

COMMITTEE ON LEGISLATIVE RESEARCH
OVERSIGHT DIVISION

FISCAL NOTE

L.R. No.: 4396-08
Bill No.: Truly Agreed To and Finally Passed CCS for HCS for SB 584
Subject: Entertainment, Sports and Amusements; Taxation and Revenue - Sales and Use
Type: Original
Date: June 16, 2014

Bill Summary: This proposal would make a number of changes to tax laws.

FISCAL SUMMARY

| ESTIMATED NET EFFECT ON GENERAL REVENUE FUND | | | |
|---|---|---|---|
| FUND AFFECTED | FY 2015 | FY 2016 | FY 2017 |
| General Revenue | (Could exceed \$145,777,911) | (Could exceed \$171,870,051) | (Could exceed \$171,871,204) |
| Total Estimated Net Effect on General Revenue Fund | (Could exceed \$145,777,911) | (Could exceed \$171,870,051) | (Could exceed \$171,871,204) |

Numbers within parentheses: () indicate costs or losses.
This fiscal note contains 32 pages.

| ESTIMATED NET EFFECT ON OTHER STATE FUNDS | | | |
|---|------------------------------------|------------------------------------|------------------------------------|
| FUND AFFECTED | FY 2015 | FY 2016 | FY 2017 |
| Conservation Commission | (Could exceed \$6,048,565) | (Could exceed \$7,274,278) | (Could exceed \$7,274,278) |
| Parks, and Soil and Water | (Could exceed \$4,882,731) | (Could exceed \$5,839,277) | (Could exceed \$5,839,277) |
| School District Trust | (Could exceed \$47,789,971) | (Could exceed \$57,328,365) | (Could exceed \$57,328,365) |
| Total Estimated Net Effect on <u>Other</u> State Funds | (Could exceed \$58,721,267) | (Could exceed \$70,441,920) | (Could exceed \$70,441,920) |

| ESTIMATED NET EFFECT ON FEDERAL FUNDS | | | |
|---|----------------|----------------|----------------|
| FUND AFFECTED | FY 2015 | FY 2016 | FY 2017 |
| | | | |
| | | | |
| Total Estimated Net Effect on <u>All</u> Federal Funds | \$0 | \$0 | \$0 |

| ESTIMATED NET EFFECT ON FULL TIME EQUIVALENT (FTE) | | | |
|---|----------------|----------------|----------------|
| FUND AFFECTED | FY 2015 | FY 2016 | FY 2017 |
| General Revenue | 2 FTE | 2 FTE | 2 FTE |
| | | | |
| Total Estimated Net Effect on FTE | 2 FTE | 2 FTE | 2 FTE |

- Estimated Total Net Effect on All funds expected to exceed \$100,000 savings or (cost).
- Estimated Net Effect on General Revenue Fund expected to exceed \$100,000 (cost).

| ESTIMATED NET EFFECT ON LOCAL FUNDS | | | |
|--|-------------------------------------|-------------------------------------|-------------------------------------|
| FUND AFFECTED | FY 2015 | FY 2016 | FY 2017 |
| Local Government | (Could exceed \$171,059,020) | (Could exceed \$202,313,492) | (Could exceed \$202,313,492) |

FISCAL ANALYSIS

ASSUMPTION

Section 136.300, RSMo. - Burden of Proof in Tax Cases:

Officials from the **Office of Administration, Division of Budget and Planning (BAP)**, assumed this provision would place the burden of proof regarding tax liability for the state's large business taxpayers on the Director of Revenue. This section would also place the burden of proof on the Director of Revenue instead of the taxpayer in tax exemption cases.

BAP officials assume this provision would increase the complexity of litigation and increase the volume of discovery necessary for DOR to determine the tax liability of the state's biggest taxpayers. BAP officials also assume the impact on revenues is unknown, but it significantly negative, and would impact local revenues and state dedicated funds. BAP officials assume the Department of Revenue may be able to provide more precise estimates.

Officials from the **Department of Revenue (DOR)** assume this provision would result in increased litigation, and the Department's General Counsel would require one additional legal council and one additional paralegal.

DOR officials provided an estimate of the cost to implement the proposal including one additional attorney and one additional paralegal. The total DOR cost estimate for the additional employees, benefits, equipment, and expense, was \$135,596 for FY 2015, \$161,135 for FY 2016, and \$163,234 for FY 2017.

Oversight notes this provision could result in either more or less litigation for DOR but will assume for fiscal note purposes DOR would have additional costs associated with litigation.

Oversight assumes the DOR estimate of expense and equipment cost for the new employees could be overstated. If DOR is able to use existing desks, file cabinets, chairs, etc., the estimate for equipment could be reduced by roughly \$6,000 per new employee.

ASSUMPTION (continued)

Oversight has changed the starting salary for the additional employees to correspond to the second step above minimum for comparable positions in the state's merit system pay grid. This decision reflects a study of actual starting salaries for new state employees and policy of the Oversight Subcommittee of the Joint Committee on Legislative Research. Oversight has also adjusted the DOR estimate of equipment and expense in accordance with OA budget guidelines. Finally, Oversight assumes a limited number of additional employees could be accommodated in existing office space.

Officials from the **City of Columbia** assume their organization would have possible but unspecified fiscal impact from this provision.

Oversight will also include an unknown revenue reduction for the General Revenue Fund in this fiscal note. Oversight assumes any fiscal impact to other state funds or to local governments would be minimal.

Section 137.133, RSMo. - Required Statement on Assessor's Correspondence:

Officials from the **Office of Administration, Division of Budget and Planning** assume this provision would require a specific statement on all correspondence with taxpayers from the Assessor of St. Louis County and assume this provision would have no direct impact on general and total state revenues.

Officials from the **Department of Revenue** assume this proposal would have no impact on their organization.

