



# LEGISLATIVE AGENDA

2019



MISSOURI CHAMBER  
OF COMMERCE AND INDUSTRY



2019

LEGISLATIVE AGENDA

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# CIVIL JUSTICE

## 2019 Recommended Legislative Policies

### Clarify venue and joinder laws:

When out-of-state plaintiffs sue Missouri businesses in Missouri for alleged torts that occurred outside the state, venue should properly lie in the county where the companies' registered agents are located. To curb the rising incidence of venue shopping in Missouri courts, the Missouri Chamber supports clarifying that venue should be found only if two or more plaintiffs can establish venue in a county separately, as if each had filed an independent cause of action in that county. The Missouri Chamber supports efforts to clarify Missouri's venue laws to ensure proper forum and prevent fraudulent misjoinder of claims.

### Strengthen the Missouri Merchandising Practices Act:

The Missouri Chamber supports strengthening the Missouri Merchandising Practices Act (MMPA) to reduce frivolous lawsuits by classes of individuals who suffered no actual harm. The Missouri Chamber supports reforming the definition of "causation" to require a showing that the purportedly deceptive act or practice caused the plaintiff to enter into the transaction and caused loss. We further support reforms to the MMPA that seek to avoid duplicative damage awards, provide fair procedures for class action lawsuits, add consistency between federal and state consumer protections, and protect the regulatory authority of other state and federal agencies.

### Increase transparency in asbestos litigation by requiring trust claim disclosure:

Asbestos litigation has caused hundreds of businesses to declare bankruptcy, with over 60 of those establishing trusts to compensate future claimants. The businesses currently being sued in asbestos litigation are increasingly peripheral defendants, who are being sued for exposures claimants also allege were caused by the bankrupt companies. The Missouri Chamber supports legislation that would require the disclosure of asbestos bankruptcy claims before trial. This would increase transparency and curtail fraudulent claims, allow businesses to fairly litigate all relevant exposures, and ensure there will be compensation for future claimants by appropriately apportioning fault.



### **Establish statute of repose:**

Businesses that put products into the stream of commerce are required to comply with contemporary regulations. Those firms should not be exposed to liability because subsequent regulatory changes implicate previously designed and produced products. The Missouri Chamber supports a reasonable statute of repose that will bar claims against manufacturers for compliant products put into commerce that are the subject of later regulatory changes.

### **Ensure the selection of Missouri judges is open and fair:**

The Missouri Chamber supports common-sense reforms for the selection of judges to Missouri's circuit and appellate courts that emphasize impartiality, fairness and equitable justice for all Missourians.

### **Strengthen Missouri's employment arbitration climate:**

Missouri's employers enter into arbitration agreements with employees to avoid costly litigation and resolve controversies rapidly. With skyrocketing court costs and a court system increasingly unfriendly to business, the employer community seeks an alternative and reliable dispute resolution structure. The Missouri Chamber supports proposals aimed at clarifying and strengthening Missouri's arbitration statute.

### **Reinstate punitive damage caps:**

The Missouri Chamber supports limiting the amount of recoverable damages in certain cases. Specifically, we advocate for the legislative action needed to place a cap on punitive damages in common law tort cases. Employers cannot grow and expand operations in Missouri with the uncertainty and potential for outlandish punitive damage awards in the existing Missouri judicial climate.

### **Eliminate joint and several liability:**

Current law provides that joint and several liability is applied if a defendant is 51 percent or more at fault. In such circumstances, the defendant is jointly and severally liable for the entire amount of the damages recoverable by the plaintiff. If a defendant is found to be less than 51 percent at fault, the defendant is responsible only for the percent of the

damages that corresponds with that defendant's percentage of fault. The Missouri Chamber advocates for the elimination of the current joint and several liability system in favor of a fair-share system of liability in which every defendant is liable only for the amount of harm that defendant caused, based on his or her percentage of fault and considering the fault of all responsible persons, whether or not they are parties to the lawsuit.

### **Curtail litigation lending:**

Leveraging civil judgments as a means of financing lawsuits is damaging to Missouri's businesses, consumers and the civil justice system. Litigation lending companies prey on Missouri's most vulnerable residents by promising immediate money in exchange for an interest in any future recovery. This practice inevitably increases the duration and expense of lawsuits and often leaves plaintiffs in worse financial shape than when they started. Litigation lending activities are not well-regulated in Missouri. The Missouri Chamber supports legislation that would provide some level of consumer protection to this type of lending practice in Missouri. ■

