

COMMITTEE ON LEGISLATIVE RESEARCH
OVERSIGHT DIVISION

FISCAL NOTE

L.R. No.: 0289-01
Bill No.: SB 57
Subject: Economic Development; Entertainment, Sports and Amusement; Taxation and Revenue - Sales and Use
Type: Original
Date: January 28, 2015

Bill Summary: This proposal would create a sales and use tax exemption for fitness facilities and data storage centers.

FISCAL SUMMARY

ESTIMATED NET EFFECT ON GENERAL REVENUE FUND			
FUND AFFECTED	FY 2016	FY 2017	FY 2018
General Revenue	(Up to \$6,831,162)	(Up to \$13,500,000)	(Up to \$13,500,000) or (Could exceed \$14,500,000)
Total Estimated Net Effect on General Revenue	(Up to \$6,831,162)	(Up to \$13,500,000)	(Up to \$13,500,000) or (Could exceed \$14,500,000)

Numbers within parentheses: () indicate costs or losses.
This fiscal note contains 14 pages.

ESTIMATED NET EFFECT ON OTHER STATE FUNDS			
FUND AFFECTED	FY 2016	FY 2017	FY 2018
School District Trust	(Up to \$2,250,000)	(Up to \$4,500,000)	(Up to \$4,500,000) or (Could exceed \$4,600,000)
Conservation Commission	(Up to \$281,250)	(Up to \$562,500)	(Up to \$562,500) or (Less than \$662,500)
Parks, and Soil & Water	(Up to \$225,000)	(Up to \$450,000)	(Up to \$450,000) or (Less than \$550,000)
Total Estimated Net Effect on <u>Other</u> State Funds	(Up to \$2,756,250)	(Up to \$5,512,500)	(Up to \$5,512,500) or (Could exceed \$5,812,500)

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	(Up to \$8,730,000)	(Up to \$17,460,000)	(Up to \$17,460,000) or (Could exceed \$18,460,000)

FISCAL ANALYSIS

ASSUMPTION

Sections 144.030, RSMo. - Sales and Use Tax Exemptions for Services at Fitness Facilities

Officials from the **Department of Revenue (DOR)** noted this legislation proposal would provide sales and use tax exemptions to businesses that provide instructional classes, training, or memberships at a fitness facility, gymnasium, or dance studio.

Fiscal impact

DOR officials assume the exemption for fitness facilities would reduce Total State Revenue by an amount up to \$19 million. We asked for a more detailed explanation of this estimate, and DOR officials stated this was their estimate of impact for all state funds at the 4.225% rate applicable to sales other than food.

ASSUMPTION (continued)

Oversight notes the DOR estimate of \$19 million at 4.225% implies a sales base of $(\$19,000,000 / .04225) = \$449,704,142$. Oversight also notes this provision would be effective January 1, 2016. For convenience, Oversight will round the sales base to \$450 million and calculate the estimated impact by fund and entity. The results follow.

		Revenue Reduction	
Fund or entity	Sales Tax Rate	Six months	Full year
General Revenue	3.000%	\$6,750,000	\$13,500,000
Conservation Commission	0.125%	\$281,250	\$562,500
Parks, and Soil and Water	0.100%	\$225,000	\$450,000
School District Trust	1.000%	\$2,250,000	\$4,500,000
Total state	4.225%	\$9,506,250	\$19,012,500
Local governments *	3.880%	\$8,730,000	\$17,460,000
* The 3.88% local sales tax rate is an average calculated by Oversight based on collections reported by the Department of Revenue.			

Oversight assumes the DOR estimate of fiscal impact is the best available estimate and will indicate revenue reductions for this proposal up to the amounts calculated above.

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

Administrative impact

DOR officials did not include any estimate of administrative impact for this provisions, and **Oversight** assumes this provision could be implemented with existing resources.

ASSUMPTION (continued)

Sections 144.810, RSMo. - Sales and Use Tax Exemptions for Data Storage Facilities

Officials from the **Department of Economic Development (DED)** assume the proposed legislation would create a state and local sales and use tax exemption for data storage centers. The sales and use tax exemption would be available to a taxpayer that constructs or expands a data storage facility within Missouri and creates at least 30 new jobs. A qualifying facility would have a minimum investment of at least \$37 million, and DED would be responsible for approving applications, verifying jobs and investment requirements are met, and coordinating the tax exemption with DOR.