Officials at **St. Louis County** assumed a similar provision in Truly Agreed To and Finally Passed CCS for HCS for SS for SB 860 would require all correspondence from the Assessor requesting information from a taxpayer to contain a notice that providing such information is voluntary. The only exceptions to this would be the requirement to provide information on personal property.

County officials assumed the administrative costs of this proposal would include 1 additional employee at \$50,000 and IT support estimated at \$25,000.

ASSUMPTION (continued)

Oversight assumes the this proposal would be limited to forms revision, and further assumes the requirement could be met at minimal cost which could be absorbed by the Assessor's Office.

Sections 142.815 and 144.030 RSMo - Motor Fuel and Sales Tax Exemptions

Officials from the **Office of Administration - Division of Budget and Planning** noted this provision would exempt motor fuel used in watercraft from the motor fuel excise tax, and assume the exemption could reduce motor fuel revenues to the extent consumers are not already claiming refunds for such tax from the DOR.

Officials from the **Department of Revenue** assumed this provision would have no fiscal impact to their organization and no direct impact to state revenues.

In response to similar language in other proposals, DOR officials stated fuel suppliers collect tax from distributors and remit the tax to the state, and assume the distributor who sells fuel to a marina would sell it tax exempt and file a claim for refund with the Department based on the tax the distributor paid to its supplier.

DOR officials noted currently, each distributor that delivers gasoline to marinas located in counties with a lake that has 100 miles or more of shoreline, files monthly reports which reflect those deliveries. Prior to August 15th of each year, the Department compares the number of gallons of gasoline claimed by consumers for marine use in each qualifying county to the number of gallons of gasoline delivered to the marinas in that county.

DOR officials noted the fuel tax on unclaimed gallons is then refunded to the county. The Department assumes that all distributors would claim a refund on the gallons they deliver to marinas, reducing the amount of unclaimed gallons. The department assumes counties would receive reduced disbursements of fuel tax on unclaimed gallons.

DOR officials stated they currently distribute slightly more than \$500,000 per year to counties for unclaimed gallonage, and that current refunds of motor fuel tax subject to sales tax are less than \$10,000 per year.

ASSUMPTION (continued)

Oversight notes that under current provisions, the Department of Revenue refunds motor fuel tax paid on fuel for watercraft but retains and distributes sales tax on that fuel. When fuel is sold to a marina and the motor fuel tax is not refunded, the unclaimed motor fuel tax is distributed to counties. This provision would make all of that fuel exempt from motor fuel tax and sales tax.

For fiscal note purposes, **Oversight** will indicate a sales tax revenue reduction of less than \$100,000 for the General Revenue Fund, for other state funds which receive general sales tax revenues, and for local governments. Oversight will also indicate a motor fuel tax revenue reduction of \$500,000 per year for counties, and \$416,667 for ten months in FY 2015.

Oversight assumes the State Road Fund would have no impact since the proposal changes the disposition of motor fuel tax that is not currently used for road purposes.

Section 143.221, RSMo. - Withholding Tax Filing Requirement

Officials from the **Office of Administration - Division of Budget and Planning** noted the proposal would increase the threshold for annual withholding filers from \$20 to \$100. Withholding taxes that would have otherwise been collected on a quarterly basis in April, July, and October would be delayed until January. This proposal would not directly impact Total State Revenues in the aggregate, but could have a cash flow impact across fiscal years.

Assuming the bill would become effective Aug. 28, 2014, quarterly payments due in October 2014 would instead be remitted in January 2015. This would have no cash effect overall for FY 2015, though timing of payments are different. However, quarterly payments due in April and July of 2015 would not arrive until January 2016. Therefore, revenue collections would be reduced in FY 2015, but the payments in FY 2016 would be increased by similar amounts. Further, similar patterns would follow in subsequent years.

Department of Revenue (DOR) officials informed BAP that about 3,500 businesses would be impacted by this proposal. BAP defers to DOR for estimated withholding amounts.

Officials from the **Department of Revenue** assume this provision would raise the quarterly aggregate amount required to file a withholding return from \$20 to \$100.

ASSUMPTION (continued)

Fiscal impact

DOR officials assumed the proposal would not reduce Total State Revenue, but would delay the collection of withholding taxes. This legislation would impact approximately 3,500 businesses that would currently file and pay withholding in April, July, and October; this provision would allow those businesses to delay the remittance of their withholding taxes until January of the following year.

Administrative impact

The DOR response did not include any estimate of administrative cost involved in implementing this proposal and **Oversight** assumes any administrative costs would be minimal and could be absorbed with existing resources.

IT impact

DOR officials provided an estimate of the IT cost to implement this proposal of \$1,092 based on 40 hours of programming to make changes to DOR systems.

Oversight assumes OA - ITSD (DOR) is provided with core funding to handle a certain amount of activity each year. Oversight assumes OA - ITSD (DOR) could absorb the costs related to this proposal. If multiple bills pass which require additional staffing and duties at substantial costs, OA - ITSD (DOR) could request funding through the appropriation process.

Oversight assumes this proposal would allow certain employers to delay filing and paying withholding taxes, which are currently due on a quarterly basis, until the following January 31. The amount of tax due and the overall amount of revenue for a tax year would not change; however, implementing this proposal could delay receipt of withholding taxes as explained below.

- * Taxes withheld for the third calendar quarter ending September 30, 2014 are currently filed and paid by October 31, 2014 (FY 2015); the proposal would include those taxes in an annual filing due January 31, 2015 (FY 2015). Those taxes would be received in the same fiscal year as currently required, although filing and payment of those funds would be delayed three months. For fiscal note purposes there would be no impact from that delay.

