

COMMITTEE ON LEGISLATIVE RESEARCH
OVERSIGHT DIVISION

FISCAL NOTE

L.R. No.: 4536-04
Bill No.: HCS for SCS for SB 823
Subject: Internet and E-mail; Taxation and Revenue - Sales and Use; Telecommunications;
 Taxation and Revenue - General; Economic Development
Type: Original
Date: April 27, 2016

Bill Summary: This proposal changes the laws regarding sales and use taxes.

FISCAL SUMMARY

ESTIMATED NET EFFECT ON GENERAL REVENUE FUND			
FUND AFFECTED	FY 2017	FY 2018	FY 2019
General Revenue	(Could exceed \$900,000,000)	(Could exceed \$1,100,000,000)	(Could exceed \$1,100,000,000)
Total Estimated Net Effect on General Revenue	(Could exceed \$900,000,000)	(Could exceed \$1,100,000,000)	(Could exceed \$1,100,000,000)

ESTIMATED NET EFFECT ON OTHER STATE FUNDS			
FUND AFFECTED	FY 2017	FY 2018	FY 2019
School District Trust	(Could exceed \$300,000,000)	(Could exceed \$367,000,000)	(Could exceed \$367,000,000)
Conservation Commission	(Could exceed \$38,000,000)	(Could exceed \$46,000,000)	(Could exceed \$46,000,000)
Parks, and Soil & Water	(Could exceed \$31,000,000)	(Could exceed \$37,000,000)	(Could exceed \$37,000,000)
Total Estimated Net Effect on <u>Other</u> State Funds	(Could exceed \$369,000,000)	(Could exceed \$450,000,000)	(Could exceed \$450,000,000)

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

ESTIMATED NET EFFECT ON FEDERAL FUNDS			
FUND AFFECTED	FY 2017	FY 2018	FY 2019
Total Estimated Net Effect on <u>All</u> Federal Funds			

ESTIMATED NET EFFECT ON FULL TIME EQUIVALENT (FTE)			
FUND AFFECTED	FY 2017	FY 2018	FY 2019
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 2017	FY 2018	FY 2019
Local Government	(Could exceed \$1,150,000,000)	(Could exceed \$1,400,000,000)	(Could exceed \$1,400,000,000)

FISCAL ANALYSIS

ASSUMPTION

§144.030

In response to a prior version, officials at the **Department of Conservation, Department of Revenue, City of Columbia, City of Kansas City, Callaway County, Cass County, St. Louis County, Jackson County Election Board, Platte County Election Board, St. Louis County Election Board** each assumed no fiscal impact from the proposal.

In response to a prior version, officials from the **Office of Administration - Budget and Planning (B&P)** assumed no fiscal impact. B&P noted this proposal would exempt internet and e-mail access from state and local sales and use tax, and further stated these are currently exempt from sales and use tax under federal law. Further, this proposal has no impact on Total State Revenue and is not subject to Article X, 18(e) calculations.

In response to a prior version, officials from the **Department of Natural Resources (DNR)** deferred to DOR and B&P for an account of the fiscal impact.

In response to a prior version, officials at the **City of Independence** assumed a material negative fiscal impact based upon their reading of the language in the proposal.

In response to a previous version, officials from the cities of **Gladstone, Grandview, Lee's Summit** and **Liberty** assumed a material negative fiscal impact based upon their reading of the language in the proposal.

Oversight will use the impact statements of DOR, B&P, MDC and DNR as well as the statement from the city of Kansas City, the St. Louis County of Director of Elections, Callaway County, Platte County and the Jackson County Election Board as the basis for this fiscal note.

Oversight has inquired with the U.S. Department of Commerce to confirm the federal law exemption but has not yet received a response to the inquiry.

ASSUMPTION (continued)

§144.026

This section rejects and abrogates the court’s interpretation of the products exemptions in *IBM Corporation v. Dir. of Revenue*, No. SC94999 (Mo. Apr. 5, 2016), and any other decision of the Missouri supreme court or administrative hearing commission, and any letter ruling or regulation of the director of revenue, that is inconsistent with this section or the production exemptions.

Officials from the **Department of Revenue** cite a study performed by Ernst & Young LLP which reported Missouri businesses paid \$2.2 billion in sales tax in FY 2014. Based upon the language in the current proposal, DOR officials estimate a potential revenue loss of 50% of the sales taxes paid by businesses.

Oversight will use “Could exceed \$1.1 billion” has the fiscal impact in General Revenue loss.