# ECONOMIC DEVELOPMENT

## 2019 Recommended Legislative Policies

### Encourage entrepreneurial and small-business development:

The Missouri Chamber of Commerce and Industry supports enhancing the ability of entrepreneurs and small businesses in Missouri to establish and develop their businesses while providing incentives for investors. Whether it be through increasing access and improving technological advancements, providing incentives for investment in small businesses, increasing financial support for the life sciences industry, or linking venture capitalists with researchers and entrepreneurs, providing a framework to develop and cultivate these relationships is imperative to improving the overall business climate in Missouri. The following are ways to do so:

- Encourage initiatives and programs that enhance entrepreneurial growth by increasing access to investors that meet the crucial need for seed and early-stage venture capital in Missouri companies.
- Support restoration of funding for the Missouri Technology Corp. (MTC).
- Increase or provide full funding for rural regional development grants and the Missouri Small Business & Technology Development Centers to assist small businesses across the state with their development and growth needs.
- Protect small business and Missouri jobs from the impact of burdensome and costly regulations.

### Encourage corporate growth and attraction:

The Missouri Chamber supports improving the corporate environment and removing potential barriers facing expanding new businesses in Missouri. The following are ways to encourage and grow future business:

Support legislative and policy incentives for research and development (R&D) activity in Missouri, making the state a competitive environment for R&D investments.

- Identify economic areas of strength and through collaboration and strategic policy develop actionable plans for growth.
- Evaluate the Missouri Works Program and advocate for the availability of an adequate



amount of incentives to meet demand and entice economic growth.

- Enhance and simplify the optional local personal property tax abatement process beyond the Chapter 100 bond process.
- Fully restore funding for Missouri Partnership to attract new companies and help advance Missouri's standing as an industrial leader.
- Support the modernization of the Community Improvement District Act to allow the use of new financing mechanisms offered for the program.

### Protect and encourage job-training funding:

Job-training funding helps attract new businesses and encourages expansion and retention of existing businesses. Each year the program is overprescribed and underfunded. The Missouri Chamber will continue to protect and encourage successful job-training programs that enhance workforce skills and attract and retain employers and working families in our state. The Missouri Chamber will also advocate for additional state appropriations for job-training funding opportunities. We recognize the importance of adjusting to the changing needs of employers who seek a skilled workforce in today's economy. The Missouri Chamber will need to adapt to address those workforce needs and is committed to providing our members with the tools they need to attract and retain top talent.

### Improve dynamic fiscal note scoring:

The Missouri Chamber supports development of a comprehensive fiscal note process that accurately measures the total fiscal impact of proposed legislation, including accounting of the revenue gains from proposed economic development and financial incentives programs.

### Promote international trade:

The Missouri Chamber supports capitalizing on Missouri's existing resources and infrastructure to develop programs and institutions to promote Missouri in international markets. The Missouri Chamber supports the United States' leading role in trade across the world. Updates to NAFTA and other free trade agreements should continue to place Missouri exporters in a position to thrive.

### Analyze and reform economic development incentives:

The Missouri Chamber strongly supports economic development incentives as critical tools for attracting new businesses, encouraging expansion of existing businesses, creating jobs and stimulating private investment. Programs with a positive return on investment benefit not only the state's overall economy but also programs funded by the General Revenue Fund. The Missouri Chamber supports a thorough cost-benefit analysis of economic development incentives that includes reviewing the goals of the programs, ensuring transparency for taxpayers and providing consistent reporting of the performance of tax credits. The Missouri Chamber opposes any effort to postpone or deny redemptions of tax credits already authorized or issued, subject economic development incentives to the annual appropriation process, or block noncontroversial economic development legislation from passing because of disagreements on tax credit reform.

### Promote tourism programs and protect tourism funding:

Promotion of Missouri as a tourism destination should continue to be a priority for this state, as it is an important economic development driver. The Missouri Chamber will promote, protect and advocate for preservation of funding to enhance Missouri's travel and tourism industry.

### Promote rural development:

Businesses and entrepreneurs in Missouri's rural and distressed communities continue to find it difficult to obtain the capital they need to expand and grow. The Missouri Chamber supports initiatives to bring capital to rural areas and the state's Opportunity Zones alike. Legislation we support should drive investment in businesses in rural Missouri and Opportunity Zones through targeted tax credits that prioritize the creation and retention of quality jobs, transparency, accountability, and evaluation standards. High-caliber job creation should also encourage economic upward mobility by providing incentives for workforce development and on-the-job training. ■

# EDUCATION AND WORKFORCE DEVELOPMENT

2019 Recommended  
Legislative Policies



### **Adequately support all levels of education:**

The Missouri Chamber supports efforts to provide every Missouri child with access to a top-notch education and workforce training. We support efforts to adequately fund all levels of education from pre-K through 12 to postsecondary. We oppose further cuts to higher education funding and support working toward restoring funding levels from the cuts made in previous years. We support the full funding and allocation of resources for innovative programs and those with a proven track record of success, including adequate broadband internet access for all Missouri students. We believe that well-educated, competent and capable students are the key to Missouri's long-term economic health and competitiveness.