ASSUMPTION (continued)

- * Taxes withheld for the fourth calendar quarter ended December 31, 2014 would be paid January 31, 2015 (FY 2015) as currently required.
- * Taxes withheld for the first calendar quarter ending March 31, 2015 would currently required to be filed and paid by April 30, 2015 (FY 2015). The proposal would include those taxes in an annual filing due January 31, 2016 (FY 2016). That delay would be permanent, as each year's first quarter withholding taxes would be paid the following state fiscal year.
- * Taxes withheld for the calendar quarters ending June 30, 2015 currently required to be filed and paid by July 31, 2015 and September 30, 2015 currently required to be filed and paid by October 31, 2015 (FY 2016) would be paid by January 31, 2016 (FY 2016). Those taxes would also be paid in the same fiscal year as currently required but would be delayed six months and three months, respectively, as compared to current requirements.
- * Based on the number of filers provided by the Department of Revenue, the amount of first calendar quarter withholding taxes delayed over the end of a state fiscal year could range from (3,500 filers x the current \$20 threshold) = \$70,000 to (3,500 filers x the new \$100 threshold) = \$350,000.

For fiscal note purposes, **Oversight** will indicate an unknown revenue reduction for FY 2015 due to first calendar quarter withholding taxes which would be remitted in January, 2016 (FY 2016) rather than April 2015 (FY 2015).

Oversight also notes this provision would result in a permanent reduction in the number of payroll tax returns processed; the reduction would likely be somewhat less than three quarters' returns for the affected businesses or $(3 \times 3,500) = 10,500$ fewer returns.

In response to a similar proposal in a previous session (HCS for HB 1717, LR 5148-02, 2012) DOR officials assumed most of the small quarterly return filers would be electronic filers and the proposal would not likely lead to a reduction in the number of tax return errors or phone calls sufficient to allow a staff reduction.

ASSUMPTION (continued)

Section 143.451, RSMo. - Corporate Income Tax on Interstate Transactions:

Officials from the **Office of Administration - Division of Budget and Planning** assume these provisions would expand an additional method for allocating taxable corporate income. Based on information provided by the Department of Revenue, BAP officials estimated this provision may reduce Total State Revenues by up to \$15 million annually.

Officials from the **Department of Revenue** stated these provisions would modify how a taxpayer computes the portion of income from all sources for intangible property or services for compensation in Missouri. A sale of intangible property would be considered in this state if the purchaser uses the property in this state. If the property is used in multiple states, the provisions would allow the business to allocate the income pro rata based on the portion of use in Missouri.

DOR officials estimated the loss to Total State Revenue from this provision could be as much as \$15 million annually.

DOR officials stated their calculation used 2011 information because that is the most recent year for which the Department has complete corporate information. DOR officials stated their understanding of the language in these provisions was to eliminate the current "partially within/partially without" category from the one-factor and three-factor allocation procedures and make sales either "in" or "out" of Missouri for corporate income tax reporting purposes. DOR officials also stated they assumed the new provisions would primarily apply to services.

DOR officials stated they calculated their estimate of impact by eliminating the reported "partially" sales for corporations with a cost of sales percentage under 50% for companies based in Missouri, assuming those sales were services and would be reported as "outside" Missouri under the proposed language.

Oversight notes this provision includes definitions to use in allocating the taxable income from multi-state transactions to determine the taxable amount for Missouri. Oversight does not have information regarding the number or amount of transactions which might be subject to those definitions. For fiscal note purposes, Oversight will indicate a reduction in income tax revenues up to the Department of Revenue estimate of \$15 million. Oversight also notes this provision could lead to taxpayers changing to a corporate business structure to utilize this method of calculating their taxable income for Missouri. Oversight assumes that could increase the revenue reduction for this provision but does not have any way to estimate the potential losses.

ASSUMPTION (continued)

Section 144.010, 144.018, and 144.020, RSMo. - Sales Tax on Admissions:

Changes to the provisions in this legislation would specify which places of amusement, entertainment, recreation, games, and athletic events must collect sales tax. The proposal would only require sales tax to be charged and remitted for "places of dance, theater, orchestra and other performing arts productions, commercial sports, spectator sports, gambling, racetracks, arcades, theme and amusement parks, water parks, circuses, carnivals, festivals, air shows, museums, marinas, motion picture theaters, and other commercial attractions." Other sales of admission tickets, cash admissions, charges or fees to or in places of amusement, entertainment and recreation, games and athletic events would not be taxable.

Officials from the **Office of Administration - Division of Budget and Planning** assumed these provisions would change the current sales tax on recreation charges to a sales tax on admission charges.

BAP officials estimate these sales generated \$53.5 million in state sales taxes, and assumes that, on average, 33% of these sales, or \$417.8 million, are admission charges that would remain taxable under this proposal. This would generate \$17.7 million in state sales taxes, a reduction of \$35.8 million. Similarly, sales tax revenues to the General Revenue Fund would be reduced from \$38.0 million to \$12.5 million, a reduction of \$25.5 million.

Oversight notes these provisions would exempt certain admission charges from sales tax, and would exempt from sales tax all charges for the right of first refusal for events at the Kansas City Sprint Center. Oversight also noted the BAP estimate of revenue reduction of \$25.5 million for the General Revenue Fund would imply a reduction in taxable sales of $(\$25,500,000 / .03) = \850 million.

ASSUMPTION (continued)

Oversight has shown the calculated impact of an estimated \$850 million reduction in taxable sales in the table below, and will include the estimated impact in this fiscal note.

| Fund or entity | Sales Tax Rate | Revenue Reduction for full year | Revenue reduction for ten months FY 2015 |
|---|----------------|---------------------------------|--|
| General Revenue | 3.000% | \$25,500,000 | \$21,250,000 |
| School District Trust | 1.000% | \$8,500,000 | \$7,083,000 |
| Conservation Commission | 0.125% | \$1,062,500 | \$855,417 |
| Parks, and Soil and Water | 0.100% | \$850,000 | \$708,333 |
| Local Governments * | 3.700% | \$31,450,000 | \$26,208,333 |
| * The local government sales tax rate is an average calculated by Oversight based on reported collections by the Department of Revenue. | | | |

Officials from the **Department of Economic Development** assume the sales tax exemption for admissions would result in reduced funding for their Division of Tourism which is based on sales taxes related to tourism and entertainment.

