

COMMITTEE ON LEGISLATIVE RESEARCH
OVERSIGHT DIVISION

FISCAL NOTE

L.R. No.: 1366-04
Bill No.: HCS for HB Nos. 517 & 754
Subject: Taxation and Revenue - Sales and Use
Type: Original
Date: March 10, 2015

Bill Summary: This proposal would specify that mandatory gratuities imposed by a restaurant for a large group are not subject to state and local sales tax when the tip is included in the employee's reported tip income.

FISCAL SUMMARY

ESTIMATED NET EFFECT ON GENERAL REVENUE FUND			
FUND AFFECTED	FY 2016	FY 2017	FY 2018
General Revenue	(Less than \$100,000)	(Less than \$100,000)	(Less than \$100,000)
Total Estimated Net Effect on General Revenue	(Less than \$100,000)	(Less than \$100,000)	(Less than \$100,000)

ESTIMATED NET EFFECT ON OTHER STATE FUNDS			
FUND AFFECTED	FY 2016	FY 2017	FY 2018
School Districts	(Less than \$100,000)	(Less than \$100,000)	(Less than \$100,000)
Conservation Commission	(Less than \$100,000)	(Less than \$100,000)	(Less than \$100,000)
Parks, and Soil and Water	(Less than \$100,000)	(Less than \$100,000)	(Less than \$100,000)
Total Estimated Net Effect on Other State Funds	(Less than \$100,000)	(Less than \$100,000)	(Less than \$100,000)

Numbers within parentheses: () indicate costs or losses.

This fiscal note contains 8 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	(Less than \$100,000)	(Less than \$100,000)	(Less than \$100,000)

FISCAL ANALYSIS

ASSUMPTION

Officials from the **Office of Administration - Division of Budget and Planning (BAP)** assume this proposal would exempt mandatory gratuities at restaurants from state sales tax. BAP officials noted that due to recent change in the federal Internal Revenue Service rules regarding mandatory gratuities for federal tax purposes, most restaurants have begun moving away from charging these mandatory fees. Therefore, BAP officials assume this proposal would reduce Total State Revenue by less than \$100,000 and General Revenue by less than \$71,000 per year.

BAP officials provided an estimate of revenue reduction by fund for this proposal as follows.

Fund or Entity	FY 2016	FY 2017	FY 2018
General Revenue	\$28,000	\$71,000	\$71,000
Conservation	\$1,000	\$3,000	\$3,000
Parks, and Soil and Water	\$1,000	\$2,000	\$2,000
Education	\$9,000	\$24,000	\$24,000
Total	\$71,000	\$100,000	\$100,000

Oversight has no independent information regarding the amount of mandatory service charges at restaurants, and will assume for fiscal note purposes the BAP estimate is the best available. Oversight notes the full year estimate of \$100,000 in revenues would indicate a taxable sales base of $(\$100,000 / .04225) = \$2,366,864$. For convenience, Oversight will round that amount to \$2.4 million and compute sales taxes on that amount as shown in the following table.

ASSUMPTION (continued)

		Estimated Revenue Reduction	
Fund	Sales Tax Rate	Ten Months	Twelve Months
General Revenue	3.000%	\$60,000	\$72,000
School District Trust	1.000%	\$20,000	\$24,000
Conservation Commission	0.125%	\$2,500	\$3,000
Parks, and Soil and Water	0.100%	\$2,000	\$22,400
Local Governments *	3.880%	\$77,600	\$93,100
* The 3.88 percent average local government sales tax rate was calculated by Oversight based on tax collections reported by the Department of Revenue.			

For fiscal note purposes, **Oversight** will indicate a revenue reduction less than \$100,000 per year for the General Revenue Fund, other state funds that receive sales tax revenues, and for local governments.

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

Officials from the **Department of Natural Resources (DNR)** noted the Department's Parks and Soils Sales Tax Funds are derived from one-tenth of one percent sales and use tax pursuant to Article IV Section 47(a) of the Missouri Constitution. Therefore, any additional sales and use tax exemption would be a loss to the Parks and Soils Sales Tax Funds.