### **Expand business-education partnership initiatives:**

The Missouri Chamber supports engaging businesses in the process of educating and training Missouri's students. We support initiatives to incentivize programs in which schools and businesses partner to produce learning experiences that educate the workforce of tomorrow, especially in high-demand jobs. We support policies that help streamline the process for experienced professionals and business leaders to obtain certification for teaching.

### **Adequately fund infrastructure:**

The Missouri Chamber recognizes that an aging and failing infrastructure is detrimental to the process of successfully educating Missouri's students. The Missouri Chamber supports efforts to provide adequate funding for education infrastructure maintenance and improvements. We oppose gubernatorial withholding of appropriated funds. We support initiatives aimed at updating and modernizing Missouri's educational institutions both structurally and within the classroom.

### **Improve workforce readiness:**

A well-educated and capable workforce is imperative to Missouri's economic success. The Missouri Chamber supports a broad-spectrum approach to educating and training Missouri's students and workers. We encourage legislative and regulatory efforts to support computer science education including ensuring adequate funding for such courses.

Further, the Missouri Chamber supports taking steps to attract and retain more talent. This requires raising awareness about internship, apprenticeship and career opportunities and providing options for training and certification. With a rapidly changing job landscape, the Missouri Chamber supports aligning education and skills training with the career pathways available today and into the future.

### **Engage in broad-based public education reform:**

The Missouri Chamber believes that market forces and individual merit will produce better educational results. We support broad-based education reform efforts including eliminating the state-imposed teacher tenure system, instituting merit-based pay for teachers and improving school choice options for all Missouri students. ■



# ENERGY AND ENVIRONMENT

## 2019 Recommended Legislative Policies

### Protect Missouri's critical infrastructure facilities from dangerous disruptions:

A disruption in service at any of Missouri's critical infrastructure facilities could cause an environmental disaster or such extensive damage to the facility that it causes a severe impact on consumers and businesses. The Missouri Chamber supports protecting Missouri's critical infrastructure facilities from physical or cyber-threats by empowering local prosecutors through the enhancement of penalties for those who trespass at, vandalize or conspire to disrupt any critical infrastructure facility.

### Oppose the federal greenhouse gas rule:

The Missouri Chamber opposed the Environmental Protection Agency's Clean Power Plan (CPP) because it was an overly intrusive, unduly burdensome and prohibitively expensive regulation that would have virtually no impact on its stated goal of reducing global carbon emissions. However, the Affordable Clean Energy (ACE) Rule proposed by the EPA is a step in the right direction to make sure states have the flexibility to adopt an implementation plan that makes sense for their utilities. The Missouri Chamber supports the ACE Rule as a reasonable replacement to the CPP and will work with stakeholders to make sure its implementation is tailored to Missouri's electric utility needs so that Missouri consumers will have an affordable and secure energy future.

### Promote a responsible approach to regulation:

The Missouri Chamber supports a balanced and reasonable approach to environmental and energy regulation or policies that do not stifle innovation and economic growth or add unnecessary and burdensome costs to Missouri's businesses. The Missouri Chamber opposes environmental regulations and policies for air, water and waste that unduly raise costs for businesses or jeopardize creation, retention or growth of Missouri jobs

### Ensure Missouri has reliable, secure and competitively priced energy and water:

The Missouri Chamber recognizes the advantage of affordable and reliable natural gas, electricity and water in retaining businesses and attracting business to our state. The Missouri Chamber will support efforts and work with business leaders, utility providers and community leaders to drive a collaborative, long-term solution to address Missouri's aging infrastructure while ensuring continued reliable natural gas, electricity and water at predictable and competitive rates for consumers.

### Implement the Keystone XL and other interstate pipelines:

The Missouri Chamber supports approval and implementation of interstate pipeline projects

that will create and support thousands of construction and manufacturing jobs in the U.S. and Missouri. These projects would also provide numerous economic benefits to Missouri employers participating in the construction of the pipeline or the materials supply chain. We believe implementation of these projects will also aid in U.S. energy security and independence by shifting U.S. sourcing of oil to conflict-free and stable economic zones.

### **Implement responsible water quality standards and support Missouri solutions:**

The Missouri Chamber supports responsible implementation of the Clean Water Act and the Safe Drinking Water Act that does not create financial hardships for Missouri businesses. We oppose unilateral actions by the EPA and believe that Missourians know what is best for our state. We encourage and support efforts that enable the Missouri Department of Natural Resources to exercise the full power of its delegated authority to create workable state plans that hold entities accountable and ensure all Missourians have access to safe, reliable and affordable water and wastewater service.

### **Support reasonable and consistent taxation of utilities:**

The Missouri Chamber supports state and local utility tax policy that is fair, consistent and equitable for all utility consumers and jurisdictions.