Administrative impact

DED officials assume Business and Community Services would require one additional Economic Development Specialist II who would be responsible for creating guidelines, verifying applications, and coordinating with DOR.

The DED estimate of administrative cost to implement this proposal including one additional employee and the related benefits, equipment, and expense totaled \$69,661 for FY 2016, \$75,958 for FY 2017, and \$76,776 for FY 2018.

Oversight assumes there would be a limited number of entities eligible for this sales and use tax exemption and DED could absorb the additional workload with existing resources. If this proposal creates an unanticipated increase in the DED workload, or if multiple proposals were implemented which created a substantial increase in the DED workload, resources could be requested through the budget process.

DED officials deferred to the Department of Revenue for an estimate of the impact this proposal could have on Total State Revenue.

Officials from the **Department of Revenue (DOR)** assume this provision would exempt data storage center projects from state and local sales and use taxes for a period up to 15 years.

DOR officials assume the state and local sales tax exemption would create an unknown impact on Total State Revenue. However, the provision also states that any exemptions provided under this language could not exceed the projected net fiscal benefit to the state over a ten-year period.

ASSUMPTION (continued)

Oversight notes this proposal would provide a relatively broad sales tax exemption for the costs to create, maintain, and operate a data storage facility, but would require a minimum \$37 million investment in a new facility within thirty-six months, or a minimum \$5 million investment in an expanding facility within twelve months. The proposed project would need to meet job creation requirements, and would require approval by the Department of Economic Development (DED). DED would then conditionally certify the project to the Department of Revenue (DOR). Upon completion of the project, DED would certify project eligibility to DOR, and DOR would refund the sales tax paid on the project.

If the proposal became effective August 28, 2015, construction could begin late in FY 2016 and would likely not be completed until late in FY 2017. Refunds would not likely be certified and paid to project owners until FY 2018.

Oversight is not aware of any existing or planned projects which could qualify for the program, but if one new facility project was completed in time for a refund to be paid in FY 2018, the sales tax amounts could be computed as follows. For fiscal note purposes, Oversight assumes the entire \$37 million investment would qualify for the exemption and has calculated the potential impact below.

Entity	Sales Tax Rate	Sales Tax
General Revenue Fund	3%	\$1,110,000
Conservation Commission Fund	1/8%	\$46,250
School District Trust Fund	1%	\$370,000
Parks, Soil & Water Funds	1/10%	\$37,000
Local Governments	Average 3.88%	\$1,435,600
* The 3.88% local sales tax rate is an average calculated by Oversight based on collections reported by the Department of Revenue.		

ASSUMPTION (continued)

Oversight will indicate a fiscal impact in FY 2018 for this provision for the General Revenue Fund and for local governments of \$0 (no project qualifies for the exemption) or a revenue reduction of More than \$1,000,000 (one or more projects qualify for the exemption), an impact of \$0 or a revenue reduction of More than \$100,000 for the School District Trust Fund, and an impact of \$0 or Less than \$100,000 for other state funds which receive sales tax revenues.

Administrative impact

DOR officials assume the department would be required to create a rule or regulation to implement the provisions of this subdivision.

DOR officials also assume Collections and Tax Assistance would require one additional Revenue Processing Technician I (Range 10, Step L) to respond to additional contacts in the registration section; the new employee would require CARES telephone system equipment and software, and Sales Tax would require one additional Revenue Processing Technician I (Range 10, Step L) to complete amended returns and process refunds.

The DOR estimate of cost to implement this proposal including two additional employees and the related employee benefits, equipment and expense totaled \$81,365 for FY 2016, \$83,264 for FY 2017, and \$84,130 for FY 2018.

Oversight assumes there would be a limited number of entities eligible for this sales and use tax exemption and DOR could absorb the additional workload with existing resources. If this proposal creates an unanticipated increase in the DOR workload, or if multiple proposals were implemented which created a substantial 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 this provision of \$81,162 for 1,082 hours of programming to make changes to DOR systems.