DNR officials assume assumes the Department of Revenue and Office of Administration-Budget and Planning will provide a more detailed account of the fiscal impact.

ASSUMPTION (continued)

Officials from the **Office of the Secretary of State (SOS)** provided the following response.

SOS officials 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 greater than 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** and the **Department of Revenue** assume this proposal would not have a fiscal impact to their organizations.

Not responding

Officials from the **Department of Conservation** did not respond to our request for information.

<u>FISCAL IMPACT - State Government</u>	FY 2016 (10 Mo.)	FY 2017	FY 2018
GENERAL REVENUE FUND			
<u>Revenue reduction</u>			
Sales tax exemption Section 144.020	(Less than <u>\$100,000</u>)	(Less than <u>\$100,000</u>)	(Less than <u>\$100,000</u>)
ESTIMATED NET EFFECT ON GENERAL REVENUE FUND	(Less than <u>\$100,000</u>)	(Less than <u>\$100,000</u>)	(Less than <u>\$100,000</u>)

<u>FISCAL IMPACT - State Government</u> (Continued)	FY 2016 (10 Mo.)	FY 2017	FY 2018
SCHOOL DISTRICT TRUST FUND			
<u>Revenue reduction</u>			
Sales tax exemption Section 144.020	(Less than <u>\$100,000</u>)	(Less than <u>\$100,000</u>)	(Less than <u>\$100,000</u>)
ESTIMATED NET EFFECT ON SCHOOL DISTRICT TRUST FUND	(Less than <u>\$100,000</u>)	(Less than <u>\$100,000</u>)	(Less than <u>\$100,000</u>)
CONSERVATION COMMISSION FUND			
<u>Revenue reduction</u>			
Sales tax exemption Section 144.020	(Less than <u>\$100,000</u>)	(Less than <u>\$100,000</u>)	(Less than <u>\$100,000</u>)
ESTIMATED NET EFFECT ON CONSERVATION COMMISSION FUND	(Less than <u>\$100,000</u>)	(Less than <u>\$100,000</u>)	(Less than <u>\$100,000</u>)
PARKS, AND SOIL AND WATER FUNDS			
<u>Revenue reduction</u>			
Sales tax exemption Section 144.020	(Less than <u>\$100,000</u>)	(Less than <u>\$100,000</u>)	(Less than <u>\$100,000</u>)
ESTIMATED NET EFFECT ON PARKS, AND SOIL AND WATER FUNDS	(Less than <u>\$100,000</u>)	(Less than <u>\$100,000</u>)	(Less than <u>\$100,000</u>)

<u>FISCAL IMPACT - Local Government</u>	FY 2016 (10 Mo.)	FY 2017	FY 2018
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LOCAL GOVERNMENTS

<u>Revenue reduction</u>			
Sales tax exemption Section 144.020	(Less than <u>\$100,000</u>)	(Less than <u>\$100,000</u>)	(Less than <u>\$100,000</u>)
ESTIMATED NET EFFECT ON LOCAL GOVERNMENTS	(Less than <u>\$100,000</u>)	(Less than <u>\$100,000</u>)	(Less than <u>\$100,000</u>)

FISCAL IMPACT - Small Business

This proposal could have a direct fiscal impact to small businesses which operate restaurants.

FISCAL DESCRIPTION

This proposal would specify that mandatory gratuities imposed by a restaurant for a large group are not subject to state and local sales tax when the tip is included in the employee's tip income. The proposal would also limit the calculation of state income tax withholding on tips received by an employee in the course of his or her employment to the amount of total tips reported to the employer in a written statement, and would specify that an employer cannot be obligated to pay withholding tax to the Department of Revenue for an employee's under-reported cash tip income. The proposal would determine the amount of cash tips that are taxable based on the federal Internal Revenue Code.

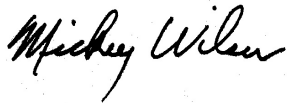
This legislation is not federally mandated, would not duplicate any other program and would not require additional capital improvements or rental space.

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SOURCES OF INFORMATION

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

Not responding:
Department of Conservation



Mickey Wilson, CPA
Director
March 10, 2015

Ross Strobe
Assistant Director
March 10, 2015