

COMMITTEE ON LEGISLATIVE RESEARCH
OVERSIGHT DIVISION

FISCAL NOTE

L.R. No.: 3378-02
Bill No.: Perfected SCS for SB 744
Subject: Agriculture and Animals; Motor Fuel; Taxation and Revenue - Sales & Use.
Type: Original
Date: February 22, 2005

FISCAL SUMMARY

ESTIMATED NET EFFECT ON GENERAL REVENUE FUND			
FUND AFFECTED	FY 2007	FY 2008	FY 2009
General Revenue	(\$94,675)	(\$18,095,610)	(\$15,949,110)
Total Estimated Net Effect on General Revenue Fund	(\$94,675)	(\$18,095,610)	(\$15,949,110)

ESTIMATED NET EFFECT ON OTHER STATE FUNDS			
FUND AFFECTED	FY 2007	FY 2008	FY 2009
Various State Funds	(\$38,658)	\$26,926,610	\$23,706,860
Total Estimated Net Effect on <u>Other</u> State Funds	(\$38,658)	\$26,926,610	\$23,706,860

Numbers within parentheses: () indicate costs or losses.
This fiscal note contains 7 pages.

ESTIMATED NET EFFECT ON FEDERAL FUNDS			
FUND AFFECTED	FY 2007	FY 2008	FY 2009
Total Estimated Net Effect on <u>All</u> Federal Funds	\$0	\$0	\$0

ESTIMATED NET EFFECT ON LOCAL FUNDS			
FUND AFFECTED	FY 2007	FY 2008	FY 2009
Local Government	\$0	(\$8,991,000)	(\$7,917,750)

FISCAL ANALYSIS

ASSUMPTION

Officials from the **Department of Agriculture** assume this proposal will not fiscally impact their agency.

Officials from the **Department of Transportation (MoDOT)** state under current law, an exemption from local sales tax is permitted for half of the purchase amount of diesel fuel used solely for agricultural purposes. This legislation completely exempts purchases of diesel fuel for agricultural purposes from local sales taxes. Because the use of the diesel fuel is intended solely for agricultural purposes and not for transportation on the public highways of the state, this fuel, even if taxed, would not produce state revenues derived from highway users. MoDOT assumes, therefore, the proposal would not fiscally impact their agency.

Officials from the **Department of Revenue (DOR)** state during FY 2005, the department collected approximately \$160,000 in sales taxes (state only) on refunds of clear diesel fuel sold for agriculture purposes. This amount would be exempted under this legislation. DOR states there are no sales taxes collected on gasoline, therefore, no additional revenues would be lost.

Currently the retailer charges sales tax (both state & local) on ½ of the purchase price of dyed diesel fuel purchased for agricultural purposes. DOR cannot determine how much sales tax is

ASSUMPTION (continued)

currently being collected on these purchases, therefore, cannot provide an estimate of lost revenues on dyed diesel fuel.

Kerosene is subject to motor fuel tax. If it is used for non-highway purposes, then a refund may be claimed. Sales tax is then charged against the refund unless it was used for home heating purposes.

This exemption would lessen the burden on the retailer collecting sales tax. Also, DOR excise personnel would not have to calculate the price per gallon and the sales tax on refunds of motor fuel for agricultural purposes. This would reduce the process time on those particular refunds.

However, there is some potential for falsely claiming other types of refunds as agricultural refunds. For example, when the price per gallon is high, the sales tax on refunds greatly reduces the overall amount of the refund. Therefore, in order to get a larger portion of the motor fuel refund, unscrupulous entities may falsely claim a refund of motor fuel as agricultural, instead of what it was truly intended for (ie. construction).

Even though there may be a loss in total state revenues, this legislation will not create an impact on Taxation. DOR estimates a loss to the General Revenue fund of \$160,000 in all three fiscal years. DOR states the local sales tax on this fuel is not collected, therefore, the proposal would not fiscally impact the local governments.

Officials from the **Office of Administration - Budget and Planning (BAP)** states that the proposal would not fiscally impact their agency. BAP states the Department of Revenue estimates that \$160,000 was collected in diesel fuel taxes in FY 2005. BAP assumes a similar amount would be collected in FY 2006. Therefore, BAP assumes a loss to general revenue resulting from this proposal.

In response to a previous version of the proposal, officials from **St. Louis County** state when a fuel retailer sells diesel fuel for agricultural purposes and determines that 'motor fuel tax' is not to be charged, sales tax is then charged on the sale of diesel fuel. St. Louis County state it appears that the fiscal impact on their county would be minimal.

In response to a previous version of the proposal, officials from the **City of Kansas City** assumed the proposal would have no adverse or beneficial fiscal impact on the city.

In response to a previous version of the proposal, officials from **Jefferson County** assumed the proposal would have a minimum fiscal impact to their county.

ASSUMPTION (continued)

In response to a similar proposal from this year (SB 739), officials from **Jasper County** assumed the proposal would not fiscally impact their county.

Oversight assumes there will be 10/12ths of a year of fiscal impact in FY 2007 with an effective date of August 28, 2006. Oversight assumes the \$160,000 in annual sales taxes that will no longer be collected as a result of this proposal will be divided between the four funds that comprise the state sales tax as shown below.

<u>Fund</u>		<u>Percentage of rate</u>	<u>Percentage of \$160,000</u>
General Revenue	3.000%	71%	\$113,610
School District Trust Fund	1.000%	24%	\$ 37,870
Parks and Soils	.100%	2%	\$ 3,790
Conservation	.125%	3%	\$ 4,730
	4.225%	100%	\$160,000

Senate Amendment 1:

In response to SB 629 from this year, officials of the **Office of Administration, Division of Budget and Planning (BAP)** assumed this would exempt contractors from paying sales tax on Missouri Department of Transportation (MoDOT) projects. This will decrease General and Total State revenues. BAP deferred to MoDOT to provide an estimate. This would have no impact on BAP.

