COMMITTEE ON LEGISLATIVE RESEARCH
OVERSIGHT DIVISION

FISCAL NOTE

L.R. No.: 0345-12
Bill No.: Truly Agreed To and Finally Passed CCS #2 for HS for HCS for SCS for SB 11
Subject: Taxation and Revenue - Income, Sales and Use; Counties, Cities
Type: Original
Date: May 28, 2003

FISCAL SUMMARY

ESTIMATED NET EFFECT ON GENERAL REVENUE FUND			
FUND AFFECTED	FY 2004	FY 2005	FY 2006
General Revenue	(Unknown) to $6,600,000	(Unknown) to $4,632,231	(Unknown) to $6,600,000
Total Estimated Net Effect on General Revenue Fund	**(UNKNOWN) to $6,600,000**	**(UNKNOWN) to $4,632,231**	**(UNKNOWN) to $6,600,000**

ESTIMATED NET EFFECT ON OTHER STATE FUNDS			
FUND AFFECTED	FY 2004	FY 2005	FY 2006
Various State Funds	(Unknown)	(Unknown)	(Unknown)
Blind Pension Fund	$0	(Unknown)	(Unknown)
School District Trust	$0	($583,315)	$0
Conservation	$0	($72,914)	$0
Parks and Soil	$0	($58,332)	$0
Total Estimated Net Effect on Other State Funds	**(UNKNOWN)**	**($714,561 to UNKNOWN)**	**(UNKNOWN)**

Numbers within parentheses: ( ) indicate costs or losses.
This fiscal note contains 15 pages.

ESTIMATED NET EFFECT ON FEDERAL FUNDS			
FUND AFFECTED	FY 2004	FY 2005	FY 2006
Total Estimated Net Effect on All Federal Funds	**$0**	**$0**	**$0**

ESTIMATED NET EFFECT ON LOCAL FUNDS			
FUND AFFECTED	FY 2004	FY 2005	FY 2006
Local Government	**(UNKNOWN)**	**(UNKNOWN)**	**(UNKNOWN)**

FISCAL ANALYSIS

ASSUMPTION

Office of the State Courts Administrator, the **Department of Economic Development, Office of the State Treasurer** and the **Office of Administration - Division of Accounting** officials state this proposal would not fiscally impact their agencies.

In response to a prior proposal, officials of the **Missouri House of Representatives** and the **Missouri Senate** assume this proposal would not fiscally impact their agencies.

Officials of the **Office of Administration - Division of Purchasing (DPMM)** assume this legislation would give the Office of Administration the ability to give preference to all commodities and tangible personal property manufactured, mined, produced or grown within the state of Missouri and to all firms, corporations or individuals doing business as Missouri firms, corporations or individuals, when quality is equal or better and delivered price is the same or less. Also, the Commissioner of Administration may also give such preference whenever competing bids, in their entirety, are comparable.

DPMM assumes the preference for Missouri firms, corporations, or individuals could adversely hinder Missouri vendors when they bid on products/services in other states that have a reciprocal preference law.

ASSUMPTION (continued)

In a prior response, officials of the **Office of Administration - Division of Budget and Planning (BAP)** assumed this proposal would allow for a sales tax "holiday" for a specified period for specified items.

BAP estimates the annual consumer spending in Missouri on clothing and shoes based on national estimates from the U.S. Department of Commerce - Bureau of Economic Analysis. BAP staff assumes Missouri represents 1.8% of U.S. totals. BAP assumes the increase for years 2002-2005 is the approximate average of the change for 2000 and 2001. BAP staff estimates taxable sales for FY2004 to be $6,104,000,000 and taxable sales for FY 2005 to be $6,257,000,000.

BAP states, as was the case with similar proposals from last year, there is no information available that addresses what percent of these expenditures would qualify for the exemption or how effective this program would be in so far as motivating the public to shop for clothing during the tax "holiday".

