

COMMITTEE ON LEGISLATIVE RESEARCH
OVERSIGHT DIVISION

FISCAL NOTE

L.R. No.: 0031-04
Bill No.: Truly Agreed To and Finally Passed SS for SCS for SB 16
Subject: Taxation and Revenue - Sales and Use; Revenue Department
Type: Original
Date: May 25, 2017

Bill Summary: This proposal would exempt delivery charges from sales and use taxes.

FISCAL SUMMARY

| ESTIMATED NET EFFECT ON GENERAL REVENUE FUND | | | |
|--------------------------------------------------------------|-------------------------------------|-------------------------------------|-------------------------------------|
| FUND AFFECTED | FY 2018 | FY 2019 | FY 2020 |
| General Revenue | (Could exceed \$100,000) | (Could exceed \$100,000) | (Could exceed \$100,000) |
| Total Estimated Net Effect on General Revenue | (Could exceed \$100,000) | (Could exceed \$100,000) | (Could exceed \$100,000) |

| ESTIMATED NET EFFECT ON OTHER STATE FUNDS | | | |
|-----------------------------------------------------------------------|-------------------------------------|-------------------------------------|-------------------------------------|
| FUND AFFECTED | FY 2018 | FY 2019 | FY 2020 |
| School District Trust | (Could exceed \$100,000) | (Could exceed \$100,000) | (Could exceed \$100,000) |
| Conservation Commission | (Could exceed \$100,000) | (Could exceed \$100,000) | (Could exceed \$100,000) |
| Parks, and Soil and Water | (Could exceed \$100,000) | (Could exceed \$100,000) | (Could exceed \$100,000) |
| Total Estimated Net Effect on <u>Other</u> State Funds | (Could exceed \$100,000) | (Could exceed \$100,000) | (Could exceed \$100,000) |

Numbers within parentheses: () indicate costs or losses.

This fiscal note contains 10 pages.

| ESTIMATED NET EFFECT ON FEDERAL FUNDS | | | |
|---------------------------------------------------------------|----------------|----------------|----------------|
| FUND AFFECTED | FY 2018 | FY 2019 | FY 2020 |
| | | | |
| | | | |
| Total Estimated Net Effect on <u>All</u> Federal Funds | \$0 | \$0 | \$0 |

| ESTIMATED NET EFFECT ON FULL TIME EQUIVALENT (FTE) | | | |
|-----------------------------------------------------------|----------------|----------------|----------------|
| FUND AFFECTED | FY 2018 | FY 2019 | FY 2020 |
| | | | |
| | | | |
| 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 2018 | FY 2019 | FY 2020 |
| Local Government | (Could exceed \$100,000) | (Could exceed \$100,000) | (Could exceed \$100,000) |

FISCAL ANALYSIS

ASSUMPTION

Officials from the **Department of Revenue** assume this proposal would have no fiscal impact on their organization but would reduce state revenues.

Officials from the **Office of Administration - Division of Budget and Planning (BAP)** stated this proposal would exempt delivery charges from sales tax. BAP officials also stated they performed an extensive search of state and national data and could not find any datasets where delivery fees or charges were separated from gross receipts. BAP officials made an estimate of lost revenue using industry data for pizza deliveries.

According to data reviewed by BAP officials, there are approximately three billion pizzas sold in the United States each year and BAP estimated that approximately 51 million pizzas are sold within Missouri. Based on industry data, about half of all pizzas sold are for delivery, and thus subject to a delivery fee. Also based on industry data, BAP estimated that the average pizza delivery fee is \$3.00. Based on this information, B&P estimates that would exempt approximately \$76.5 million in delivery fees from pizza deliveries alone. Therefore, BAP estimates that this proposal would reduce Total State Revenue by more than \$3.2 million per year and General Revenue by more than \$2.3 million per year.