### **Protect Missouri's environment by supporting state regulation of coal combustion residuals (CCR):**

Missouri's energy providers safely store CCR in our state. Under federal regulations, CCR ash ponds are expected to close, with ongoing storage of CCR occurring in landfills. Congress passed legislation authorizing states to develop and implement their own CCR regulatory programs based on site-specific conditions rather than a one-size-fits-all federal approach. Missouri regulators have the experience and knowledge to regulate the closure of ash ponds located within the state and to provide appropriate protection for our state's environment. The Missouri Chamber supports a state plan that will enable the Missouri Department of Natural

Resources to oversee surface impoundment closures, update landfill regulations to meet federal criteria, approve risk-based and alternative groundwater criteria, and administer a fee authority to fund resource needs.

### **Efficiently restructure state government to contribute to growth and expansion of Missouri industries:**

The Missouri Chamber supports efforts to restructure state government so that companies in the energy and environment industry can efficiently interact and engage with regulating bodies to promote growth and expansion for Missouri businesses.

### **Enforce existing renewable energy standards:**

The Missouri Chamber supports clarifying Proposition C to effectuate voter intent of setting minimum levels of renewable energy to be used by investor-owned utilities while ensuring electric rates will not increase more than 1 percent as a result of this mandate.

### **Oppose a Continuing Authority Rule that requires financial disclosures:**

The Missouri Clean Water Commission in the past rejected a water permit issued by the Missouri Department of Natural Resources (MDNR) because it failed to require the applicant to provide financial information that demonstrated it can operate and maintain the facility. MDNR also was in the process of developing a proposed rule that could include a new financial disclosure requirement for all Clean Water Commission permitted facilities. Unlike in other sectors (e.g., municipals, domestic wastewater treatment), this information is not needed and could potentially discourage new businesses. The Missouri Chamber opposes a Continuing Authority Rule that would require such a financial disclosure and supports letting Missouri businesses continue to seek and obtain permits without unneeded regulatory requirements. ■

# HEALTH CARE

## 2019 Recommended Legislative Policies

### Reauthorize FRA:

The Missouri Chamber supports the reauthorization of Missouri's Federal Reimbursement Allowance. This important public/private partnership serves as one of the top sources of revenue for the state, allowing Missouri to receive billions of dollars in matching federal funds, and frees up general revenue to be spent on other important state priorities. Without its reauthorization, Missouri will face an insurmountable budget hole that will devastate the state's financial outlook, severely impact the delivery of quality health care and slow any economic development. The Missouri Chamber encourages the swift reauthorization of Missouri's Federal Reimbursement Allowance program.

### Create a prescription drug monitoring program:

To reduce the cost associated with prescription drugs, the Missouri Chamber supports the creation of a prescription drug monitoring program. Missouri is the only state in the nation that has not passed this type of legislation. Prescription drug abuse and diversion increases the cost associated with prescription medication. A monitoring program would reduce prescription drug abuse and provide a means of oversight to ensure that Missouri employers are not paying for abuse of prescription drugs.

### Retain federal tax paid by Missouri employers and employees:

The Missouri Chamber does not support federal mandates in the health care system. We recognize we are at a time of change and need to be mindful of opportunities provided by the potential modification or replacement of the Affordable Care Act. The Missouri Chamber recognizes the need for the state to leverage state and federal investment to maximize the quality of health care, improve the health of populations and reduce the per capita costs of health care for the benefit of residents, employers and sponsored populations.



### **Oppose federal restrictions on states' utilization of provider assessments:**

Missouri should have the opportunity to choose how to fund its health care system. In Missouri, and 48 other states and the District of Columbia, provider assessments have become a positive investment in health care coverage. Billions of dollars are at stake, and tens of thousands of employees depend on this funding mechanism to ensure quality care and to support the workforce that provides it. While true entitlement reform may be one measure toward future fiscal success, it is not wise to drastically cut the utilization cap for provider assessments, which would shift this cost to the states and private employers while disproportionately impacting Missourians. Such proposals will cause severe job loss and affect the quality and delivery of health care in Missouri.

### **Prevent pseudoephedrine (PSE) from becoming prescription-only and continue using the real-time electronic tracking system (NPLEx):**

Some criminals use PSE to make methamphetamine. However, law-abiding residents in Missouri should not be punished by being forced to pay for a physician visit to purchase PSE. PSE was approved by the FDA as a safe and effective nonprescription drug. The real-time electronic tracking system provides law enforcement with an effective tool to track criminals and still allow legitimate patients to get PSE without a prescription. Making PSE prescription-only will also add to the health care costs of employers. Therefore, we support the current system of electronic tracking.

