made, though it should be noted that no appropriation as a result of this section has ever been necessary.

Local Tax Cap

Sections 16 and 22 of the Hancock Amendment extend the tax limit and voter approval requirement to local governments. The sections effectively prohibit counties or other political subdivisions from increasing or levying any new tax, license, or fees, that wasn't authorized when the Hancock Amendment was adopted without voter approval.

Finally, the section stipulates that approval via a public vote is required for the base of any tax, license, or fee to be broadened without the tax rate being lowered to yield the same revenues as would have been received with the prior base. This is commonly referred to as the "rollback" provision.

Compliance

The Missouri Supreme Court established a five-part test to be used in determining what constitutes a "tax, license or fee" for the purposes of the Hancock Amendment.[20] The factors are:

When is the fee paid?

- If the fee is paid periodically, it is likely subject to the Hancock Amendment.

Who pays the fee?

- If the fee is billed to all or almost all of the residents of a political subdivision, it is likely subject to the Hancock Amendment.

Is the amount of the fee to be paid affected by the level of goods or services provided to the fee payer?

- If the level of goods or services received is dependent on the amount of fee collected, it is likely not subject to the Hancock Amendment.

Is the government providing a service or good?

- If there is no good or service being provided, any charge required by and paid to a local government is likely subject to the Hancock Amendment.

Has the activity historically and exclusively been provided by the government?

- If the government has historically and exclusively provided the good, service, or activity, the fee is likely subject to the Hancock Amendment.

Additionally, several court cases have clarified compliance with the property tax rollback provision.[21] If the assessed valuation of property, excluding new construction and improvements, increases by a larger percentage than the Consumer Price Index (inflation measure), then a rollback of the tax rate is required to yield the same amount as would have been received from the levy on the prior assessed value. These rollbacks are district wide, which means that individual owners of property can still see higher-than-inflation increases in their tax bills absent rollback.

Issues

Missouri's latest bout with high inflation brought to light some issues with the local property tax rollback provision. Normally, when assessed home values increase faster than inflation, local governments (except Kansas City) are required to roll back their property tax rates to maintain the same revenues.[22] This is to ensure inflationary price increases don't serve as de facto tax increases, or revenue windfalls, for local governments. Recently, taxpayers learned of two specific weaknesses with the section's language.

First is that Missourians don't only pay property taxes on their homes; they pay property taxes on their cars, boats, farm equipment, and other types of personal property. Currently, local governments aren't strictly applying the Hancock Amendment's rollback requirements to personal property taxes, only real property taxes like homes.

Second, the rollback provision allows local governments to take the inflation from the previous year into account when calculating how much rates should be lowered. Generally, this adjustment is of minor consequence, but in times of high inflation like Missourians have recently experienced, it can be problematic. When assessed property values increase significantly during a short bout of high inflation, local governments can essentially use the inflation adjustment to justify not rolling back tax rates. This effectively allows them to raise the base of their property tax that would have otherwise required a public vote, all while property owners get hit with significantly higher tax bills.

Taxpayer Right to Challenge

One of the most important components of a TEL is the taxpayer's ability to hold their government to account. Section 23 specifies that "any taxpayer" has standing to bring a lawsuit in circuit court or, when the state is involved, in the Missouri Supreme Court to enforce the provisions of sections 16 through 22.

If a plaintiff is successful in their challenge, they are entitled to reimbursement for reasonable attorney fees and costs.

Compliance

To enforce the amendment, a taxpayer may seek an injunction, enjoining the collection of the challenged tax until the constitutionality of the tax is determined, or seek a refund of an increased tax that was collected in violation of the Hancock Amendment through a timely action.

Additionally, the Missouri Supreme Court has clarified that "any taxpayer" does not include any governmental entity or political subdivision but may include a government official if that official is bringing the suit in their role as a taxpayer.[23]

SOLUTIONS

As Missouri's government spending continues to climb year after year, the Hancock Amendment's flaws will only grow more pronounced. Fortunately, there are a variety of solutions available that lawmakers and ultimately Missouri voters should consider.