BAP officials provided an estimate of reductions to state and local funds as follows.

| Fund or Entity | Revenue Reduction | |
|------------------------------|-----------------------|-----------------------|
| | FY 2018 | FY 2019 and FY 2020 |
| General Revenue Fund | More than \$1,900,000 | More than \$2,300,000 |
| School District Trust Fund | More than \$600,000 | More than \$800,000 |
| Conservation Commission Fund | More than \$100,000 | More than \$100,000 |
| Parks, Soil, and Water Funds | More than \$100,000 | More than \$100,000 |
| Total State Funds | More than \$2,700,000 | More than \$3,200,000 |
| Local Governments | More than \$2,300,000 | More than \$2,800,000 |

ASSUMPTION (continued)

BAP officials noted that their estimate is a minimum only, since they could not estimate the loss to state revenues from deliveries for items such as flowers, groceries, rock and gravel, heavy machinery, and any other tangible good that could qualify, as there was no state or federal delivery data available for these businesses.

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

Officials from the **Department of Natural Resources (DNR)** assume that exemptions would have a negative effect on state revenue but did not provide an estimate of fiscal impact.

DNR officials stated that the Department's Parks and Soils Sales Tax Funds are derived from a one-tenth of one percent sales and use tax pursuant to the Missouri Constitution. Therefore, any additional sales and use tax exemption would reduce revenue to the Parks and Soils Sales Tax Funds.

Officials from the **Office of the Secretary of State**, the **Joint Committee on Administrative Rules**, the **Kansas City Public Schools**, the **Jackson County Election Board**, and the **St. Louis County Directors of Elections** assume this proposal would have no fiscal impact on their organizations.

Officials from **St. Louis County** and the **Platte County Board of Elections** assumed a previous version of this proposal would have no fiscal impact on their organizations.

Officials from the **City of Columbia** and the **City of Kansas City** assume this proposal would have an unknown negative impact on their organizations.

Officials from **Callaway County**, **Cole County**, the **Forsyth R-III School District**, the **Kirksville R-III School District**, the **Special School District of St. Louis County**, and the **Wentzville School District** assumed a previous version of this proposal would have an unknown negative fiscal impact on their organizations.

ASSUMPTION (continued)

Officials from the **West Plains School District** assumed a previous version of this proposal would have no fiscal impact on their organization.

Officials from the **Warren County R-III School District** stated they could not provide an estimate of the fiscal impact of a previous version of this proposal.

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

Officials the following cities: Ashland, Belton, Bernie, Bonne Terre, Boonville, California, Cape Girardeau, Clayton, 9Dardenne Prairie, Excelsior Springs, Florissant, Frontenac, Fulton, Grandview, Harrisonville, Independence, Jefferson City, Joplin, Kearney, Knob Noster, Ladue, Lake Ozark, Lee Summit, Liberty, Louisiana, Maryland Heights, Maryville, Mexico, Monett, Neosho, O'Fallon, Peculiar, Pineville, 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.

ASSUMPTION (continued)