Officials from the **Department of Revenue** assume these provisions would change the existing tax on recreation sales to a tax on admissions charges. Additionally, these provisions would make the amount paid for the first opportunity to purchase or decline tickets for admission to events not taxable.

DOR officials estimated these provisions could reduce Total State Revenue as much as \$36 million, and suggested the Office of Administration - Division of Budget and Planning may be able to provide additional information on this exemption.

ASSUMPTION (continued)

Administrative Impact

DOR officials assume Collections and Tax Assistance (CATA) would receive additional customer contacts but would handle these contacts with current staff. Accounts for current registered businesses that do not fit the list of entities still subject to sales tax would need to be closed and sent a letter of explanation. Reports would need to be produced by OA - ITSD (DOR) to determine the number of registered businesses.

Business Tax Processing

DOR officials noted these provisions may create a reduction in the number of businesses currently registered that do not fit the list of entities.

Sales Tax

DOR officials assume no additional staff would be required as a result of this legislation. However, the legislation may result in overtime required to adjust procedures and documents posted on the website.

Officials from the **City of Kansas City** assume this provision would result in a loss of sales tax revenues but stated they could not estimate the loss.

Officials from the **City of Columbia** assume their organization would have possible but unspecified fiscal impact from this provision.

Officials from the following counties: Andrew, Audrain, Barry, Bates, Boone, Buchanan, Callaway, Camden, Cape Girardeau, Carroll, Cass, Clay, Cole, Cooper, DeKalb, Franklin, Greene, Holt, Jackson, Jefferson, Johnson, Knox, Laclede, Lawrence, Lincoln, Marion, Miller, Moniteau, Monroe, Montgomery, New Madrid, Nodaway, Ozark, Perry, Pettis, Phelps, Pulaski, Scott, St. Charles, St. Louis, St. Francois, Taney, Warren, Wayne and Worth did not respond to our request for information.

ASSUMPTION (continued)

Officials from the following cities: Ashland, Belton, Bernie, Bonne Terre, Boonville, California, Cape Girardeau, Clayton, Dardenne Prairie, Excelsior Springs, Florissant, Frontenac, Fulton, Gladstone, Grandview, Harrisonville, Independence, Jefferson City, Joplin, Kearney, Knob Noster, Ladue, Lake Ozark, Lebanon, Lee Summit, Liberty, Louisiana, Maryland Heights, Maryville, Mexico, Monett, Neosho, O'Fallon, Pacific, Peculiar, Popular Bluff, Raytown, Republic, Richmond, Rolla, Sedalia, Springfield, St. Charles, St. Joseph, St. Louis, St. Robert, Sugar Creek, Sullivan, Warrensburg, Warrenton, Webb City, Weldon Spring and West Plains did not respond to our request for information.

Officials from the following school districts: Blue Springs, Branson, Charleston R-I, Cole R-I, Columbia, Fair Grove, Francis Howell, Fulton, Harrison R-IX, Independence, Jefferson City, Johnson County R-7, Kirksville, Kirbyville R-V , Lee's Summit, Malden R-I, Malta Bend, Mexico, Monroe City R-I, Nixa, Parkway, Pattonville, Raymore-Peculiar R-III, Raytown, Riverview Gardens, Sedalia, Sikeston, Silex, Special School District of St. Louis County, Spickard, St Joseph, St Louis, St. Charles, Sullivan, Warren County R-III, and Waynesville did not respond to our request for information.

Section 144.044, RSMo. - Sales Tax on Used Manufactured Homes

This proposal would provide an exemption in Section 144.044, RSMo. from all forms of state and local sales and use tax on the sale of used manufactured homes.

Officials from the **Office of Administration - Division of Budget and Planning** noted this provision would exempt from sales tax, sales of "used" manufactured homes. BAP officials stated according to information provided by the MO Manufactured Housing Association, there were 696 "new" manufactured homes shipped to MO in 2012.

Based on other information provided by the MMHA, BAP officials estimated the retail value of these homes as \$43.5 million. BAP does not have additional data on the sales or resales of "used" manufactured homes.

Although the Department of Revenue had previously stated in response to similar language in other proposals there would be an unknown revenue reduction for this provision, BAP officials noted the Department of Revenue has stated this proposal would codify longstanding sales tax practice, so there would be no direct impact to Total State Revenues.

ASSUMPTION (continued)

Officials from the **Department of Revenue** stated this provision would have no impact on their organization and no impact on Total State Revenue.

Officials from the **City of Columbia** assume their organization would have possible but unspecified fiscal impact from this provision.

Officials from the **City of Kansas City** assume this provision would result in a loss of sales tax revenues but stated they could not estimate the loss.

Oversight assumes this provision would have no fiscal impact on the state or on local governments.

Section 144.052, RSMo. - Sales Tax Exemption for Drugs and Equipment Used in the Treatment of Terminal Illnesses

Officials from the **Office of Administration - Division of Budget and Planning** assume the impact of this provision would be minimal.

Officials from the **Department of Revenue** assume this provision would have no impact on their organization and no impact on state revenues.

Officials from the **City of Columbia** assume their organization would have possible but unspecified fiscal impact from this provision.

Oversight assumes any impact from this provision would be minimal and will not include an impact in this fiscal note.