BAP has estimated the level of Missouri consumer spending on "Stationary/School" supplies for FY04 at $182,000,000 and for FY05 at $186,000,000. The estimate is based on national data from the U.S. Department of Commerce – Bureau of Economic Analysis. BAP assumes that Missouri represents 1.8% of the national total which is Missouri's share of U.S. personal income. BAP assumes growth for 2001 and beyond, is the average of the increase for 2000 and 2001.

Also, BAP has estimated the level of Missouri consumer spending on "Computer, software, et al" supplies for FY04 at $638 million and for FY05 at $654 million. The estimate is based on national data from the U.S. Department of Commerce – Bureau of Economic Analysis. BAP assumes that Missouri represents 1.8% of the national total which is Missouri's share of U.S. personal income. BAP assumes growth for 2001 and beyond, is the average of the increase for 2000 and 2001.

BAP defers to the Department of Revenue for the revenue estimate on the gambling winnings.

BAP assumes this substitute combines several tax law changes from other bills.

1. 21.810 - Establishes Joint Committee on Tax Policy – No impact.

2. 34.070 and 34.073 - Bidding preferences for MO products – Defer to COA Purchasing.

ASSUMPTION (continued)

3. 71.611 - Provision dealing with local license tax in Kansas City and St. Joseph – No information available for this provision.

4. 143.121 - Provision affecting carry forward and carry backward of net operating losses for income tax – Defer to DOR.

5. 143.181 - Tax on nonresident gaming winnings – defer to Gaming Commission.

6. 144.049 - A three-day sales tax holiday with sales at the Missouri State Fair exempt for the holiday – B&P offers same information as previous versions of this bill. This version extends the holiday to cover "computer software" with a value of $200 or less. Information previously supplied on spending on "computers" includes spending on "computer peripherals" and "software".

Officials of the Department of Revenue (DOR) state this legislation:

Section 21.810, establishes a permanent joint committee of the general assembly to be known as the Joint Committee on Tax Policy.

IMPACT: None.

Section 34.070, adds tangible person property to the list of items purchased by the Commissioner of Administration and also states the Commissioner may give preference to a Missouri company.

IMPACT: None.

Section 34.073, states the Commissioner of Administration may give preference to a Missouri company.

IMPACT: None.

Section 71.611, states that no village with less than one thousand three hundred inhabitants shall impose a license tax in excess of $10,000.

IMPACT: None.

ASSUMPTION (continued)

Section 99.820, adds language to what a municipality may do regarding a redevelopment plan.

IMPACT: None.

Section 137.100, adds an exemption for the leasing of motor vehicles for a period of at least one year to this state or any political subdivision.

IMPACT: None.

Section 143.121, makes gender neutral and adds language in 2(d) stating any net operating loss taken against Federal income taxes but disallowed against Missouri income tax since July 1, 2002 can be carried forward and taken against any loss on the Missouri income tax return for a period of not more than 20 years from the year of the initial loss.

IMPACT: This allows corporations to carry forward any disallowed NOL for up to 20 years. Legislation also allows farmers to carry back losses for 5. Taxation will have to modify the tax forms and do minor changes to the COINS system.

Section 143.181, adds that winnings from a lottery or gambling in this state shall be considered part of the Missouri nonresident adjusted gross income.

IMPACT: None.

Section 144.030, exempts natural gas used in making ethanol, farm equipment and supplies "solely for producing crops, raising livestock and producing milk".

IMPACT: No administrative impact.

Section144.049, establishes a sales tax holiday for clothing, school supplies, and personal computers.

IMPACT: The MITS system will need to be modified to track the new item (similar to food tax). Many voucher filers will now have to file a long form, therefore, the number of long forms received by DOR will increase. The processing area will need one additional TPT I for every additional 34,000 errors generated, one Clerk II in pre-edit for every 184,000 returns impacted, and one Data Entry Operator I for every 170,000 returns impacted.

