

COMMITTEE ON LEGISLATIVE RESEARCH
OVERSIGHT DIVISION

FISCAL NOTE

L.R. No.: 2072-02
Bill No.: HB 1138
Subject: Drugs and Controlled Substances; Taxation and Revenue - General; Revenue Department
Type: Original
Date: March 18, 2015

Bill Summary: This proposal would impose an excise tax on marijuana and other controlled substances.

FISCAL SUMMARY

ESTIMATED NET EFFECT ON GENERAL REVENUE FUND			
FUND AFFECTED	FY 2016	FY 2017	FY 2018
General Revenue Fund	(\$100,800) to Unknown	Unknown	Unknown
Total Estimated Net Effect on General Revenue	(\$100,800) to Unknown	Unknown	Unknown

ESTIMATED NET EFFECT ON OTHER STATE FUNDS			
FUND AFFECTED	FY 2016	FY 2017	FY 2018
Drug Task Force Enforcement *	\$0	\$0	\$0
Total Estimated Net Effect on <u>Other</u> State Funds	\$0	\$0	\$0

* Net of unknown revenues and expenditures.

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

ESTIMATED NET EFFECT ON FEDERAL FUNDS			
FUND AFFECTED	FY 2016	FY 2017	FY 2018
Total Estimated Net Effect on <u>All</u> Federal Funds	\$0	\$0	\$0

ESTIMATED NET EFFECT ON FULL TIME EQUIVALENT (FTE)			
FUND AFFECTED	FY 2016	FY 2017	FY 2018
Total Estimated Net Effect on FTE	0	0	0

Estimated Net Effect (expenditures or reduced revenues) expected to exceed \$100,000 in any of the three fiscal years after implementation of the act.

ESTIMATED NET EFFECT ON LOCAL FUNDS			
FUND AFFECTED	FY 2016	FY 2017	FY 2018
Local Government	\$0	\$0	\$0

FISCAL ANALYSIS

ASSUMPTION

Sections 190.620 to 190.625, RSMo. - Excise Tax on Unauthorized Substances:

This proposal would create an excise tax on certain unauthorized substances; the Department of Revenue would sell stamps to be affixed to those substances to indicate payment of the tax. Dealers would not be required to provide identifying information at the time of stamp purchases. Law enforcement organizations would be required to report the seizure of unauthorized substances, and the tax would be assessed against the dealer who was in possession of the substance or substances. Collection of such tax assessed would be made by the Department of Revenue in the same way as other tax collections.

The proposal would create a dedicated Drug Task Force Enforcement Fund and all revenues collected under the proposed tax provisions would be deposited into that fund except for voluntary tax payments which would be deposited into the General Revenue fund.

Revenue in the dedicated fund would be allocated as follows:

Department of Revenue -	20% for the cost of collection;
Department of Health and Senior Services -	10% for drug treatment and antidrug public awareness programs; and
Department of Public Safety -	70% to fund multijurisdictional enforcement groups as defined in the proposal.

Oversight was unable to receive agency responses in a timely manner due to the short fiscal note request time. Oversight has prepared this fiscal note with the best current information that we have, or with prior year information regarding a similar bill. Upon the receipt of agency responses, Oversight will prepare an updated fiscal note and seek the necessary approval of the chairperson of the Joint Committee on Legislative Research to publish a new fiscal note.

ASSUMPTION (continued)

Officials from the **Office of Administration - Division of Budget and Planning (BAP)** stated this proposal would impact Total State Revenue (TSR) and would impact the calculation required under Article X, Section 18(e) of the state constitution.

BAP officials assume this proposal would create an excise tax on various unauthorized substances, including marijuana and cocaine. To the extent "dealers" would purchase stamps from the Department of Revenue (DOR), or delinquent taxes and penalties can be otherwise collected, general and Total State Revenues may increase by an unknown amount.

Although they did not respond to our request for information, officials from the **Department of Health and Senior Services (DHSS)** stated in response to HB 409, LR 0246-01 (2013) that the proposed legislation would levy an excise tax on unauthorized substances possessed by a dealer. DHSS officials stated they were unable to estimate the amount of revenue that may be generated from this proposed tax.

The proposal indicates that DHSS would receive ten percent of funds generated from the excise tax placed on unauthorized substances and the funds would be used to fund drug treatment and anti-drug public awareness campaigns. DHSS officials noted DHSS does not currently provide drug treatment; this function is performed by the Department of Mental Health.

DHSS officials noted if revenues are significant, DHSS would need additional staff to conduct the proposed anti-drug public awareness campaigns. Without knowing expected revenues, DHSS is unable to estimate the scope of the anti-drug campaigns.

DHSS officials provided a response which indicated unknown revenues and expenditures for the newly created fund.

Although they did not respond to our request for information, officials from the **Department of Revenue (DOR)** stated in response to HB 409, LR 0246-01 (2013) that the legislation would impose an excise tax on controlled substances. DOR officials assume if substances are held in the state that would require these taxes, the proposed excise tax could increase Total State Revenue.

ASSUMPTION (continued)

DOR officials noted the legislation would levy an excise tax on unauthorized substances possessed, either actually or constructively by dealers. The proposal would also specify the rate at which each unauthorized substance would be taxed and would define how marijuana or other substance would be measured.

DOR would issue stamps to affix to unauthorized substances to indicate payment of the tax. Law enforcement would be required to report to the Department of Revenue within 48 hours after seizing unauthorized substances.

DOR officials assume the department would need to create a form for the remittance of the tax.

