

COMMITTEE ON LEGISLATIVE RESEARCH
OVERSIGHT DIVISION

FISCAL NOTE

L.R. No.: 0899-02
Bill No.: SB 247
Subject: Taxation and Revenue - Sales and Use
Type: Original
Date: January 23, 2017

Bill Summary: This proposal would abrogate the findings in IBM Corporation v. Director of Revenue 491 S.W.3d 535 (Mo. banc 2016) and would modify certain definitions for sales and use tax exemptions.

FISCAL SUMMARY

ESTIMATED NET EFFECT ON GENERAL REVENUE FUND			
FUND AFFECTED	FY 2018	FY 2019	FY 2020
Total Estimated Net Effect on General Revenue	\$0	\$0	\$0

ESTIMATED NET EFFECT ON OTHER STATE FUNDS			
FUND AFFECTED	FY 2018	FY 2019	FY 2020
Total Estimated Net Effect on <u>Other</u> State Funds	\$0	\$0	\$0

Numbers within parentheses: () indicate costs or losses.

This fiscal note contains 7 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	\$0	\$0	\$0

FISCAL ANALYSIS

ASSUMPTION

Officials from the **Office of Administration - Division of Budget and Planning (BAP)** provided the following information.

Section 144.026

BAP officials assumed this section would "abrogate" the Missouri Supreme Court decision for *IBM Corporation v. Director of Revenue* which could lead to an expansion of the current manufacturing sales tax exemption because the IBM case also included a ruling that certain companies did not qualify for a manufacturing exemption. BAP officials assumed that abrogating the entire ruling could make it possible that those businesses would now qualify for these exemptions. Therefore, Total State Revenue (TSR), General Revenue and other state and local funds could be negatively impacted.

BAP officials stated that depending on the subsequent court interpretation of the abrogation of the IBM decision, there could be a potential expansion of the manufacturing sales and use tax exemption. **Oversight** would attribute any additional sales and use tax exemption to that subsequent court action rather than to the abrogation of the IBM decision.

Sections 144.030 and 144.050

BAP officials assumed these sections would create in statute a sales tax exemption for telecommunications. This would codify the exemption granted by the Missouri Supreme Court. These sections are expected to have no impact on TSR as the sales tax is not currently being collected.

Oversight notes the Office of Administration - Division of budget and Planning comment that sales tax on telecommunications services is not currently being collected; therefore, the language in this proposal exempting such services from sales and use taxes would have no fiscal impact.

Officials from the **Missouri Department of Conservation (MDC)** assume this proposal would modify certain definitions for sales and use tax exemptions and would abrogate the findings in *IBM Corporation v. Director of Revenue* 491 S.W. 3d. 535 (Mo. Banc 2016).

MDC officials assume the proposal would have an unknown negative fiscal impact on their organization since the Conservation Sales Tax funds are derived from one-eighth of one percent sales and use tax pursuant to Article IV Section 43(a) of 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.

ASSUMPTION (continued)

Officials from the **Department of Natural Resources (DNR)** provided the following information.

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 the Department of Revenue and Office of Administration-Division of Budget and Planning will provide a more detailed account of the fiscal impact.

Officials from the **West Plains School District** assume this proposal would result in reduced revenues to their organization as a result of lost sales tax revenues reducing funding for the Foundation Formula.

Officials from the **Forsyth R-III School District** assumed the proposal would have a negative effect on their organization but did not provide an estimate of that impact.

Officials from **Callaway County** assumed the proposal would have an unknown impact on their organization.

Officials from the **Kirkville R-III School District** stated they could not determine if the proposal would have an impact on their organization.

According to officials from the **Office of the Secretary of State (SOS)**, 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 SOS 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.

ASSUMPTION (continued)

Officials from the **Joint Committee on Administrative Rules**, the **Office of State Courts Administrator**, the **Department of Revenue**, the **Kansas City Public Schools**, the **Jackson County Election Board**, and the **Platte County Board of Elections** assumed this proposal would have no fiscal impact on their organizations.

Officials from the following counties: Andrew, Atchison, Audrain, Barry, Benton, Bollinger, Boone, Buchanan, Camden, Cape Girardeau, Carroll, Cass, Christian, Clay, Cole, 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, Columbia, Dardenne Prairie, Excelsior Springs, Florissant, Frontenac, Fulton, Grandview, Harrisonville, Independence, Jefferson City, Joplin, Kansas City, 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, Warren County R-3, Warrensburg R-6, Webster Groves, Westview C-6 and the Wright City R-2 School District did not respond to our request for information.

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

No direct fiscal impact to small businesses would be expected as a result of this proposal.

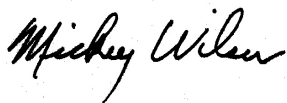
FISCAL DESCRIPTION

The proposed legislation would modify certain definitions for sales and use tax exemptions and would abrogate the findings in *IBM Corporation v. Director of Revenue* 491 S.W.3d 535 (Mo. banc 2016).

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 State Courts Administrator
Office of Administration
 Division of Budget and Planning
Department of Conservation
Department of Natural Resources
Department of Revenue
Callaway County
Forsyth R-III School District
Kansas City Public Schools
Kirksville R-III School District
West Plains School District
Jackson County Election Board
Platte County Board of Elections



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January 23, 2017

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January 23, 2017