In response to SB 629 from this year, officials of the **Department of Transportation (MoDOT)** assumed this exempts contractors from paying sales tax on materials used in MoDOT projects. Section 144.062, RSMo currently exempts sales of personal property and materials used for the purpose of constructing, repairing, or remodeling facilities for counties, other political subdivisions and certain exempt entities from the state sales tax. This would add the Department of Transportation as an exempt entity. Therefore, materials could be purchased by a contractor for a MoDOT project on a tax-exempt basis.

The sales tax which contractors currently pay on materials purchased for MoDOT projects is included in the project cost which is paid by MoDOT. Assuming that contractors would reduce their project costs due to the ability to purchase materials on a tax-exempt basis, this would result in a cost savings for MoDOT.

ASSUMPTION (continued)

The proposed legislation would result in cost savings beyond the three-year period addressed by this fiscal note. An estimate for fiscal year 2010 is \$12,142,650.

Based on the 2005-2009 Statewide Transportation Improvement Program (STIP), which does not include Amendment 3 projects; ½ construction contracts labor, ½ materials; July 1, 2007 effective date; and sales tax rate of 4.225%, the cost savings were calculated as follows:

Fiscal Year	STIP Awards	% Materials	Materials Cost	Sales Tax Rate	Cost Savings
2007	\$1,198,800,000	50%	\$599,400,000	4.225%	\$25,324,650
2008	\$1,055,700,000	50%	\$527,850,000	4.225%	\$22,301,663
2009	\$574,800,000	50%	\$287,400,000	4.225%	\$12,142,650

In response to SB 629 from this year, officials of the **Department of Revenue (DOR)** assumed this exempts contractors from paying sales tax on materials purchased for use in MoDOT projects. This legislation would have no administrative impact on DOR.

Oversight calculated the revenue impact to include an impact to cities and counties. **Oversight** assumes this proposal would create a saving of \$34.3 million in FY08 and \$30.2 million in FY09 for the Road Fund. Combined losses in the General Revenue Fund, School District Trust Fund, Conservation Fund, Parks and Soils Fund and local city/county funds equal the savings in the Road Fund for this proposal.

This proposal will reduce Total State Revenues.

<u>FISCAL IMPACT - State Government</u>	FY 2007 (10 Mo.)	FY 2008	FY 2009
GENERAL REVENUE			
<u>Loss - to General Revenue Fund</u>			
sales tax revenue from exemption of diesel fuel used for agricultural purposes	<u>(\$94,675)</u>	<u>(\$113,610)</u>	<u>(\$113,610)</u>
<u>Loss to General Revenue Fund</u>			
Exemption for MoDOT projects (SA1)	<u>\$0</u>	<u>(\$17,982,000)</u>	<u>(\$15,835,500)</u>
ESTIMATED NET EFFECT TO THE GENERAL REVENUE FUND	<u>(\$94,675)</u>	<u>(\$18,095,610)</u>	<u>(\$15,949,110)</u>

<u>FISCAL IMPACT - State Government</u> (continued)	FY 2007 (10 Mo.)	FY 2008	FY 2009
VARIOUS STATE FUNDS			
<u>Savings</u> to Road Fund			
Exemption for MoDOT projects (SA1)	\$0	\$34,315,650	\$30,219,413
<u>Loss</u> - Various Funds			
sales tax revenue from exemption of diesel fuel used for agricultural purposes	(\$38,658)	(\$46,390)	(\$46,390)
<u>Loss</u> to School District Trust Fund			
Exemption for MoDOT projects (SA1)	\$0	(\$5,994,000)	(\$5,278,500)
<u>Loss</u> to Conservation Fund			
Exemption for MoDOT projects (SA1)	\$0	(\$749,250)	(\$659,813)
<u>Loss</u> to Parks and Soil Funds			
Exemption for MoDOT projects (SA1)	<u>\$0</u>	<u>(\$599,400)</u>	<u>(\$527,850)</u>
ESTIMATED NET EFFECT TO VARIOUS STATE FUNDS	<u>(\$38,658)</u>	<u>\$26,926,610</u>	<u>\$23,706,860</u>
<u>FISCAL IMPACT - Local Government</u>	FY 2007 (10 Mo.)	FY 2008	FY 2009
CITIES AND COUNTIES			
<u>Loss</u> to Cities			
Exemption for MoDOT projects (SA1)	\$0	(\$5,394,600)	(\$4,750,650)
<u>Loss</u> to Counties			
Exemption for MoDOT projects (SA1)	<u>\$0</u>	<u>(\$3,596,400)</u>	<u>(\$3,167,100)</u>
ESTIMATED NET EFFECT TO LOCAL GOVERNMENT	<u>\$0</u>	<u>(\$8,991,000)</u>	<u>(\$7,917,750)</u>

FISCAL IMPACT - Small Business

Small farming or agricultural businesses and small businesses that contract with MoDOT could see a savings in sales taxes as a result of this proposal.

DESCRIPTION

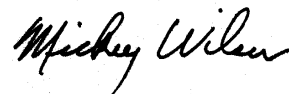
Under current law, an exemption from local sales tax is permitted for half of the purchase amount of diesel fuel used for agricultural purposes. This act completely exempts purchases of motor fuel for agricultural purposes from local sales tax.

Senate Amendment 1 exempts contractors from paying sales taxes on materials used in Department of Transportation projects. The sales tax exemption does not take effect until after June 30, 2007.

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

Department of Agriculture
Office of Administration - Budget and Planning
Department of Revenue
Department of Transportation
Jasper County
City of Kansas City
Jefferson County
St. Louis County



Mickey Wilson, CPA
Director
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