The proposal would also create the "Drug Task Force Enforcement Fund" and DOR would credit proceeds from the excise tax levied under the provisions to this fund until unencumbered. The State Treasurer would release funds on a quarterly basis and apply proceeds to the costs of storing and disposing of the assets seized. The State Treasurer would apply the remaining unencumbered funds as follows:

- * 20% to the Department of Revenue for collection;
- * 10% to the Department of Health and Senior Services for drug treatment and antidrug awareness; and
- * 70% to Public Safety for multi-jurisdictional enforcement groups.

If a dealer voluntarily paid the Department of Revenue the excise tax on the proceeds of a sale, those excise taxes would be considered unencumbered and deposited directly into the General Revenue Fund.

The Department of Revenue could create rules to implement these provisions.

Oversight will include unknown additional revenue to the Drug Task Force Enforcement Fund and the General Revenue Fund for those proceeds, and will assume for fiscal note purposes that revenues deposited into the dedicated fund would be appropriated to the Department of Revenue, the Department of Health and Senior Services, and the Department of Public Safety.

ASSUMPTION (continued)

Administrative impact

DOR officials assume Excise Tax would require two additional Revenue Processing Technicians I, (Range 10, Step L).

The DOR estimate of cost to implement this proposal including two additional employees and the related benefits, equipment, and expense totaled \$77,922 for FY 2014, \$81,049 for FY 2015, and \$81,893 for FY 2016.

Oversight assumes this proposal would likely result in a minimal number of transactions, and assumes DOR could implement this proposal with existing resources. If this proposal results in an unanticipated increase in the DOR workload or if multiple proposals are implemented which result in a significant increase in the DOR workload, resources could be requested through the budget process.

IT impact

DOR officials provided an estimate of the IT cost to implement the proposal based on 1,344 hours of programming to make changes to DOR systems.

Oversight notes the IT cost for DOR to implement the proposal at the current state contract rate for programming of \$75 would be $(1,344 \text{ hours} \times \$75) = \$100,800$. Oversight will assume this initial cost would be paid from the General Revenue Fund and will include this estimate of the DOR cost for IT services in the fiscal note.

Officials from the **Joint Committee on Administrative Rules** assume this proposal would not have a fiscal impact to their organization in excess of existing resources.

Officials from the **Department of Public Safety - Missouri Highway Patrol**, the **City of Kansas City**, the **Jackson County Election Board**, and the **Platte County Election Board** assume this proposal would have no fiscal impact to their organizations.

<u>FISCAL IMPACT - State Government</u>	FY 2016 (10 Mo.)	FY 2017	FY 2018
GENERAL REVENUE FUND			
<u>Additional Revenue</u>			
Voluntary excise tax payments	Unknown	Unknown	Unknown
<u>Cost - DOR</u>			
IT cost	<u>(\$100,800)</u>	<u>\$0</u>	<u>\$0</u>
ESTIMATED NET EFFECT ON GENERAL REVENUE FUND	(\$100,800) to <u>Unknown</u>	<u>Unknown</u>	<u>Unknown</u>
 DRUG TASK FORCE ENFORCEMENT FUND			
<u>Additional revenue</u>			
Excise tax on illicit substances	Unknown	Unknown	Unknown
<u>Cost - DOR (20%)</u>			
Collections	(Unknown)	(Unknown)	(Unknown)
<u>Cost - DHSS (10%)</u>			
Program expenditures	(Unknown)	(Unknown)	(Unknown)
<u>Cost - DPS (70%)</u>			
Program expenditures	(Unknown)	(Unknown)	(Unknown)
ESTIMATED NET EFFECT ON DRUG TASK FORCE ENFORCEMENT FUND	<u>\$0</u>	<u>\$0</u>	<u>\$0</u>

<u>FISCAL IMPACT - Local Government</u>	FY 2016 (10 Mo.)	FY 2017	FY 2018
	<u>\$0</u>	<u>\$0</u>	<u>\$0</u>

FISCAL IMPACT - Small Business

No direct fiscal impact to small businesses would be expected as a result of this proposal.

FISCAL DESCRIPTION

The proposed legislation would impose an excise tax on certain unauthorized substances at specified rates. The Department of Revenue would issue stamps to affix to unauthorized substances to indicate payment of the required tax. Dealers would be required to report the taxes payable on a form prescribed by the department but would not be required to provide any identifying information.

A dedicated Drug Task Force Enforcement Fund would be created for the deposit of excise taxes on seized substances subject to task under the proposal, and collection costs and specified program expenditures would be made from the fund.

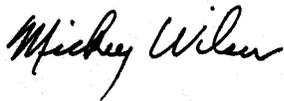
Law enforcement would be required to report to the department within 48 hours of an arrest or seizure involving specified unstamped unauthorized substances so the excise tax, along with applicable penalties and interest could be assessed and collected. Excise tax proceeds would be deposited into the newly created Drug Task Force Enforcement Fund to investigate, combat, prevent, and reduce drug-related crimes as well as to fund drug treatment and anti-drug public awareness programs after payment of the costs of storing and disposing of seized substances.

A five-member Unauthorized Substance Tax Commission would be created to review the tax rates and make recommendations concerning rate increases to the General Assembly.

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

SOURCES OF INFORMATION

Joint Committee on Administrative Rules
Office of Administration
 Division of Budget and Planning
Department of Health and Human Services
Department of Public Safety
 Missouri Highway Patrol
Department of Revenue
City of Kansas City
Jackson County Election Board
Platte County Election Board



Mickey Wilson, CPA
Director
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Ross Strobe
Assistant Director
March 18, 2015