ASSUMPTION (continued)

Section 144.058.1, RSMo. - Sales Tax Exemption for Materials, Equipment, and Energy Used in Utility Businesses:

Officials from the **Office of Administration - Division of Budget and Planning** assume this provision would exempt from sales tax various inputs to the utilities industry. These exemptions would include the utilities, chemicals, machinery, equipment, supplies, parts and materials used by that industry.

BAP officials assume the terms "supplies, parts, and materials" would include most inputs to production for the utilities, and noted the following.

- * According to the Input-Output Use Tables provided by the United States Department of Commerce, Bureau of Economic Analysis, inputs from commodities that might qualify under these exemptions are roughly equal to 16% of the total output of the "utilities" industry.
- * Missouri Department of Revenue reports indicate taxable sales of "utilities" in 2013 were about \$4,715.7 million, which suggests that this proposal might exempt ($\$4715.7 \text{ million} \times 16\%$) = \$755 million in taxable sales from taxation.

BAP officials assumed the proposal would reduce state revenues as shown in the table below; however, actual losses may differ from this estimate if the actual output of the firms in question differs from the estimate of the taxable sales reported by DOR, if some inputs are already exempt, or if the ratio of taxable inputs differs from that assumed for this analysis.

| | |
|-------------------|----------------|
| General Revenue | \$22.7 million |
| Education | \$7.6 million |
| Conservation | \$1.0 million |
| Natural Resources | \$0.8 million |

ASSUMPTION (continued)

Officials from the **Department of Revenue** assume this provision would create a sales tax exemption for electrical energy and gas, water, coal, and other energy sources, chemicals, machinery, equipment, parts and materials used and consumed in the generation, transmission, distribution, sale, or furnishing of electricity for light, heat, or power to customers.

DOR officials stated they were not able to determine the exact fiscal impact to state and local taxes; however, based on refund claims from companies in a similar industry, the Department estimates the impact may be \$30 million annually.

DOR officials assume this provision would not result in any administrative or IT cost to their organization.

Oversight notes the BAP estimate of \$755 million in potentially taxable inputs indicated above would generate sales tax revenues as shown below.

| Fund or entity | Sales Tax Rate | Estimated Revenue | |
|--------------------------------|----------------|-------------------|--------------|
| | | Annual | Ten months |
| General Revenue Fund | 3.000% | \$22,650,000 | \$18,875,000 |
| School District Trust Fund | 1.000% | \$7,550,000 | \$6,291,667 |
| Conservation Commission Fund | 0.125% | \$943,750 | \$786,458 |
| Parks, and Soil and Water Fund | 0.100% | \$755,000 | \$629,167 |

ASSUMPTION (continued)

Oversight notes the amounts calculated above are approximately equal to the lower of the Department of Revenue estimates, and will use those amounts for fiscal note purposes.

Oversight assumes this proposal was not intended to provide a sales and use tax exemption for motor vehicles purchased by utility companies. If this proposal was interpreted to provide a sales and use tax exemption for motor vehicles purchased by utility companies, there would be a significant but unknown additional reduction in revenue for roads, conservation, parks and soils, and for local governments.

Section 144.058.2, RSMo. - Sales Tax Exemption for Materials, Equipment, and Energy Used in Data Processing:

Officials from the **Office of Administration - Division of Budget and Planning** assume this provision would exempt from sales tax any electrical energy, machinery, equipment, and supplies used or consumed "in connection with" or "to facilitate" the "storage or processing of data" in any facility or part of a facility used primarily for data processing. BAP officials noted the language in this provision is so broad that it would exempt any electrical energy, machinery, equipment, parts, and materials for any business that stores or processes any data (whether digital or something else) in any facility.

BAP officials stated, based on a survey of the Input-Output Use Tables provided by the United States Department of Commerce, Bureau of Economic Analysis, that inputs connected to data processing may be between 2% and 9.3% of total consumption and noted that data is not detailed enough to provide a more precise estimate. BAP officials assume this estimate would likely include service expenditures which may not be currently taxable, but may not include retail or wholesale purchases which may currently be taxable. BAP officials estimated this provision would exempt 5.65% of taxable sales, the midpoint of the range above. However, the actual impact could be much greater, because any business that is dependent on data processing (especially credit card firms, banks or financial institutions, large retail operations, etc.), could claim this exemption on a multitude of purchases that are "connected to" data processing.

ASSUMPTION (continued)

In summary, BAP officials noted total sales tax revenues for the General Revenue Fund were \$1897.5 million and assumed this provision may reduce General Revenue Fund sales tax by almost \$108 million and Total State Revenues by \$152.1 million.

Officials from the **Department of Revenue** assume this provision would reduce Total State Revenue in an amount exceeding \$152 million and stated that BAP may be able to provide additional estimates.

DOR officials assume this provision would have no impact on their organization.

Officials from the **City of Columbia** assume their organization would have possible but unspecified fiscal impact from this provision.

Officials from the **City of Kansas City** assume this provision would result in a loss of sales tax revenues but stated they could not estimate the loss.

Oversight notes the highly inclusive definition for this sales tax exemption and assumes the revenue reduction estimate provided by the Department of Revenue and the Office of Administration - Division of Budget and Planning is the most reliable estimate available. Oversight has calculated the impact of an estimated 5.65 reduction in sales tax for the state and for local governments as shown in the following table. Oversight assumes the proposal would not have an impact on motor vehicle sales taxes and has not included motor vehicle sales taxes for state funds or local governments in this estimate.