Follow the Research

While Missouri's Hancock Amendment was one of the nation's first TELs, nearly 30 other states have since adopted similar measures. Over the past 40 years, the research surrounding how to best design TELs has come a long way. Researchers have identified five key principles for effective TELs, as follows:[24]

- They are incorporated into state constitutions rather than easily avoided or ignored statutes.
- They tie the limit on government growth to the sum of inflation and population growth rather than other aggregate measures of economic activity.
- They are applied to a comprehensive measure of revenue and/or expenditures.
- They provide for immediate refunds of surplus revenue above the TEL limit.
- They are linked to other budget rules, most importantly to balanced-budget requirements.

Today, only Colorado's Taxpayer's Bill of Rights (TABOR) comes close to adhering to all five of the listed principles. In Missouri's case, when voters approved the Hancock Amendment in 1980, it in theory met four of the key principles, only missing one because the revenue limit is tied to personal income instead of the sum of inflation and population growth. But due to the shortcomings identified earlier in this report, the amendment likely only meets two of the principles today (constitutional codification and being linked to balanced budget requirement).

Fix What's Broken

To restore the possibility of Missouri taxpayers receiving refunds if government grows too fast, there are essentially two options: try to fix what's broken with the Hancock Amendment or take the lessons learned from the Hancock Amendment over the past 40 years and apply them to a newer, better TEL, a Taxpayer's Bill of Rights.

For the first option, the following solutions would represent significant improvements.

Update the Revenue Limit

Fixing the revenue limit starts with addressing the definitional issues. The definition for TSR needs to be updated to perpetually represent a comprehensive look at the total amount of revenues the state government is collecting. This will require adding back the revenue sources that have been carved out since 1980 and removing the use of a base year (changing the limit from absolute to relative) so that the definition doesn't fall out of date again going forward.

Once the definitions are fixed, the revenue limit formula should be updated to similarly remove the reliance on a base year. By tying the revenue limit to the previous year or a rolling average of the previous few, the limit should remain relatively binding for years to come.

Though it's not necessarily a "fix," the limit formula should also be changed so that it is tied to the sum of inflation and population growth rather than to the personal income of Missourians. As discussed previously in this report, switching to the sum of inflation and population growth will ensure that government isn't given free rein to grow following periods of economic boom.

Clarify the Tax Cap

Ensuring Missouri voters continue to have a say in the taxes they pay requires shoring up a few of the tax cap's weak points. Clarifying that the measurement of "new annual revenues" so that it can't be skirted by raising taxes or fees that fall outside of the definition for TSR is a good place to start.

Then, further guidance must be provided regarding how compliance with the Section 18(e) will be measured. Instead of allowing tax hikes that violate the amendment to go into effect before determining they exceed the tax cap, it makes much more sense to measure compliance prior to any tax or fee change going into effect. This would also remove the potential need for the state to refund wrongfully collected taxes.

It's important to note that measuring compliance before going into effect may not be easy. It will require using estimates for the revenues the tax or fee increase will raise, which are notoriously difficult to predict. Additionally,

COLORADO TAXPAYER'S BILL OF RIGHTS

Approved by voters in 1992, Colorado's TABOR amendment quickly become known as the gold standard for TELs. Since its passage, Colorado taxpayers have been refunded more than $8 billion, with more than $3 billion coming in the past year.[25] The success of TABOR is not only limited to refunds; it has also helped keep tax rates down, helped state debt remain relatively low, and helped the state's economy become one of the fastest growing in the nation. Below are some of TABOR's key properties:

- It was adopted via citizen initiative into state constitution.
- It limits revenue growth to the sum of inflation and population growth from the prior fiscal year.
- It provides multiple avenues for tax refunds (property, income, or sales tax can be refunded, with the option of receiving the refund via credit or direct payment).
- It establishes clear guidelines for how tax increases and refunds will be considered in elections by providing for standardized ballot language, tying tax increase approvals to the expected revenues they'll raise, and allowing for more frequent voter input on how surplus funds are used.
- It includes emergency provisions that allow for flexibility and protect against major spending cuts during economic downturns.