Officials from the following school districts: Arcadia Valley R-2, Avilla R-13, Bakersfield, Belton, Benton County R-2, Bismark R-5, Bloomfield R-14, Blue Springs, Bolivar R-I, Bowling Green R-1, Branson, Brentwood, Bronaugh R-7, Campbell R-2, Carrollton R-7, Caruthersville, Cassville R-4, Central R-III, Chilhowee R-4, Chillicothe R-II, Clarkton C-4, Cole R-I, Columbia, Concordia R-2, Crawford County R-1, Crocker R-II, Delta C-7, East Carter R-2, East Newton R-6, Eldon R-I, Everton R-III, Fair Grove, Fair Play, Fayette R-3, Fox C-6, Fredericktown R-I, Fulton, Grain Valley, Hancock Place, Hannibal, Harrisonburg R-8, Harrisonville, Hillsboro R-3, Hollister R-5, Humansville R-4, Hurley R-1, Independence, Jefferson City, Kearney R-1, Kennett #39, King City R-1, Kingston 42, Kirbyville R-VI, Lee Summit, Leeton R-10, Lewis County C-1, Lindbergh, Lonedell R-14, Macon County R-1, Macon County R-4, Malta Bend, Mehville, Meramec Valley R-3, Mexico, Middle Grove C-1, Midway R-1, Milan C-2, Moberly, Monroe City R-I, Morgan County R-2, New Haven, Nixa, North St. Francois Co. R-1, Northeast Nodaway R-5, Odessa R-VII, Oregon-Howell R-III, Orrick R-11, Osage County R-II, Osborn R-O, Parkway, Pattonville, Pettis County R-12, Pierce City, Plato R-5, Princeton R-5, Raymore-Peculiar R-III, Raytown, Reeds Springs R-IV, Renick R-5, Richland R-1, Richmond R-XVI, Riverview Gardens, Salisbury R-4, Sarcoxie R-2, Scotland County R-I, Sedalia, Seymour R-2, Shelby County R-4, Shell Knob #78, Sikeston, Silex, Smithville R-2, Special School District of St. Louis County, Spickard R-II, Springfield, St Joseph, St Louis, St. Charles, St. Elizabeth R-4, Sullivan, Valley R-6, Verona R-7, Warrensburg R-6, Webster Groves, Westview C-6 and the Wright City R-2 School District did not respond to our request for information.

Oversight assumes this proposal would provide a broad exemption from sales and use taxes for all types of shipping and delivery charges and for individuals as well as businesses. Oversight notes that an estimate of the fiscal impact for this proposal was prepared by the Office of Administration - Division of Budget and Planning based on the best available external information.

Oversight has reviewed information from DOR officials and the DOR website indicating that merchants were notified of a Missouri Supreme Court decision (the Alberici case) in July, 2016 after the opinion was finalized in March, 2015. Oversight assumes the fiscal impact of the proposed sales tax exemption is based on estimated revenues under current law as compared to estimated revenues under the proposed changes, and assumes the exemption in this proposal could result in revenue reductions. Oversight also notes that actual collections under current law are dependent on the level of taxpayer compliance with existing law and periodic notices the Department of Revenue provides. The Department of Revenue or the Office of Administration - Division of Budget and Planning have not provided information on actual collections from sales tax on shipping and delivery charges.

ASSUMPTION (continued)

Oversight will assume for fiscal note purposes that the revenue reduction from this proposal could exceed \$100,000 for those state funds which receive sales tax revenues, and for local governments.

| <u>FISCAL IMPACT - State Government</u> | FY 2018 (10 Mo.) | FY 2019 | FY 2020 |
|-----------------------------------------------------------------------------------|--------------------------------------------|--------------------------------------------|--------------------------------------------|
| GENERAL REVENUE | | | |
| <u>Revenue reduction</u> - sales tax exemption for shipping and delivery charges. | (Could exceed <u>\$100,000</u>) | (Could exceed <u>\$100,000</u>) | (Could exceed <u>\$100,000</u>) |
| ESTIMATED NET EFFECT ON GENERAL REVENUE | (Could exceed <u>\$100,000</u>) | (Could exceed <u>\$100,000</u>) | (Could exceed <u>\$100,000</u>) |
| SCHOOL DISTRICT TRUST | | | |
| <u>Revenue reduction</u> - sales tax exemption for shipping and delivery charges. | (Could exceed <u>\$100,000</u>) | (Could exceed <u>\$100,000</u>) | (Could exceed <u>\$100,000</u>) |
| ESTIMATED NET EFFECT ON SCHOOL DISTRICT TRUST | (Could exceed <u>\$100,000</u>) | (Could exceed <u>\$100,000</u>) | (Could exceed <u>\$100,000</u>) |

| | | | |
|-----------------------------------------|----------|---------|---------|
| <u>FISCAL IMPACT - State Government</u> | FY 2018 | FY 2019 | FY 2020 |
| (Continued) | (10 Mo.) | | |