Oversight will use proportional amounts to determine the fiscal impact to the School District Trust Fund, Conservation Commission, Parks, and Soil and Water and Local Funds.

§144.087

In response to a similar proposal (HB 2631), officials from the **Office of Administration-Division of Budget and Planning (OA-B&P)** noted that under current law, retail sales tax applicants must present a bond not more than three times their average monthly liability. This proposal diminishes that amount to no more than twice their average monthly liability. Additionally, the proposal reduces the bond release date from two years to one year.

OA-B&P assumed this proposal could decrease Total State Revenue by an unknown amount, which likely would be minimal.

In response to a similar proposal (HB 2631) officials from the **Department of Revenue**, the **Joint Committee on Administrative Rules** and the **Office of the Secretary of State** assumed no fiscal impact.

Oversight assumes a “minimal” reduction in General Revenue funds and will not show an amount in this fiscal note.

<u>FISCAL IMPACT - State Government</u>	FY 2017 (10 Mo.)	FY 2018	FY 2019
GENERAL REVENUE FUND			
<u>Revenue reduction</u>			
§144.026-sales tax production exemption	(Could exceed <u>\$900,000,000</u>)	(Could exceed <u>\$1,100,000,000</u>)	(Could exceed <u>\$1,100,000,000</u>)
ESTIMATED NET EFFECT ON GENERAL REVENUE FUND	<u>(Could exceed \$900,000,000)</u>	<u>(Could exceed \$1,100,000,000)</u>	<u>(Could exceed \$1,100,000,000)</u>
SCHOOL DISTRICT TRUST FUND			
<u>Revenue reduction</u>			
§144.026-sales tax production exemption	(Could exceed <u>\$300,000,000</u>)	(Could exceed <u>\$367,000,000</u>)	(Could exceed <u>\$367,000,000</u>)
ESTIMATED NET EFFECT ON SCHOOL DISTRICT FUND	<u>(Could exceed \$300,000,000)</u>	<u>(Could exceed \$367,000,000)</u>	<u>(Could exceed \$367,000,000)</u>
CONSERVATION COMMISSION FUND			
<u>Revenue reduction</u>			
§144.026-sales tax production exemption	(Could exceed <u>\$38,000,000</u>)	(Could exceed <u>\$46,000,000</u>)	(Could exceed <u>\$46,000,000</u>)
ESTIMATED NET EFFECT ON CONSERVATION FUND	<u>(Could exceed \$38,000,000)</u>	<u>(Could exceed \$46,000,000)</u>	<u>(Could exceed \$46,000,000)</u>
PARKS, AND SOIL AND WATER FUND			
<u>Revenue reduction</u>			
§144.026-sales tax production exemption	(Could exceed <u>\$31,000,000</u>)	(Could exceed <u>\$37,000,000</u>)	(Could exceed <u>\$37,000,000</u>)
ESTIMATED NET EFFECT ON PARKS, AND SOIL AND WATER FUND	<u>(Could exceed \$31,000,000)</u>	<u>(Could exceed \$37,000,000)</u>	<u>(Could exceed \$37,000,000)</u>

<u>FISCAL IMPACT - Local Government</u>	FY 2017 (10 Mo.)	FY 2018	FY 2019
LOCAL GOVERNMENTS			
<u>Revenue reduction</u>			
§144.026-sales tax production exemption	(Could exceed \$1,150,000,000)	(Could exceed \$1,400,000,000)	(Could exceed \$1,400,000,000)
ESTIMATED NET EFFECT ON CONSERVATION FUND	<u>(Could exceed \$1,150,000,000)</u>	<u>(Could exceed \$1,400,000,000)</u>	<u>(Could exceed \$1,400,000,000)</u>

FISCAL IMPACT - Small Business

Small businesses which qualify for the production exemption would be expected to benefit as a result of this proposal.

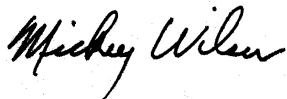
FISCAL DESCRIPTION

The proposed legislation provides for an expanded sales tax production exemption.

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 Revenue
Office of Administration -
 Budget and Planning
Department of Conservation
Department of Natural Resources
City of Kansas City
Cass County
Callaway County
St. Louis County
Platte County Election Board
Jackson County Election Board
St. Louis County Election Board
City of Columbia
City of Gladstone
City of Grandview
City of Independence
City of Lee's Summit
City of Liberty



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April 27, 2016

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April 27, 2016