It's important to note that Colorado's TABOR is far from perfect. It still suffers from a revenue list that will become less comprehensive as time goes by. It also suffers from the same tax credit issue as Missouri. And like Missouri's Hancock Amendment, TABOR has received many legal challenges and public votes trying to weaken its protections over the years. While most of these efforts have failed to radically change the amendment, Referendum C did pass in 2005 and has opened the door for greater government growth going forward.

there would likely need to include some provision to challenge the fiscal note estimate, and a discussion regarding how to include simultaneous tax or fee reductions.

Finally, it's essential that each bill that raises taxes or fees be considered on the year it is passed to remove the potential for avoiding the cap by raising taxes or fees by a small amount over several years.

Expand Rollbacks and Cap Inflation Adjustment

The property tax rollback provision in the Hancock Amendment should be expanded to all property taxes and cities that collect them. First, as my colleague David Stokes has written about, is expanding the rollbacks to Kansas City that have been carved out of the requirement since a constitutional amendment was approved by voters in 1998.[26]

Second, rollbacks should be expanded to apply to all property taxes collected in Missouri. There are two property taxes currently excluded from the Hancock Amendment rate rollback requirement: one on personal property, and the other called the commercial surtax (or surcharge), collected on commercial property.

For personal property, as the recent bout of inflation has shown, car prices can skyrocket just like home prices, and suffer from the same taxing issues leading to massive increases in personal property taxes due. Some Missouri cities, like St. Charles, voluntarily rolled back their rates as is required for real property, but since it's not required, many cities used the price hike as a revenue windfall, which is decidedly against the spirit of the Hancock Amendment's provision.[27]

The commercial surtax is levied only on commercial property at varying rates, by county, across Missouri. In the years since the tax was first levied in 1985, valuations on commercial property have increase enormously, yet until recently no county had ever lowered the rate in response. In 2022, Clay County became the first county in Missouri to lower its commercial surtax (though not technically a rollback), in response to a vote of the people.[28]

Finally, a cap should be placed on the inflation adjustment currently allowed when calculating whether rate rollbacks are required under the amendment. By tying the inflation factor used to the CPI of the previous year or a rolling average of the previous few, whichever is lower, local governments would no longer be able to use a temporary bout of significant inflation as a revenue windfall, and will instead have to rollback their tax rates as is normally required.

A Missouri Taxpayer's Bill of Rights

Perhaps the best way to revive the protections Missouri voters thought they approved when voting on the Hancock Amendment in 1980 would be to pass a new and improved Missouri Taxpayer's Bill of Rights (TABOR) that does what Hancock set out to do but failed. The TABOR should be modeled in many ways after Colorado's but with improvements to do an even better job protecting taxpayers. As this report has outlined, and given Missouri's experience after 1996, attempting to fix old language issues via constitutional amendment can easily create new language problems. By drawing from what has worked in Colorado and learning from the recent research on the topic, a TABOR for Missouri could provide a much-needed boost to the state's economic prospects.

There are multiple ways a TABOR for Missouri could improve on the Hancock Amendment:

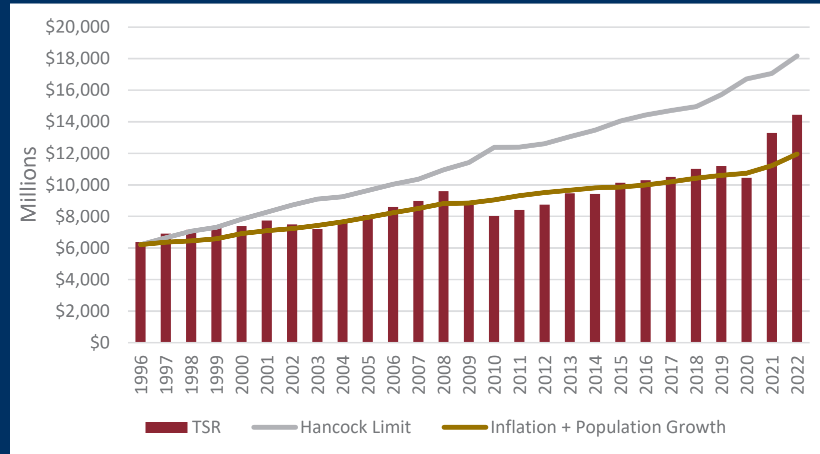
- Better protect against unchecked government growth.
- Provide more avenues for taxpayer refunds.
- Close the current tax credit loophole.
- Standardize the ballot language regarding tax or fee increases to reduce confusion and encourage greater civic engagement.
- Allow for improved emergency response and preparation for economic downturns.

As seen in Figure 4, while Missouri's Hancock Amendment hasn't been successful at constraining state revenues, a population-growth-plus-inflation revenue limit that a TABOR could provide would have kept government significantly smaller in recent years. Of course, the

Figure 4

Hancock vs. Inflation+Population Growth

While Missouri remains billions below the state's Hancock-established revenue limit, a limit of inflation plus population growth would have resulted in taxpayer refunds in both 2021 and 2022.



Source: Missouri State Auditor's Office, Federal Reserve Bank of St. Louis FRED, author's calculations.

devil is in the details for Missouri adopting a new TEL via constitutional amendment, but such a step would represent a major step forward for the Show-Me State, and could launch Missouri into the top spot for best TELs in the nation.

CONCLUSION

It's been 43 years since Missouri voters first approved the state's Hancock Amendment. At the time, the amendment was thought to be one of the strongest TELs in the country. But in the years since, weaknesses in the amendment's language have been exposed, and recently the amendment has done little to limit either taxes or expenditures.

Today, Missouri and 29 other states have passed TELs of their own, each of varying effectiveness. After decades of research and experience with TELs, there is now consensus on the benefits of strong limits, and perhaps more importantly, what makes a limit effective.

Missouri's Hancock Amendment suffers from various deficiencies, ranging from out-of-date definitions and formulas to contradictory methods for measuring compliance with the amendment's provisions. As has also been seen across the country, years of legal challenges to state TELs have chipped away at their effectiveness, and Missouri has been no exception.

Going forward, if Missouri taxpayers want to return to the original promises of the Hancock Amendment, it's clear that reform is needed. Refunds if government grows too fast, and guaranteed voter input if lawmakers want to raise taxes are certainly within reach, but the question remains whether trying to fix what's broken or starting fresh with a new, stronger, amendment is the better approach to take.

While Missouri's state budget continues to grow, and has nearly doubled over the past five years, the state's economy remains stuck in the middle of the national pack.[29] At the same time, a state like Colorado, with the best TEL in the country, is simultaneously returning billions in excess funds to taxpayers and outpacing Missouri in nearly every economic measure.

Reforming the Hancock Amendment—or, preferably, adopting a Taxpayer's Bill of Rights—offers Missouri an opportunity to finally push back against the constantly increasing size of government and move the state to the front of the pack in terms of fiscal stewardship. This bold approach is certainly warranted, but the question remains whether state elected officials will seize the opportunity, or if it will be left to voters once again to step up and take action.

Elias Tsapelas is the director of state budget and fiscal policy for the Show-Me Institute.