ASSUMPTION (continued)

| <u>Fund or Entity</u> | 2013 Sales Tax Revenues Reported by the Department of <u>Revenue</u> | Effect of 5.65 % Reduction for <u>Ten Months</u> | Effect of 5.65 % Reduction for <u>Full Year</u> |
|------------------------------|---|--|---|
| General Revenue | \$1,895,024,076 | \$89,224,050 | \$107,068,860 |
| School District Trust | \$728,820,622 | \$34,315,304 | \$41,178,365 |
| Conservation Commission | \$91,469,530 | \$4,306,690 | \$5,168,028 |
| Parks, and Soil and Water | <u>\$73,173,035</u> | <u>\$3,445,231</u> | <u>\$4,134,277</u> |
| Total State | \$2,788,487,263 | \$131,291,275 | \$157,549,530 |
| Local Governments | <u>\$2,597,046,979</u> | <u>\$122,277,629</u> | <u>\$143,766,154</u> |
| Totals | <u>\$5,385,534,242</u> | <u>\$253,568,904</u> | <u>\$304,268,684</u> |

Oversight will include these estimates in the fiscal note; however, Oversight assumes the actual amount of revenue reduction could be significantly greater or less than the amounts calculated due to the nature of the estimate.

Section 144.080, RSMo. - Assumption of Sales Tax By Sellers:

Officials from the **Office of Administration - Division of Budget and Planning** assume this provision would allow a seller to advertise that the required sales tax would be assumed or absorbed into the price of goods or services if the amount of the tax is displayed on the receipt or invoice. BAP officials assumed the proposal would have no direct impact on Total State Revenues.

Officials from the **Department of Revenue** assume this provision would have no impact on their organization or on state revenues.

ASSUMPTION (continued)

Section 144.190, RSMo. - Refund Claims Procedure:

Officials from the **Office of Administration - Division of Budget and Planning** assume this provision would modify provisions related to sales tax refund claims made by the purchasers of certain taxable property. Based on information provided by the Department of Revenue, BAP officials estimated these provisions may have impacted less than \$5 million in sales tax refund claims over the last several years; however, it is possible more refund claims may be received if this proposal is adopted. Therefore, BAP officials assume this proposal could reduce Total State Revenues by more than \$5 million annually.

Officials from the **Department of Revenue** assume this provision would result in a revenue reduction greater than \$5 million per year.

IT impact

DOR officials provided an estimate of the IT cost to implement this proposal of \$5,460, based on 200 hours of programming to make changes to DOR systems.

Oversight assumes OA - ITSD (DOR) is provided with core funding to handle a certain amount of activity each year. Oversight assumes OA - ITSD (DOR) could absorb the costs related to this proposal. If multiple bills pass which require additional staffing and duties at substantial costs, OA - ITSD (DOR) could request funding through the appropriation process.

Oversight assumes the potential revenue reduction for this proposal is unknown; however, if the impact is \$5 million, that impact would be distributed across those funds which receive sales and use tax revenues. The actual distribution of \$5 million in state sales tax revenues would depend on the type of property purchased and the type of taxable services involved.

- * The 3% General Sales tax of approximately \$3.5 million would be deposited into the General Revenue Fund, or into Road Funds if the sales or use tax was imposed on a motor vehicle. The amounts due to the Road Funds are further distributed according to a formula in the Missouri Constitution.
- * The 1% Education Sales Tax of approximately \$1.2 million would be deposited into the School District Trust Fund, to be distributed to school districts along with other money in the fund.

ASSUMPTION (continued)

- * The 1/8% Conservation Sales Tax of approximately \$150,000 would be deposited into the Conservation Commission Fund.
- * The 1/10% Parks, and Soil and Water Sales Tax of approximately \$120,000 would be deposited into funds managed by the Department of Natural Resources.
- * In addition to the state sales tax collections which could be refunded if this proposal is enacted, there would be approximately \$6.2 million in local sales taxes refunded.
- * The reduction in sales tax collections for local governments and for road funds would also result in reduced collection charges for the Department of Revenue.

For fiscal note purposes, **Oversight** will indicate a revenue reduction for sales and use taxes greater than \$100,000 for the General Revenue Fund, other state funds which receive sales tax revenues, and for local governments. Oversight will also indicate an unknown revenue reduction for the General Revenue Fund for the reduction in local government sales tax collection charges.

Oversight assumes any revenue reduction to road funds would be minimal and will not include an impact for road funds in this fiscal note.

Oversight comment

Oversight understands that sales tax revenues in the School District Trust Fund are distributed along with other revenues to local school districts but will not show those transfers in this fiscal note.

Section 221.407, RSMo - Regional Jail District Tax:

Officials from the **Office of Administration - Division of Budget and Planning** assume this provision would extend the current regional jail tax in Daviess and Dekalb Counties, and assumes the provision would have no impact on Total State Revenues.

Officials from the **Department of Revenue** assume this proposal would have no impact on their organization.

ASSUMPTION (continued)

Oversight assumes this provision would permit regional jail districts to submit sales tax ballots from September 30, 2015, to September 30, 2027 and notes this to be permissive. Oversight assumes this provision has no fiscal impact to the state or to local governments.

Bill as a whole responses

Officials from the **Office of State Courts Administrator** assume this proposal would have no fiscal impact on their organization.

In response to similar proposals, officials from the **Office of the Secretary of State (SOS)** assumed many bills considered by the General Assembly include provisions allowing or requiring agencies to submit rules and regulations to implement the act. The SOS is provided with core funding to handle a certain amount of normal activity resulting from each year's legislative session. The fiscal impact for this fiscal note to the Secretary of State's Office for Administrative Rules is less than \$2,500. The SOS recognizes that this is a small amount and does not expect that additional funding would be required to meet these costs. However, we also recognize that many such bills may be passed by the General Assembly in a given year and that collectively the costs may be in excess of what our office can sustain with our core budget. Therefore, we reserve the right to request funding for the cost of supporting administrative rules requirements should the need arise based on a review of the finally approved bills signed by the governor.

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 **Office of the Attorney General** assume any potential costs arising from this proposal could be absorbed with existing resources.