### **Limit government-mandated health care benefits:**

Each year numerous legislative proposals that would mandate coverage for certain health care benefits are filed. While some may be well-intentioned, these mandates can drive up the cost of health care, potentially forcing some employers out of the health insurance market. The Missouri Chamber opposes health care benefit mandates and provider mandates. Where mandates are unavoidable or otherwise imposed, the Missouri Chamber supports efforts to couple them with genuine, meaningful reforms that decrease costs and eliminate waste. We further encourage the review of existing mandates.

### **Implement health information technology:**

The Missouri Chamber encourages the development and usage of health information technology to allow the delivery of health care services to be less costly and more efficient. Such a system will allow information concerning a patient's health history to be readily available and will help reduce the incidence of health service waste, errors, fraud and abuse. Accessibility will also lead to increased responsibility of individual health decisions. Individual patients should also have access to and personal ownership of their health-related data in electronic format, and at no time should this information be used for marketing purposes.

### **Expand health care consumer education and meaningful transparency:**

The Missouri Chamber will work to ensure that health care consumers can readily access health education and consumer information so they can evaluate and compare the pricing and quality of health care services and health insurance products in order to make informed decisions.

### **Educate, train and retain quality health care providers and provide improved access for all Missourians:**

Like many states, Missouri is facing a chronic shortage of quality health care providers, particularly in rural communities. The Missouri Chamber supports efforts to recruit, educate, train and retain quality health care providers in Missouri. ■



## LABOR AND INDUSTRIAL RELATIONS

### 2019 Recommended Legislative Policies

#### **Preserve right-to-work legislation:**

Right-to-work legislation was signed into law in 2017. However, a referendum on the law was put before voters and the issue was defeated. The Missouri Chamber continues to support right-to-work because employees should not be compelled to join a labor union or pay labor union dues as a condition of employment. Right-to-work remains a long-term priority for the Missouri Chamber

#### **Protect and strengthen workers' compensation reforms:**

The workers' compensation system serves as a mechanism to ensure employees are fairly and quickly compensated for workplace injuries. The Missouri Chamber supports reforms to the system to help reduce workers' compensation insurance rates. These reforms should include proper validation of all claims and fairness in the system

#### **Reform the unemployment insurance system:**

Missouri's fiscally unstable unemployment compensation system is a hindrance to economic growth. During the recession, Missouri took on substantial debt from the federal government to fund the system. Employers paid expensive penalties to repay the federal government, resulting in additional costs to employers. The legal framework to qualify for unemployment should be modified, and the state should seek methods of repayment that are less costly than the present penalty model used against today's employers. The Missouri Chamber has led efforts to pass significant reforms to the unemployment insurance system and will continue working to enact those changes in 2019.

#### **Implement paycheck protection legislation:**

Employees should not be forced to forfeit a portion of their paychecks for political causes they may not support. The Missouri Chamber supports paycheck protection legislation that would require labor unions to give employees an opportunity each year to opt out of contributing a portion of their wages to union political activities.

#### **Reform Missouri's prevailing wage law:**

Prevailing wage laws add unnecessary costs to taxpayer-funded construction projects. Employers who do not comply with prevailing wage laws can be prosecuted and heavily fined. Positive reforms to the system occurred in 2018, and going forward, the Missouri Chamber should work to amend the law to ensure that prevailing wage is not required for maintenance work.

#### **Protect employers from unfair and harmful workplace rules and mandates:**

The Missouri Chamber will work to reduce or eliminate unfair workplace rules and mandates that may burden or cause harm to an employer's ability to attract and retain jobs. The Missouri Chamber will protect against federal and state workplace rules and mandates such as exposing employers to new liabilities based on how they classify their employees, expanding or adding new classes to FMLA that do not exist in federal law, raising the

minimum wage, and placing additional regulations upon an employer during the hiring process. Further, the Missouri Chamber supports state pre-emption legislation to prohibit local governments from enacting their own labor standards. Uniform state standards for employment law will bring clarity to businesses that must navigate multiple layers of government regulation every day.

### Protect the secret-ballot election process and oppose “quickie” union elections:

The Missouri Chamber supports upholding the right of Missourians to vote by a secret ballot and ultimately wants to protect Missouri workers so they may continue to have a voice to exercise in private during the employee representation process. The Missouri Chamber will work to protect employers and employees against the impact of passage of the Employee Free Choice Act (aka “card check”), or similar legislation, at the federal level. The passage of such a law would effectively eliminate the proven practice of holding free and fair secret-ballot elections by allowing unions to be certified simply by collecting employee signatures in public through a “card check” process and thereby take away each employee’s right to vote on representation free from coercion or intimidation.

### Reform the state’s immigration policy:

The Missouri Chamber supports legislation that would provide an incentive for Missouri businesses to use E-Verify by providing the employer with an absolute bar from any state liability regarding the hiring of an employee who provided false or misleading information regarding eligibility to work in the U.S. and only if the employer knowingly hired an undocumented alien.