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APPENDIX 1: **State Tax and Expenditure Limit Detail**

State	Enact Year	Legal Source	TEL Type	Votes required to override TEL	Votes need for tax or revenue increase
Alabama					Majority elected
Alaska	1982	Constitutional	Expenditure	Constitutional Amendment	Majority elected
Arizona	1978/1992	Constitutional	Hybrid	Two-thirds elected	Two-thirds elected
Arkansas	1934	Constitutional	Revenue	Vote of the People	Three-fourths elected
California	1978/1979	Constitutional	Hybrid	Vote of the people	Two-thirds elected(tax) / Majority elected (other revenue)
Colorado	1992	Constitutional	Hybrid	Vote of the people	Vote of the people
Connecticut	1992	Both Constitutional and Statutory	Expenditure	Vote of the People/Decleration of Emergency and Three-fifths elected	Majority elected
Deleware	1980	Constitutional	Hybrid	Three-fifths elected (or Majority elected if debt service>revenue)	Three-fifths elected
Florida	1996	Constitutional	Hybrid	Two-thirds popular vote	Majority elected
Georgia					Majority elected
Hawaii	1981	Constitutional	Expenditure	Two-thirds elected	Two-thirds elected
Idaho	1980	Statutory	Expenditure	Majority elected	Majority elected
Illinois					Majority elected
Indiana	2002	Statutory	Expenditure	Majority elected	Majority elected
Iowa	1992	Statutory	Expenditure	Majority elected	Majority elected
Kansas					Majority elected
Kentucky					Majority elected
Louisiana	1985	Constitutional	Expenditure	Two-thirds elected	Two-thirds elected
Maine	2005	Statutory	Expenditure	Majority elected	Majority elected
Maryland					Majority elected
Massachusetts	1986	Statutory	Revenue	Majority elected	Majority elected
Michigan	1978	Constitutional	Hybrid	Voter Approval/Two-thirds elected	Majority elected

Minnesota					Majority elected
Mississippi	1992	Statutory	Expenditure	Majority elected	Three-fifths elected
Missouri	1980/1996	Constitutional	Hybrid	Vote of the people	Majority elected
Montana					Majority elected
Nebraska					Majority elected
Nevada	1975	Statutory	Expenditure	Supermmajority elected	Two-thirds elected
New Hampshire					Majority elected
New Jersey	1990	Statutory	Expenditure	2/3 Supermmajority elected	Majority elected
New Mexico					Majority elected
New York					Majority elected
North Carolina	1991/2018	Statutory	Expenditure	Majority elected	Majority elected
North Dakota					Majority elected
Ohio	2006	Statutory	Expenditure	Two-thirds elected	Majority elected
Oklahoma	1992	Constitutional	Expenditure	Three-fourths elected	Three-fourths elected/Majority Voters
Oregon	2001	Statutory	Hybrid	Three-fifths elected	Three-fifths elected
Pennsylvania					Majority elected
Rhode Island	1992	Constitutional	Expenditure		
South Carolina	1985	Constitutional	Expenditure	Two-Thirds both House and Senate	Majority elected
South Dakota	1978	Constitutional	Expenditure		Two-thirds Supermajority elected or vote of the people
Tennessee	1978	Constitutional	Expenditure	Majority elected	Majority elected
Texas	1978	Constitutional	Expenditure	Majority elected	Majority elected
Utah	1988	Statutory	Expenditure	2/3 Supermajority	Majority elected
Vermont					Majority elected
Virginia					Majority elected
Washington					
Washington, DC					Majority elected
West Virginia					Majority elected
Wisconsin					Two-thirds elected
Wyoming					Majority elected

APPENDIX 2: **The Hancock Amendment**

Section 16. Property taxes and other local taxes and state taxation and spending may not be increased above the limitations specified herein without direct voter approval as provided by this constitution. The state is prohibited from requiring any new or expanded activities by counties and other political subdivisions without full state financing, or from shifting the tax burden to counties and other political subdivisions. A provision for emergency conditions is established and the repayment of voter approved bonded indebtedness is guaranteed. Implementation of this section is specified in sections 17 through 24, inclusive, of this article.