CONSERVATION COMMISSION

| | | | |
|-----------------------------------------------------------------------------------|----------------------------------|----------------------------------|----------------------------------|
| <u>Revenue reduction</u> - sales tax exemption for shipping and delivery charges. | (Could exceed <u>\$100,000</u>) | (Could exceed <u>\$100,000</u>) | (Could exceed <u>\$100,000</u>) |
|-----------------------------------------------------------------------------------|----------------------------------|----------------------------------|----------------------------------|

| | | | |
|--------------------------------------------------------|----------------------------------------|----------------------------------------|----------------------------------------|
| ESTIMATED NET EFFECT ON CONSERVATION COMMISSION | (Could exceed <u>\$100,000</u>) | (Could exceed <u>\$100,000</u>) | (Could exceed <u>\$100,000</u>) |
|--------------------------------------------------------|----------------------------------------|----------------------------------------|----------------------------------------|

PARKS, AND SOIL AND WATER

| | | | |
|-----------------------------------------------------------------------------------|----------------------------------|----------------------------------|----------------------------------|
| <u>Revenue reduction</u> - sales tax exemption for shipping and delivery charges. | (Could exceed <u>\$100,000</u>) | (Could exceed <u>\$100,000</u>) | (Could exceed <u>\$100,000</u>) |
|-----------------------------------------------------------------------------------|----------------------------------|----------------------------------|----------------------------------|

| | | | |
|----------------------------------------------------------|----------------------------------------|----------------------------------------|----------------------------------------|
| ESTIMATED NET EFFECT ON PARKS, AND SOIL AND WATER | (Could exceed <u>\$100,000</u>) | (Could exceed <u>\$100,000</u>) | (Could exceed <u>\$100,000</u>) |
|----------------------------------------------------------|----------------------------------------|----------------------------------------|----------------------------------------|

| | | | |
|-----------------------------------------|----------|---------|---------|
| <u>FISCAL IMPACT - Local Government</u> | FY 2018 | FY 2019 | FY 2020 |
| | (10 Mo.) | | |

LOCAL GOVERNMENTS

| | | | |
|-----------------------------------------------------------------------------------|----------------------------------|----------------------------------|----------------------------------|
| <u>Revenue reduction</u> - sales tax exemption for shipping and delivery charges. | (Could exceed <u>\$100,000</u>) | (Could exceed <u>\$100,000</u>) | (Could exceed <u>\$100,000</u>) |
|-----------------------------------------------------------------------------------|----------------------------------|----------------------------------|----------------------------------|

| | | | |
|--------------------------------------------------|----------------------------------------|----------------------------------------|----------------------------------------|
| ESTIMATED NET EFFECT ON LOCAL GOVERNMENTS | (Could exceed <u>\$100,000</u>) | (Could exceed <u>\$100,000</u>) | (Could exceed <u>\$100,000</u>) |
|--------------------------------------------------|----------------------------------------|----------------------------------------|----------------------------------------|

FISCAL IMPACT - Small Business

This proposal would have an impact to small businesses which provides delivery services or which purchase goods or services that are subject to a delivery charge.

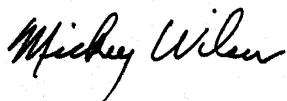
FISCAL DESCRIPTION

This proposal would create a sales tax exemption for usual and customary delivery charges that are separately stated from the sales price.

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 Conservation
Department of Natural Resources
Department of Revenue
Callaway County
Cole County
St. Louis County
City of Kansas City
Forsyth R-III School District
Kansas City Public Schools
Kirksville R-III School District
Warren County R-III School District
Wentzville School District
West Plains School District
Special School District of St. Louis County
Jackson County Election Board
Platte County Board of Elections
St. Louis County Directors of Elections



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