Officials from **Platte County** assume this proposal would have no fiscal impact on their organization.

| <u>FISCAL IMPACT - State Government</u> | FY 2015 (10 Mo.) | FY 2016 | FY 2017 |
|--|-----------------------|-----------------------|-----------------------|
| GENERAL REVENUE FUND | | | |
| <u>Cost - DOR</u> | | | |
| Additional litigation - Burden of proof requirement | | | |
| Section 136.300 | | | |
| Salaries | (\$61,990) | (\$74,388) | (\$75,132) |
| Benefits | (\$31,618) | (\$37,942) | (\$38,321) |
| Equipment and expense | <u>(\$12,477)</u> | <u>(\$1,199)</u> | <u>(\$1,229)</u> |
| Total | (\$106,085) | (\$113,529) | (\$114,682) |
| | | | |
| <u>FTE change - DOR</u> | 2 FTE | 2 FTE | 2 FTE |
| | | | |
| <u>Revenue reduction - Burden of proof requirement</u> | | | |
| Section 136.300 | (Unknown) | (Unknown) | (Unknown) |
| | | | |
| <u>Additional revenue - Previous year withholding taxes paid</u> | | | |
| Section 143.221, RSMo | \$0 | Unknown | Unknown |
| | | | |
| <u>Revenue reduction - Delayed filing and payment of withholding taxes</u> | | | |
| Section 143.221, RSMo | (Unknown) | (Unknown) | (Unknown) |
| | | | |
| <u>Revenue reduction - Motor fuel and sales tax exemptions</u> | | | |
| Sections 142.815 and 144.030 | (Less than \$100,000) | (Less than \$100,000) | (Less than \$100,000) |
| | | | |
| <u>Revenue reduction - Corporate income tax on interstate transactions</u> | | | |
| Section 143.451 | (Up to \$15,000,000) | (Up to \$15,000,000) | (Up to \$15,000,000) |
| | | | |
| <u>Revenue reduction - Sales tax exemption on admissions charges</u> | | | |
| Sections 144.010, 144.018 and 144.020 | (\$21,250,000) | (\$25,500,000) | (\$25,500,000) |

| <u>FISCAL IMPACT - State Government</u> (Continued) | FY 2015 (10 Mo.) | FY 2016 | FY 2017 |
|---|--|--|--|
| <u>Revenue reduction - DOR</u> | | | |
| Collection charges on sales tax Section 144.058.2 | (\$1,222,776) | (\$1,437,662) | (\$1,437,662) |
| <u>Revenue reduction - Sales tax exemption on utility businesses</u> | | | |
| Section 144.058.1 | (\$18,875,000) | (\$22,650,000) | (\$22,650,000) |
| <u>Revenue reduction - Sales tax exemption on data processing costs</u> | | | |
| Section 144.058.2 | (\$89,224,050) | (\$107,068,860) | (\$107,068,860) |
| <u>Revenue reduction - DOR</u> | | | |
| Collection charges on refund claims Section 144.190 | (Unknown) | (Unknown) | (Unknown) |
| <u>Revenue reduction - Refund claims</u> | | | |
| Section 144.190 | (More than <u>\$100,000</u>) | (More than <u>\$100,000</u>) | (More than <u>\$100,000</u>) |
| ESTIMATED NET EFFECT ON GENERAL REVENUE FUND | (Could exceed <u>\$145,777,911</u>) | (Could exceed <u>\$171,870,051</u>) | (Could exceed <u>\$171,871,204</u>) |
| Estimated Net FTE effect on General Revenue Fund | 2 FTE | 2 FTE | 2 FTE |

| <u>FISCAL IMPACT - State Government</u> (Continued) | FY 2015 (10 Mo.) | FY 2016 | FY 2017 |
|--|---|---|---|
| SCHOOL DISTRICT TRUST FUND | | | |
| <u>Revenue reduction</u> - Motor fuel and sales tax exemptions Sections 142.815 and 144.030 | (Less than \$100,000) | (Less than \$100,000) | (Less than \$100,000) |
| <u>Revenue reduction</u> - Sales tax exemption on admission charges Sections 144.010, 144.018 and 144.020 | (\$7,083,000) | (\$8,500,000) | (\$8,500,000) |
| <u>Revenue reduction</u> - Sales tax exemption on utility businesses Section 144.058.1 | (\$6,291,667) | (\$7,550,000) | (\$7,550,000) |
| <u>Revenue reduction</u> - Sales tax exemption on data processing costs Section 144.058.2 | (\$34,315,304) | (\$41,178,365) | (\$41,178,365) |
| <u>Revenue reduction</u> - Refund claims Section 144.190 | (More than <u>\$100,000</u>) | (More than <u>\$100,000</u>) | (More than <u>\$100,000</u>) |
| ESTIMATED NET EFFECT ON SCHOOL DISTRICT TRUST FUND | (Could exceed <u>\$47,789,971</u>) | (Could exceed <u>\$57,328,365</u>) | (Could exceed <u>\$57,328,365</u>) |

| <u>FISCAL IMPACT - State Government</u> (Continued) | FY 2015 (10 Mo.) | FY 2016 | FY 2017 |
|---|--|--|--|
| CONSERVATION COMMISSION FUND | | | |
| <u>Revenue reduction</u> - Motor fuel and sales tax exemptions Sections 142.815 and 144.030 | (Less than \$100,000) | (Less than \$100,000) | (Less than \$100,000) |
| <u>Revenue reduction</u> - Sales tax exemption on admission charges Sections 144.010, 144.018 and 144.020 | (\$855,417) | (\$1,062,500) | (\$1,062,500) |
| <u>Revenue reduction</u> - Sales tax exemption on utility businesses Section 144.058.1 | (\$786,458) | (\$943,750) | (\$943,750) |
| <u>Revenue reduction</u> - Sales tax exemption on data processing costs Section 144.058.2 | (\$4,306,690) | (\$5,168,028) | (\$5,168,028) |
| <u>Revenue reduction</u> - Refund claims Section 144.190 | (More than <u>\$100,000</u>) | (More than <u>\$100,000</u>) | (More than <u>\$100,000</u>) |
| ESTIMATED NET EFFECT ON CONSERVATION COMMISSION FUND | (Could exceed <u>\$6,048,565</u>) | (Could exceed <u>\$7,274,278</u>) | (Could exceed <u>\$7,274,278</u>) |