Section 17. As used in sections 16 through 24 of Article X:

(1) "Total state revenues" includes all general and special revenues, license and fees, excluding federal funds, as defined in the budget message of the governor for fiscal year 1980-1981. Total state revenues shall exclude the amount of any credits based on actual tax liabilities or the imputed tax components of rental payments, but shall include the amount of any credits not related to actual tax liabilities.

(2) "Personal income of Missouri" is the total income received by persons in Missouri from all sources, as defined and officially reported by the United States Department of Commerce or its successor agency. (3) "General price level" means the Consumer Price Index for All Urban Consumers for the United States, or its successor publications, as defined and officially reported by the United States Department of Labor, or its successor agency.

Section 18. (a) There is hereby established a limit on the total amount of taxes which may be imposed by the general assembly in any fiscal year on the taxpayers of this state. Effective with fiscal year 1981-1982, and for each fiscal year thereafter, the general assembly shall not impose taxes of any kind which, together with all other revenues of the state, federal funds excluded, exceed the revenue limit established in this section. The revenue limit shall be calculated for each fiscal year and shall be equal to the product of the ratio of total state revenues in fiscal year 1980-1981 divided by the personal income of Missouri in calendar year 1979 multiplied by the personal income of Missouri in either the calendar year prior to the calendar year in which appropriations for the fiscal year for which the calculation is being made, or the average of personal income of Missouri in the previous three calendar years, whichever is greater.

(b) For any fiscal year in the event that total state revenues exceed the revenue limit established in this section by one percent or more, the excess revenues shall be refunded pro rata based on the liability reported on the Missouri state income tax (or its successor tax or taxes) annual returns filed following the close of such fiscal year. If the excess is less than one percent, this excess shall be transferred to the general revenue fund.

(c) The revenue limitation established in this section shall not apply to taxes imposed for the payment of principal and interest on bonds, approved by the voters and authorized under the provisions of this constitution.

(d) If responsibility for funding a program or programs is transferred from one level of government to another, as a consequence of constitutional amendment, the state revenue and spending limits may be adjusted to accommodate such change, provided that the total revenue authorized for collection by both state and local governments does not exceed that amount which would have been authorized without such change.

Section 18(e). 1. In addition to the revenue limit imposed by section 18 of this article, the general assembly in any fiscal year shall not increase taxes or fees without voter approval that in total produce new annual revenues greater than either fifty million dollars adjusted annually by the percentage change in the personal income of Missouri for the second previous fiscal year, or one percent of total state revenues for the second fiscal year prior to the general assembly's action, whichever is less. In the event that an individual or series of tax or fee increases exceed the ceiling established in this subsection, the taxes or fees shall be submitted by the general assembly to a public vote starting with the largest increase in the given year, and including all increases in descending order, until the aggregate of the remaining increases and decreases is less than the ceiling provided in this subsection.

2. The term "new annual revenues" means the net increase in annual revenues produced by the total of all tax or fee increases enacted by the general assembly in a fiscal year, less applicable refunds and less all contemporaneously occurring tax or fee reductions in that same fiscal year, and shall not include interest earnings on the proceeds of the tax or fee increase. For purposes of this calculation, "enacted by the general assembly" shall include any and all bills that are truly agreed to and finally passed within that fiscal year, except bills vetoed by the governor and not overridden by the general assembly. Each individual tax or fee increase shall be measured by the estimated new annual revenues collected during the first fiscal year that it is fully effective. The term "increase taxes or fees" means any law or laws passed by the general assembly after May 2, 1996,

that increase the rate of an existing tax or fee, impose a new tax or fee, or broaden the scope of a tax or fee to include additional class of property, activity, or income, but shall not include the extension of an existing tax or fee which was set to expire. 3. In the event of an emergency, the general assembly may increase taxes, licenses or fees for one year beyond the limit in this subsection under the same procedure specified in section 19 of this article.