ASSUMPTION (continued)

Business Tax will also need to send notification letters and a long sales tax form to approximately 100,000 sales tax accounts in August. It is estimated the postage cost to notify the businesses will be approximately $37,000.

The MITS system will need to be modified to recognize the new item tax. The changes to MITS will require modifications to several tables and distribution programs as well as the registration subsystem. The above modification will require 2,768 hours of programming at a total cost of $92,340.

Section 144.615, Technical changes were made.

IMPACT: None.

Section 144.817, creates an exemption for tangible personal property, which is, within one year of purchase, donated without charge to the state of Missouri.

IMPACT: None.

Section 260.830, allows a county of the fourth classification to impose a landfill fee.

IMPACT: None.

DOR did not provide any revenue impact for this substitute. However in response to similar legislation, DOR assumed that Section 143.181 (Gambling Winnings) - Requires all lottery and other gaming winnings to be included in Missouri nonresident adjusted gross income when the winnings are from a Missouri source. According to the gaming commission, there is $110 million of nonresident casino winnings paid out in Missouri. Therefore, DOR assumed with a 6% tax rate, the increase in revenue totals $6.6 million.

Oversight has, for fiscal note purposes only, changed the starting salaries for the Tax Processing Tech I, Clerk II and Data Entry Operator I to correspond to the second step above minimum for comparable positions in the state's merit system pay grid. This decision reflects a study of actual starting salaries for new state employees for a six month period and the policy of the Oversight

Subcommittee of the Joint Committee on Legislative Research. Also, **Oversight** has reduced the amount requested for postage to reflect the bulk mailing rate.

ASSUMPTION (continued)

Oversight assumes the mailing costs would be incurred in July before the August sales tax holiday. In addition, **Oversight** has included the programming costs and FTE requested for the sales tax holiday since it is assumed DOR will be required to track the sales tax revenue lost.

Oversight, for purposes of Section 144.049, has reflected the loss in sales tax revenue based on the estimate provided by BAP and the actual impact similar legislation had on other states. The revenue estimate was based on 3/365 of the fiscal year taxable sales, resulting in a loss of $2.5 million in state funds due to the sales tax holiday for FY05. No adjustment was made for the $100 cap, $50 cap, $200 cap ,and $2,000 cap. **Also, no adjustment was made for any incentive effect this portion of the proposal might have on spending habits. The actual loss to state funds from this sales tax holiday could be significantly higher than estimated.** **Oversight** assumes the Department of Revenue will enforce the provisions of the bill through post-audit in the field. If compliance is not monitored, the revenue impact could increase. **Oversight** assumes since the emergency clause failed, there would be no impact in FY04.

For a similar prior proposal, **Oversight** contacted three states that enacted similar legislation, the **State of Texas**, the **State of Florida** and the **State of New York**. Texas had a Sales Tax Holiday on clothing and footwear during a three day period in August, 1999. Florida had a nine day sales tax holiday period on clothing and footwear in August, 1998, and New York has had several such "holidays" in 1997, 1998 and 1999. **Oversight** assumes that similar impacts would occur in Missouri and have applied their taxable sales during the holidays to the Gross State Product in Chained (1992) Dollars, by industry from the U.S. Census Bureau, *the Official Statistics*, Statistical Abstract of the United States: 2000 to determine what Missouri's taxable sales in a similar period might be. The comparison reveals that by using the Office of Administration, Budget and Planning's estimated sales of clothing and footwear in Missouri for a given fiscal year, a reasonable estimate could be made to the actual impact a sales tax holiday would have. **Oversight** assumes that the same impact will occur whether the exemption applied to clothing or shoes under $500 as it would for clothing under $100. **Oversight** also assumes that the results could be applied over a three day exemption as it would for a nine day exemption, as it would for a thirty-one day exemption.