### Reform the workers’ compensation administrative law judge selection process:

Too often, Missouri employers feel the scales of justice are tipped against them in a workers’ compensation administrative hearing. The Missouri Chamber supports legislative efforts to inject fairness and accountability into the selection and retention of workers’ compensation law judges

### Provide state-level safeguards for joint employers:

The Missouri Chamber supports legislation to protect franchisors from unwarranted lawsuits claiming the franchisor is a “joint employer” with its franchisees. Further, the Missouri Chamber supports legislation to clarify that the employment relationship between a franchisor and franchisee in state-level disputes should apply only where the franchisor exercises direct and immediate control

### Strengthen employers’ property rights:

Cybersecurity is of the utmost importance in the information age, creating new challenges for employers throughout the world. In an effort to stay ahead of the curve, the Missouri Chamber supports efforts to strengthen civil penalties against employees who illegally obtain and disclose an employer’s proprietary information.

### Clarify independent contractor agreements:

Businesses face an increasing number of rules and regulations from all levels of government. Often, several layers of red tape surround how businesses hire, compensate and work with employers and independent contractors. To eliminate confusion in this area, the Missouri Chamber supports implementing flexible yet objective standards to determine independent contractor status. All state agencies should use the same information to classify independent contractors, which would provide businesses with greater clarity.

### Clarify the treatment of arbitration clauses in employment contracts:

The Missouri Chamber supports abrogating the holding in *Baker v. Bristol Care Inc.*, which overturned years of precedent regarding what constitutes consideration in an arbitration agreement. While at-will employment and continued employment had been considered sufficient consideration to support enforcement of arbitration agreements, the court in *Baker* disagreed and refused to enforce the arbitration agreement for insufficient consideration. For certainty in employment contracts moving forward, the Missouri Chamber supports abrogating *Baker* and returning to a clear standard for sufficient consideration in employment-related agreements. ■

# TAXATION & FISCAL POLICY

## 2019 Recommended Legislative Policies

### Adopt a responsible framework for collection of sales tax from out-of-state sellers in response to the *Wayfair* decision:

For more than two decades after the 1992 U.S. Supreme Court decision in *Quill*, remote sellers relied on that precedent and did not collect sales tax on transactions into states where they did not have a physical presence. In 2018, the U.S. Supreme Court changed course in *Wayfair*, overturning the physical presence rule from *Quill* and paving the way for states to require the collection of sales tax from out-of-state sellers without a physical presence.

The U.S. Supreme Court provided guidance for how states should enact a framework to implement the collection of sales tax by out-of-state sellers without a physical presence. This guidance suggests considering a safe harbor provision for sellers with limited sales into a state, no retroactive collection of taxes and adoption of the Streamlined Sales and Use Tax Agreement to ease the tax compliance burden for sellers.

Missouri should adopt a law to require the collection of sales tax for online and other transactions involving out-of-state sellers without a physical presence, taking into account the U.S. Supreme Court's guidance in the *Wayfair* decision, while maintaining current sales and use tax exemptions the state has historically permitted.

The Missouri Chamber recommends legislation that would require all remote sellers meeting specific criteria to collect and remit vendor's use tax on sales of tangible personal property in Missouri. In an effort to minimize the administrative burden on both the sellers and the Missouri Department of Revenue, the Missouri Chamber recommends that remote sellers register, collect and remit vendor's use tax only if they meet or exceed a threshold of \$500,000 in sales of tangible personal property from outside Missouri to a destination within Missouri. In addition, we do not support having any secondary sales threshold defined in terms of the number of items sold or the number of transactions, as some states have mandated. The Missouri Chamber also does not support any retroactive "look-back" provisions for the collection of taxes under this new legislation.



Finally, Missouri should consider the responsible application and use of additional revenues resulting from sales tax collections from online and other transactions involving out-of-state sellers without a physical presence.

### Reform tax policy:

The Missouri Chamber supports efforts in the General Assembly to enact meaningful, comprehensive reform in Missouri's tax system. The Missouri Chamber strongly believes that any tax reform, whether in the realm of corporate/individual income taxes, real/personal property taxes or sales/use taxes, should achieve the following objectives:

- **Provide revenue neutrality:** Tax reform should not be used, directly or indirectly, to increase state tax revenues, whether in short-term or long-range projections.
- **Eliminate/avoid double taxation:** Double taxation occurs when the same economic activity is used as a measure for more than one taxable event. Any revision to the tax code should avoid even the risk of double taxation.
- **Minimize shifting the ultimate tax burden:** Tax reform can shift the economic burden from one group of taxpayers to another. Any proposed tax reform should avoid economic burden shifts among groups of taxpayers to the greatest extent possible. When economic burden shifts cannot be avoided to achieve other goals, such as equity or neutrality, they should be made gradually over an extended period of time.
- **Provide horizontal equity:** Horizontal equalization is the practice of treating taxpayers of similar incomes but differing circumstances in a similar way by making modest alterations to the tax code to account for such disparities. Horizontal equity assists economic growth by minimizing the impact of the tax code on business decisions, thereby promoting a free marketplace. Horizontal equity should be considered with regard to any tax reform proposal.
- **Provide administrative simplicity:** Administrative complexity causes economic losses because businesses are required to spend additional resources just to comply with the tax code. Administrative complexity also reduces the efficiency of a tax system by making the state spend additional resources to process the

more complicated tax returns and reduces the state's revenue collections because taxpayers are unable to fully comply with the increased administrative burdens. Reform should always have the objective of moving toward a tax code that caters to administrative simplicity in order to avoid economic loss and increase the tax system's efficiency.

- **Provide a broad base:** A broad tax base encourages economic growth by minimizing the tax burden on any one specific group of taxpayers and lowering the tax burdens of all taxpayers by spreading the tax burden among more taxpayers. Each tax reform measure should have the goal of moving toward the broadest possible tax base.
- **Eliminate multiple fees and surcharges:** Missouri's businesses are faced with many state and local fees and surcharges, including access fees, license fees, business license taxes, unemployment insurance fees and surcharges, and workers' compensation fees. Missouri has a duty to reduce the number and dollar amount of these fees and surcharges in addition to its duty to minimize the overall tax burden imposed on its residents. A burdensomely high effective state tax rate can negatively impact the state's economy.

### Reform tax administration:

Taxpayers need stable and predictable rules that promote taxpayer fairness. The Missouri Chamber supports state tax administration reform that will improve transparency and enhance early taxpayer input on policies.

### Phase in full deduction for the federal income tax:

In 1993, Missouri taxpayers suffered the largest tax increase in Missouri history. This legislative change forced Missouri corporations and many small-business owners to pay state income taxes on part of the federal income tax dollars they had already paid. This tax policy is particularly burdensome because businesses are required to pay an income tax on an income tax. The double tax occurs because businesses are prohibited from making use of the portion of money they pay to the federal government in taxes, yet they must pay tax on the same money again at the state level. Current law only permits C corporations

## TAXATION AND FISCAL (continued)

to deduct one-half of the tax paid to the Internal Revenue Service (IRS). Those businesses choosing to be taxed as a pass-through entity are even more limited on their deduction for taxes paid to the IRS. The Missouri Chamber supports legislation to phase in the full deductibility of the federal income tax.

### **Expand state sales tax exemptions:**

Missouri's sales tax exemptions provide taxpayers with economic incentives to attract business to Missouri and promote economic development. In addition, many of Missouri's sales tax exemptions enhance the state's social and environmental objectives. The Missouri Chamber is in favor of all sales tax exemptions that promote economic development activity and create jobs in Missouri. The Missouri Chamber opposes removing or imposing limitations on any sales tax exemptions if doing so could hinder Missouri's economic development initiatives.

### **Prohibit corporate tax information disclosures:**

Taxpayers expect confidentiality and a right to privacy. Missouri's tax system is based on voluntary compliance. Corporations furnish and are required by law to provide extensive information under penalties of fine or imprisonment. Studies have shown that the degree of compliance with tax laws is impacted directly by the degree of confidentiality of information that taxpayers are required to provide to the Department of Revenue (DOR) and the IRS. If the DOR were permitted to make public such returns and/or return information, it would invite a variety of intrusions into taxpayers' privacy. Business competitors of a taxpayer could use this information to gain economic advantages over the taxpayer. A lack of confidentiality could also facilitate the use of one taxpayer's return information for the political or other gain of its competitors. Because of the serious nature of the problems caused by such "transparency," the Missouri Chamber opposes public disclosure of all otherwise proprietary and tax information for any and all taxpayers.



### **Maintain appropriate state tax add-back list:**

The DOR has historically proposed promulgating rules that relate to the requirement of state tax add-backs that are in violation of existing Missouri law. The proposed rules have exceeded the current statutory provisions by limiting the current legal definition of “income tax” and by expanding the list of state taxes that must be added back to Missouri taxable income. The Missouri Chamber strongly opposes any proposed or amended rule change or any administrative action by the DOR that would expand the legally permissible types of other states’ taxes that must be added back to Missouri taxable income.

### **Adjust property taxes:**

Current law allows for a reduction or elimination of property taxes for damaged or destroyed residential property due to a natural disaster. However, this benefit does not apply to commercial, agricultural or business personal property, leaving business owners with an unfair tax burden. The Missouri Chamber supports expanding the natural disaster property tax adjustment to apply to commercial, agricultural and business personal property damaged or destroyed by a natural disaster.