| <u>FISCAL IMPACT - State Government</u> (Continued) | FY 2015 (10 Mo.) | FY 2016 | FY 2017 |
|--|--|--|--|
| PARKS, AND SOIL AND WATER FUNDS | | | |
| <u>Revenue reduction</u> - Motor fuel and sales tax exemptions Sections 142.815 and 144.030 | (Less than \$100,000) | (Less than \$100,000) | (Less than \$100,000) |
| <u>Revenue reduction</u> - Sales tax exemption on admission charges Sections 144.010, 144.018 and 144.020 | (\$708,333) | (\$850,000) | (\$850,000) |
| <u>Revenue reduction</u> - Sales tax exemption on utility businesses Section 144.058.1 | (\$629,167) | (\$755,000) | (\$755,000) |
| <u>Revenue reduction</u> - Sales tax exemption on data processing costs Section 144.058.2 | (\$3,445,231) | (\$4,134,277) | (\$4,134,277) |
| <u>Revenue reduction</u> - Refund claims Section 144.190 | (More than <u>\$100,000</u>) | (More than <u>\$100,000</u>) | (More than <u>\$100,000</u>) |
| ESTIMATED NET EFFECT ON PARKS, AND SOIL AND WATER FUNDS | (Could exceed <u>\$4,882,731</u>) | (Could exceed <u>\$5,839,277</u>) | (Could exceed <u>\$5,839,277</u>) |

| <u>FISCAL IMPACT - Local Government</u> | FY 2015 (10 Mo.) | FY 2016 | FY 2017 |
|---|--|--|--|
| LOCAL GOVERNMENTS | | | |
| <u>Revenue reduction</u> - Motor fuel and sales tax exemptions Sections 142.815 and 144.030 | (Less than \$100,000) | (Less than \$100,000) | (Less than \$100,000) |
| <u>Revenue reduction</u> - Unclaimed gallonage distribution Section 142.815 RSMO - | (\$416,667) | (\$500,000) | (\$500,000) |
| <u>Revenue reduction</u> - Sales tax exemption on admission charges Sections 144.010, 144.018, and 144.020 | (\$26,208,333) | (\$31,450,000) | (\$31,450,000) |
| <u>Reduction in cost</u> - DOR collection charges Section 144.058.1 | \$1,222,776 | \$1,437,662 | \$1,437,662 |
| <u>Revenue reduction</u> - Sales tax exemption on data processing costs Section 144.058.2 | (\$122,277,629) | (\$143,766,154) | (\$143,766,154) |
| <u>Revenue reduction</u> - Refund claims Section 144.190 | (More than <u>\$100,000</u>) | (More than <u>\$100,000</u>) | (More than <u>\$100,000</u>) |
| ESTIMATED NET EFFECT ON LOCAL GOVERNMENTS | (Could exceed <u>\$170,059,020</u>) | (Could exceed <u>\$202,313,492</u>) | (Could exceed <u>\$202,313,492</u>) |

FISCAL IMPACT - Small Business

This proposal could have a direct fiscal impact to small businesses which buy or sell motor fuel used in watercraft, which have interstate sales, which operate places of amusement, entertainment, recreation, and games, which own or operate data processing equipment, which are electrical utilities, or which buy or sell used manufactured homes, or drugs, supplies, and devices used in the treatment of terminal illnesses.

FISCAL DESCRIPTION

This proposal would make changes to Missouri tax law.

- * This proposal would place the burden of proof on the Department of Revenue in all tax disputes.
- * This proposal would require a specific statement on all correspondence from the Office of the st. Louis County Assessor.
- * This proposal would provide a motor fuel and sales tax exemption for motor fuel used in watercraft.
- * This proposal would increase the minimum accumulated withholding tax needed to require quarterly withholding.
- * This proposal would provide a new method for allocating corporate taxable income from interstate sales.
- * This proposal would specify which places of amusement, entertainment, recreation, games, and athletic events must collect sales tax, and would specify that right of first refusal fees for a specific venue are not subject to sales tax.
- * This proposal would provide a sales and use tax exemption for used manufactured homes, for drugs, supplies, and devices used in the treatment of terminal illnesses, and for materials and supplies, energy, and equipment purchased by utility companies and in data processing.

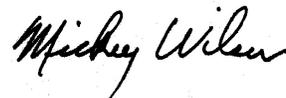
FISCAL DESCRIPTION (continued)

- * This proposal would allow sellers to advertise that sales tax would be assumed or absorbed by the seller, provided the sales tax amount was displayed on the receipt or invoice.
- * This proposal would provide a process for claiming a refund for an offset or credit after the statute of limitations has passed for filing claims, if the offset or credit results from an examination by the Department of Revenue.
- * Finally, this proposal would extend the time for submitting ballot measures for a sales tax to support the regional jail in Daviess and DeKalb counties.

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

Office of State Courts Administrator
Office of the Secretary of State
Office of the Attorney General
Joint Committee on Administrative Rules
Office of Administration
 Division of Budget and Planning
Department of Agriculture
Department of Economic Development
Department of Public Safety
 Missouri Highway Patrol
Department of Revenue
University of Missouri
 Economic and Policy Analysis Research Center
City of Kansas City
St. Louis County Directors of Elections



Mickey Wilson, CPA
Director
June 16, 2014

Ross Strobe
Assistant Director
June 16, 2014