Officials from the **Missouri Lottery Commission (LOT)** assumed in a response to similar proposed legislation, that the LOT did not have a fiscal impact from the legislation. The LOT currently withholds Missouri state taxes from winnings over $599 from out-of-state residents.

ASSUMPTION (continued)

Officials of the **Missouri Gaming Commission (GAM)** assume this legislation would not fiscally impact their agency. However, GAM states that $110 million is won by nonresidents each year according to the Federal Form W-2G. This form is required for all winnings over $1,200. GAM does not anticipate any growth in the winnings.

Currently, GAM withholds from the winnings of Missouri residents both federal and state income tax, and only federal income tax from nonresidents.

Officials from the **Attorney General's Office,** the **City of St. Joseph,** and the counties of **Camden, Morgan, Buchanan, Jasper, Miller, Newton**, and **Boone** did not respond to our fiscal note request for this substitute.

Officials of the **State Tax Commission (TAX)** assume this proposal will affect several state agencies. Also, there is a possible unknown revenue loss to the local political subdivisions including schools by exempting certain motor vehicles from personal property tax. There may be some administrative cost to the assessor's office to implement this proposal; however, the cost will vary by county.

TAX assumes a loss of revenue to the General Revenue Fund from the sales tax holiday. Also, this legislation requires TAX to provide information to the Joint Committee on Tax Policy relating to the administration of various tax policies.

The proposed legislation exempts motor vehicles from the payment of personal property taxes if the vehicle is leased for a period of at least one year to any state, city, county or political subdivision. TAX does not have any data on the number of motor vehicles that would qualify for this exemption. Therefore, TAX can not project the fiscal impact.

Officials from the **City of Kansas City (CKC)** state that passage of this legislation would have a severely negative fiscal impact on their city. The estimated loss of occupational license tax revenue would be $1 million annually.

Officials from **Johnson County** assume revenue losses would be expected due to the three-day sales tax holiday. Estimated losses for 2004 are $20,450; for 2005: $22,506; and for 2006: $24,756.

Officials from **Jefferson County** assume the fiscal impact for this proposal would be unknown.

ASSUMPTION (continued)

In response to similar legislation, **Department of Natural Resources (DNR)** officials assumed this proposal removes the tax on natural gas used in the production or processing of ethanol. The proposed exemption is similar to Section 144.030 (31) and although the amount of natural gas used in the primary process of ethanol is unknown, DNR does not believe it to be significant.

DNR assumes the proposal would result in decreased revenue to the Parks and Soils Sales Tax Fund. DNR further assumes the Department of Revenue or the Department of Agriculture would provide the revenue projections.

Oversight assumes this proposal would potentially decrease revenue as ethanol producers will be allowed an exemption from sales tax on natural gas purchases for the production of the ethanol. The amount is unknown. **Oversight** will reflect the revenue loss for this proposal as a negative unknown for each year.

In response to similar legislation, **Department of Conservation (MDC)** officials state this proposal makes various modifications to several sections relating to taxation. This proposal would not appear to have a significant fiscal impact on MDC funds.

Oversight assumes for Section 71.611 that if a municipality is currently charging a license tax in an amount greater than $10,000, this proposal would create a loss in revenue to that city/county. The loss would be in an amount that would be the difference between the new limit and the amount that the city/county is currently taxing. **Oversight** assumes that some municipalities would have no fiscal impact, while others would have an impact. Therefore, **Oversight**, for the purposes of this fiscal note, will show fiscal impact to local governments as (Unknown). **Oversight** assumes no state fiscal impact.

For Section 137.100, **Oversight** assumes that an exemption from assessment of property taxes would result in an annual loss of revenue to the **Missouri Blind Pension Trust Fund**. Section 209.130 establishes a levy of .03 cents per $100 of assessed valuation of taxable property in the State. The purpose of the tax is to pay blind pensions as required by law. The amount of loss is indeterminable and unknown. **Oversight** assumes on a statewide basis the loss in revenue to the Blind Pension Trust Fund would not exceed $100,000 annually.