4. Compliance with the limit in this section shall be measured by calculating the aggregate actual new annual revenues produced in the first fiscal year that each individual tax or fee change is fully effective. 5. Any taxpayer or statewide elected official may bring an action under the provisions of section 23 of this article to enforce compliance with the provisions of this section. The Missouri supreme court shall have original jurisdiction to hear any challenge brought by any statewide elected official to enforce this section. In such enforcement actions, the court shall invalidate the taxes and fees which should have received a public vote as defined in subsection 1 of this section. The court shall order remedies of the amount of revenue collected in excess of the limit in this subsection as the court finds appropriate in order to allow such excess amounts to be refunded or to reduce taxes and/or fees in the future to offset the excess monies collected.

Section 19. The revenue limit of section 18 of this article may be exceeded only if all of the following conditions are met: (1) The governor requests the general assembly to declare an emergency; (2) the request is specific as to the nature of the emergency, the dollar amount of the emergency, and the method by which the emergency will be funded; and (3) the general assembly thereafter declares an emergency in accordance with the specifics of the governor's request by a majority vote for fiscal year 1981-1982, thereafter a two-thirds vote of the members elected to and serving in each house. The emergency must be declared in accordance with this section prior to incurring any of the expenses which constitute the emergency request. The revenue limit may be exceeded only during the fiscal year for which the emergency is declared. In no event shall any part of the amount representing a refund under section 18 of this article be the subject of an emergency request.

Section 20. No expenses of state government shall be incurred in any fiscal year which exceed the sum of the revenue limit established in sections 18 and 19 of this article plus federal funds and any surplus from a previous fiscal year.

Section 21. The state is hereby prohibited from reducing the state financed proportion of the costs of any existing activity or service required of counties and other political subdivisions. A new activity or service or an increase in the level of any activity or service beyond that required by existing law shall not be required by the general assembly or any state agency of counties or other political subdivisions, unless a state appropriation is made and disbursed to pay the county or other political subdivision for any increased costs.

Section 22. (a) Counties and other political subdivisions are hereby prohibited from levying any tax, license or fees, not authorized by law, charter or self-enforcing provisions of the constitution when this section is adopted or from increasing the current levy of an existing tax, license or fees, above that current levy authorized by law or charter when this section is adopted without the approval of the required majority of the qualified voters of that county or other political subdivision voting thereon. If the definition of the base of an existing tax, license or fees, is broadened, the maximum authorized current levy of taxation on the new base in each county or other political subdivision shall be reduced to yield the same estimated gross revenue as on the prior base. If the assessed valuation of property as finally equalized, excluding the value of new construction and improvements, increases by a larger percentage than the increase in the general price level from the previous year, the maximum authorized current levy applied thereto in each county or other political subdivision shall be reduced to yield the same gross revenue from existing property, adjusted for changes in the general price level, as could have been collected at the existing authorized levy on the prior assessed value. (b) The limitations of this section shall not apply to taxes imposed for the payment of principal and interest on bonds or other evidence of indebtedness or for the payment of assessments on contract obligations in anticipation of which bonds are issued which were authorized prior to the effective date of this section.

Section 23. Notwithstanding other provisions of this constitution or other law, any taxpayer of the state, county, or other political subdivision shall have standing to bring suit in a circuit court of proper venue and additionally, when the state is involved, in the Missouri supreme court, to enforce the provisions of sections 16 through 22, inclusive, of this article and, if the suit is sustained, shall receive from the applicable unit of government his costs, including reasonable attorneys' fees incurred in maintaining such suit.

Section 24. (a) The provisions for voter approval contained in sections 16 through 23, inclusive, of this article do not abrogate and are in addition to other provisions of the constitution requiring voter approval to incur bonded indebtedness and to authorize certain taxes. The provisions contained in sections 16 through 23, inclusive, of this article are self-enforcing; provided, however, that the general assembly may enact laws implementing such provisions which are not inconsistent with the purposes of said sections.

5297 Washington Place I Saint Louis, MO 63108 I 314-454-0647

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