### **Equalize local tax treatment:**

Currently, the Missouri state tax code mirrors the federal tax code in the treatment of statutes of limitation and penalties assessed. However, local jurisdictions impose their own rules, creating complicated and confusing tax policies that treat taxpayers in similar situations differently across local jurisdictions. The Missouri Chamber supports equalizing the treatment of statutes of limitation and penalties among local, state and federal tax policies, using common guidelines for all taxes and fees.

### **Allow single remittance of local taxes and fees:**

Every year, businesses — both large and small — make thousands of payments to state and local jurisdictions to comply with regulations. These payments drive up the cost of doing business in Missouri. Compliance costs reduce the resources of private businesses and can be considered a waste of economic resources. The Missouri Chamber supports the implementation of a voluntary program to allow businesses to submit a single remittance each month to one entity to eliminate the compliance costs.

### **Provide tax incentive for S corporation formation of employee stock ownership plans:**

Employee stock ownership plans (ESOPs) give employees partial ownership in a business over time. Many smaller businesses that are heavily invested in their companies utilize this option, motivating their employees to stay with the company and keep it going years after the startup phase or after the owner’s retirement. Currently, S corporations do not qualify to receive the tax benefits allowed for C corporations. The Missouri Chamber supports the formation of ESOPs and supports allowing individual shareholders to exclude dividends and capital gains from their taxable incomes. ■

# TRANSPORTATION

2019 Recommended  
Legislative Policies



### **Adequately fund transportation infrastructure:**

The Missouri Chamber recognizes that adequate funds must be available for the maintenance and improvement of the state's transportation system. The Missouri Chamber supports finding stakeholder-driven options that provide long-term, sustainable, statewide transportation funding that will help maximize Missouri's potential as a centrally located transportation hub for the country, continent and world. Investment in transportation improvements is a major economic engine that drives job creation and personal income and adds value to Missouri's economy.

### **Enhance multimodal programs:**

The Missouri Chamber supports legislation to identify increased funding sources that would allow the Missouri Highways and Transportation Commission to enhance multimodal programs throughout Missouri. Such programs would include public transportation, passenger and freight rail, ports, air travel, bicycling, and walking. The Missouri Chamber does not support legislation that continues to divert transportation dollars out of the transportation fund to supplement nontransportation needs.

### **Use a holistic approach to find solutions for Missouri's transportation infrastructure needs:**

The Missouri Chamber recognizes the seriousness of the budgetary shortfalls facing municipal and state transportation officials. We further recognize that addressing the current funding crisis may not have a one-size-fits-all solution. To that end, the Missouri Chamber supports innovative financing options, such as cost-sharing and investment-matching programs, that empower and encourage local communities to find local solutions to infrastructure needs. We further support taking a broad-spectrum approach to resolving the state's infrastructure needs in a way that maximizes the effectiveness of our existing infrastructure, provides adequate funding for development and maintenance of new and existing infrastructure, and does not unduly impact any disparate industry or class of business.

### **Enact primary seat belt law:**

The Missouri Chamber supports legislation that would change Missouri's secondary seat belt law to a primary seat belt law allowing law enforcement officers to stop drivers for failing to wear their seat belts. Currently, a driver may be ticketed for failing to wear a seat belt only if stopped for another traffic violation.

### **Find proactive solutions for Missouri's infrastructure needs:**

The 21st Century Missouri Transportation System Task Force provided policymakers with many options. The Missouri Chamber supports continually evaluating the state's infrastructure needs to find the right solutions to meet the needs of our businesses and consumers. The state's infrastructure must be maintained to reduce or eliminate disruptions and to ensure stability and efficiency. ■





### Federation Priorities

The Missouri Chamber Federation is a partnership created to unify local and state chamber advocacy efforts in the capitol. The federation is a network of Missouri's strongest chambers of commerce providing grassroots support on issues that align with local priorities. Below are the federation's legislative priorities for 2019. Learn more about the federation at [mochamber.com/join/federation](http://mochamber.com/join/federation).

1. Support a sustainable funding plan for a comprehensive transportation system.
2. Support the expansion of broadband.
3. Enact tort reforms to improve Missouri's legal climate.
4. Make changes to Missouri's tax system to resolve current loss of internet sales taxes.
5. Increase tourism funding.
6. Increase resources for entrepreneurial and start up incentives.
7. Dedicate funding to talent attraction initiatives.
8. Increase resources for customized training.
9. Prioritize STEM education in K-12 schools.
10. Enact prescription drug monitoring program.
11. Increase access to mental health support.



**MISSOURI CHAMBER**  
OF COMMERCE AND INDUSTRY