Oversight assumes Section 143.121 allows a taxpayer to carry forward certain net operating losses disallowed in last year's Senate Bill 1248. Since no costs or revenues were included in SB 1248 for reducing the limits on a NOL, **Oversight** assumes this proposal would create an unknown loss of revenue that could exceed $100,000 in any year.

ASSUMPTION (continued)

In a response to SB 93, officials of the **Office of Administration - Division of Budget and Planning (BAP)** assumed Section 144.817 allows a sales tax exemption on tangible personal property and on all items turned into tangible personal property that are donated to the state of Missouri. BAP has no empirical basis for estimating the fiscal impact of this proposal. This proposal would have no impact on BAP.

Oversight assumes, for purposes of Section 144.817, that there would be an unknown revenue loss to all state and local funds, but the amount of the loss is expected to be less than $100,000 annually to any one fund.

In response to SB 546, officials of the **Department of Natural Resources** assumed no fiscal impact to Section 260.830.

Oversight assumes Section 260.830 is enabling legislation and would allow the County Commission of Johnson County with prior voter approval, to impose a landfill fee that could not exceed $1.50 per ton of solid waste. **Oversight** assumes this proposal would have no fiscal impact without action of the County's voters and governing body.

FISCAL IMPACT - State Government	FY 2004 (10 Mo.)	FY 2005	FY 2006
GENERAL REVENUE FUND			
Income - General Revenue			
Nonresident casino/lottery winnings	$6,600,000	$6,600,000	$6,600,000
Cost - Dept. of Revenue (DOR)			
Personnel (3 FTE)	$0	($56,620)	$0

Fringe Benefits	$0	($22,914)	$0
Expense and Equipment	$0	($1,137)	$0
Programming (sales tax holiday)	$0	($110,353)	$0
Postage	$0	($26,800)	$0
Total costs - DOR	$0	($217,824)	$0
Loss to General Revenue Fund			
Sales tax holiday (144.049)	$0	($1,749,945)	$0
Carryforward of NOL (144.121)*	(Unknown)	(Unknown)	(Unknown)
FISCAL IMPACT - State Government	FY 2004 (10 Mo.)	FY 2005	FY 2006
Sales tax exemption for donated property to state (144.817)	(Unknown)	(Unknown)	(Unknown)
Sales tax exemption for natural gas used in the production of ethanol (144.030)	(Unknown)	(Unknown)	(Unknown)
Total Loss - GR	(Unknown)	($1,749,945 to Unknown)	(Unknown)
ESTIMATED NET EFFECT ON GENERAL REVENUE FUND	**(Unknown) to $6,600,000**	**(Unknown) to $4,632,231**	**(Unknown) to $6,600,000**

*Loss could exceed $100,000 in any year.

OTHER STATE FUNDS

Loss - **Various State Funds**			
Sales tax exemption for natural gas used in the production of ethanol (144.030)	(Unknown)	(Unknown)	(Unknown)
Sales tax exemption for donated property to state (144.817)	(Unknown)	(Unknown)	(Unknown)
Total Loss - Various State Funds	(Unknown)	(Unknown)	(Unknown)
Loss to **Blind Pension Trust Fund**			
Property tax exemption on certain motor vehicles (137.100)	$0	(Unknown)	(Unknown)
Loss to **School District Trust Fund**			
Sales tax holiday	$0	($583,315)	$0

Loss to **Conservation Fund**			
Sales tax holiday	$0	($72,914)	$0
Loss to **Parks and Soil Funds**			
Sales tax holiday	$0	($58,332)	$0
ESTIMATED NET EFFECT TO ALL OTHER STATE FUNDS	**(Unknown)**	**($714,561 to Unknown)**	**(Unknown)**