Oversight notes the DOR estimate of IT cost to implement this proposal was based on the current state contract rate for IT consulting services. DOR officials told us OA-ITSD (DOR) had informed them employees would not be available in FY 2016 for projects required to implement new legislation and contractors would be required.

ASSUMPTION (continued)

For fiscal note purposes only, **Oversight** will include the DOR estimate of IT cost.

Bill as a whole responses

Officials from the **Department of Conservation (MDC)** assume this proposal would have an unknown negative fiscal impact to their organization, but greater than \$100,000. MDC officials stated Conservation Sales Tax funds are derived from a one-eighth of one percent sales and use tax pursuant to the Missouri Constitution.

MDC officials deferred to the Department of Revenue for an estimate of the anticipated fiscal impact for this proposal.

Officials from the **Department of Natural Resources (DNR)** deferred to the Department of Revenue and Office of Administration - Division of Budget and Planning for a more detailed account of the fiscal impact of this proposal.

Officials from the **Office of Administration - Division of Budget and Planning (BAP)** assume this proposal would provide sales tax exemptions for fitness facility fees and for data storage centers.

BAP officials noted this proposal would exempt charges for instructional classes, training, or membership at a fitness facility, gymnasium, or dance studio from state and local sales tax.

BAP officials also noted this proposal would provide a state and local sales tax exemption for electrical energy, gas, water, other utilities, machinery, equipment, computers, and construction materials used in a new or expanded data center. The amount of any exemption provided under this subsection could not exceed the projected net fiscal benefit to the state over a period of ten years. BAP officials assume the proposed changes in this proposal would not impact current Total State Revenues but stated future revenues may be forgone. Finally, BAP officials assume this program could encourage other economic activity, but noted they do not have data to estimate the induced revenues and stated the Department of Economic Development may have such an estimate.

ASSUMPTION (continued)

The BAP response included an estimated fiscal impact as shown in the following table.

Fund or entity	FY 2016	FY 2017	FY 2018
General Revenue	\$10,900,000	\$13,100,000	\$13,100,000
Parks, and Soil and Water	\$400,000	\$400,000	\$400,000
Conservation	\$500,000	\$500,000	\$500,000
Education	\$3,600,000	\$4,400,000	\$4,400,000
Local governments	\$15,400,000	\$18,400,000	\$18,400,000

Officials from the **Office of the Secretary of State (SOS)** assume 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 **Department of Economic Development - Public Service Commission, Office of Public Counsel, and Division of Energy** assume this proposal would have no fiscal impact on their organizations.

<u>FISCAL IMPACT - State Government</u>	FY 2016 (6 Mo.)	FY 2017	FY 2018
GENERAL REVENUE FUND			
<u>Revenue reduction</u> Sales tax exemption for Fitness Centers	(Up to \$6,750,000)	(Up to \$13,500,000)	(Up to \$13,500,000)
<u>Revenue reduction</u> Sales tax exemption for Data Storage Facilities	\$0	\$0	\$0 or (More than \$1,000,000)
<u>Cost - DOR</u> Programming	(\$81,162)	<u>\$0</u>	<u>\$0</u>
ESTIMATED NET EFFECT ON GENERAL REVENUE FUND	(Up to <u>\$6,831,162</u>)	(Up to <u>\$13,500,000</u>)	(Up to \$13,500,000) or (Could exceed <u>\$14,500,000</u>)
SCHOOL DISTRICT TRUST FUND			
<u>Revenue reduction</u> Sales tax exemption for Fitness Centers	(Up to \$2,250,000)	(Up to \$4,500,000)	(Up to \$4,500,000)
<u>Revenue reduction</u> Sales tax exemption for Data Storage Facilities	<u>\$0</u>	<u>\$0</u>	\$0 or (More than <u>\$100,000</u>)
ESTIMATED NET EFFECT ON SCHOOL DISTRICT TRUST FUND	(Up to <u>\$2,250,000</u>)	(Up to <u>\$4,500,000</u>)	(Up to \$4,500,000) or (Could exceed <u>\$4,600,000</u>)

<u>FISCAL IMPACT - State Government</u> (Continued)	FY 2016 (6 Mo.)	FY 2017	FY 2018
CONSERVATION COMMISSION FUND			
<u>Revenue reduction</u> Sales tax exemption for Fitness Centers	(Up to \$281,250)	(Up to \$562,500)	(Up to \$562,500)
<u>Revenue reduction</u> Sales tax exemption for Data Storage Facilities	<u>\$0</u>	<u>\$0</u>	\$0 or (Less than <u>(\$100,000)</u>)
ESTIMATED NET EFFECT ON CONSERVATION COMMISSION FUND	<u>(Up to \$281,250)</u>	<u>(Up to \$562,500)</u>	<u>(Up to \$562,500) or (Less than \$662,500)</u>
PARKS, AND SOIL AND WATER FUND			
<u>Revenue reduction</u> Sales tax exemption for Fitness Centers	(Up to \$225,000)	(Up to \$450,000)	(Up to \$450,000)
<u>Revenue reduction</u> Sales tax exemption for Data Storage Facilities	<u>\$0</u>	<u>\$0</u>	\$0 or (Less than <u>(\$100,000)</u>)
ESTIMATED NET EFFECT ON PARKS, AND SOIL AND WATER FUND	<u>(Up to \$225,000)</u>	<u>(Up to \$450,000)</u>	<u>(Up to \$450,000) or (Less than \$550,000)</u>

<u>FISCAL IMPACT - Local Government</u>	FY 2016 (6 Mo.)	FY 2017	FY 2018
LOCAL GOVERNMENTS			
<u>Revenue reduction</u> Sales tax exemption for Fitness Centers	(Up to \$8,730,000)	(Up to \$17,460,000)	(Up to \$17,460,000)
<u>Revenue reduction</u> Sales tax exemption for Data Storage Facilities	<u>\$0</u>	<u>\$0</u>	\$0 or (More than <u>\$1,000,000</u>)
ESTIMATED NET EFFECT ON LOCAL GOVERNMENTS	(Up to <u>\$8,730,000</u>)	(Up to <u>\$17,460,000</u>)	(Up to \$17,460,000) or (Could exceed <u>\$18,460,000</u>)

FISCAL IMPACT - Small Business

Small businesses which operate fitness centers or data storage centers would pay lower sales taxes if this proposal is enacted.

FISCAL DESCRIPTION

This proposal would create a sales and use tax exemption for amounts paid for classes or membership at a fitness facility, gymnasium, or dance studio.

The proposed legislation would also create a state and local sales and use tax exemptions for machinery, equipment, computers, electrical energy, gas, water and other utilities, including telecommunication and internet services, used in new data storage center facilities. The proposal would also create a state and local sales and use tax exemption for purchases of tangible personal property for the construction of a new data storage center facility.

In order to receive the sales tax exemption provided for new data storage center facilities, an application would be made to the Department of Economic Development for certification. Such application must show that the project will result in at least thirty-seven million dollars of new facility investment and create at least thirty new jobs with wages of at least 150 percent of the county average wage over a three year period.

The proposal would create a state and local sales and use tax exemption for existing data storage center facilities for machinery, equipment, computers, electrical energy, gas, water and other utilities, including telecommunication and internet services. The exemption will only apply to the increase in expenditures for utilities over the previous year's expenditures. The exemptions for tangible property will be available only on the increase in expenditures over the average of the previous three years expenditures. In order to receive the sales tax exemption provided for existing data storage center facilities, an application must be made to the Department of Economic Development for certification. Such application must show that the project will result in at least five million dollars of new facility investment over a one year period and create at least five new jobs with wages of at least 150 percent of the county average wage over a two year period.

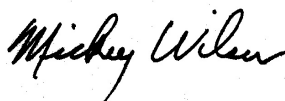
FISCAL DESCRIPTION (continued)

The Department of Economic Development and the Department of Revenue would be authorized to conduct random audits to ensure compliance with the requirements for state and local sales and use tax exemptions authorized under the act.

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 the Secretary of State
Joint Committee on Administrative Rules
Office of Administration
 Division of Budget and Planning
Department of Economic Development
Department of Revenue



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Director
January 28, 2015

Ross Strobe
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