FISCAL IMPACT - Local Government	FY 2004 (10 Mo.)	FY 2005	FY 2006
LOCAL GOVERNMENT			
Loss - Cities/Counties			
Limit on local license fees (71.611)	(Unknown)	(Unknown)	(Unknown)
Property tax exemption on certain motor vehicles (137.100)	$0	(Unknown)	(Unknown)
Sales tax exemption for donated property to state (144.817)	(Unknown)	(Unknown)	(Unknown)
Sales tax exemption for natural gas used in the production of ethanol (144.030)	(Unknown)	(Unknown)	(Unknown)
Total Loss - Cites/Counties	(Unknown)	(Unknown)	(Unknown)
Loss to Cities			
Sales tax holiday	$0	$0 to ($524,984)	$0
Loss to Counties			
Sales tax holiday	$0	$0 to ($349,989)	$0
ESTIMATED NET EFFECT TO LOCAL GOVERNMENT	**(Unknown)**	**(Unknown)**	**(Unknown)**

FISCAL IMPACT - Small Business

This legislation could affect small businesses that collect sales tax on clothing. Sales tax paperwork will be increased for the month that the "holiday" sales tax days are exempt. Also, other small businesses could be impacted as a result of this proposal.

KS:LR:OD (12/02)

DESCRIPTION

This bill makes various changes related to taxation. The bill:

(1) Creates a state sales and use tax holiday for certain clothing, personal computers, certain computer software, and school supplies purchased during a three-day period each August. Any political subdivision may opt out of the holiday by adoption of a local ordinance if submitted annually to the Department of Revenue by the second Friday in July. The tax holiday will expire July 1, 2005;

DESCRIPTION (continued)

(2) Creates the Joint Legislative Committee on Tax Policy consisting of five members from both the House of Representatives and the Senate. The committee will be responsible for continuous study and review of state tax policy and for issuing reports on its findings and recommendations to the General Assembly;

(3) Changes provisions related to the carry-forward and carry-back provisions of net operating losses for income tax purposes. Any amount of net operating losses taken against federal taxes but disallowed against Missouri taxes since July 1, 2002, may be carried forward and used up to 20 years in the future. In addition, certain net operating losses relating to farming may be carried back and forward in the same manner as allowed by federal law;

(4) Exempts from property tax motor vehicles leased for a period of one year or more to the state and any political subdivision;

(5) Exempts from state and local sales and use taxes all purchases of tangible personal property and all items converted into tangible personal property which are donated to the State of Missouri;

(6) Limits the local license tax a village with less than 1,300 inhabitants can impose after March 31, 2004, to no more than $10,000;

(7) Allows Johnson County, if approved by voters, to establish a landfill fee of up to $1.50 per ton for economic development. Current law allows only third classification counties to establish these fees;

(8) Requires all lottery and other gaming winnings to be included in Missouri nonresident

adjusted gross income when the winnings are from a Missouri source;

(9) Allows elected officials who live in tax increment financing (TIF) districts to not be regarded as having a conflict of interest when voting on or discussing TIF issues. Elected officials still will not be able to profit from TIF projects; and

(10) Exempts natural gas used in the primary manufacture of fuel ethanol from sales tax and modifies the farm machinery, equipment, and supplies exemption from sales tax.

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
  Division of Budget and Planning
  Division of Purchasing
  Division of Accounting
Department of Economic Development
Missouri Lottery Commission
Missouri Gaming Commission
State Courts Administrator
State Treasurer
Missouri House of Representatives
Missouri Senate
City of Kansas City
Counties: Johnson, Jefferson
Tax Commission
Department of Agriculture
Missouri Department of Conservation
Missouri Senate Appropriations Committee
  Annual Fiscal Report: Fiscal Year 2002
States of Texas, Florida and New York

NOT RESPONDING:
Attorney General's Office
City of St. Joseph

KS:LR:OD (12/02)

Counties: Camden, Morgan, Buchanan,
Jasper, Miller, Newton, and Boone

Mickey Wilson

Mickey Wilson, CPA
Director
May 28, 2003