

COMMITTEE ON LEGISLATIVE RESEARCH
OVERSIGHT DIVISION

FISCAL NOTE

L.R. No.: 3680-06
Bill No.: HCS for SCS for SBs 894, 975 and 927
Subject: Revenue Dept.; Taxation and Revenue - Sales and Use; Business and Commerce
Type: Original
Date: May 3, 2002

FISCAL SUMMARY

ESTIMATED NET EFFECT ON STATE FUNDS			
FUND AFFECTED	FY 2003	FY 2004	FY 2005
General Revenue	Less than \$19,693,387	Unknown to (\$4,227,505)	Unknown
School District Trust	(\$1,075,205)	(\$1,371,616)	\$0
Conservation	(\$134,401)	(\$171,452)	\$0
Parks and Soil	(\$107,521)	(\$137,162)	\$0
Total Estimated Net Effect on <u>All</u> State Funds	LESS THAN \$18,376,260	UNKNOWN to (\$5,907,735)	UNKNOWN

ESTIMATED NET EFFECT ON FEDERAL FUNDS			
FUND AFFECTED	FY 2003	FY 2004	FY 2005
None			
Total Estimated Net Effect on <u>All</u> Federal Funds	\$0	\$0	\$0

ESTIMATED NET EFFECT ON LOCAL FUNDS			
FUND AFFECTED	FY 2003	FY 2004	FY 2005
Local Government	\$0	(\$2,057,425)	\$0

Numbers within parentheses: () indicate costs or losses.

This fiscal note contains 8 pages.

FISCAL ANALYSIS

ASSUMPTION

Sales Tax Holiday

Officials of the **Office of Administration - Division of Budget and Planning (BAP)** assume this portion of the 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 staff estimates taxable sales for FY2003 to be \$6,802,000,000 and taxable sales for FY 2004 to be \$7,197,000,000.

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 FY03 at \$241,000,000 and for FY04 at \$266,000,000. 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 1999 and 2000.

Officials of the **Department of Revenue (DOR)** state this legislation establishes a sales tax holiday for clothing and school supplies for four days in August. The state will reimburse the political subdivision for any lost revenues due to the exemption.

DOR assumes they are responsible for tracking and distributing the lost revenue portion back to the locals and subsequent impact associated with the local opt out provision. In order to track the lost revenue by locality the clothing and school supplies sales will need to be separately stated on the sales tax return with a new location (clothing/school supplies) on the return (similar to food). The sales tax report for August will affect all registrants (annual, quarterly and monthly). DOR assumes this will most likely result in some single and two location voucher filers to report on a long form for at least one month/quarter. DOR will need one 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.

The DOR will also need to send notification letters and a long sales tax form to approximately 100,000 sales tax accounts in August. DOR estimates the postage cost to notify the businesses will be approximately \$26,800.

ASSUMPTION (continued)

DOR assumes the MITS system will need to be modified to recognize the new item tax. The figures reported on the new item tax will need to be calculated and broken down into tax types in order to reimburse the lost revenue to the political subdivisions. The changes to MITS will require modifications to several tables, and distribution programs and registration subsystem. The changes in sales tax refunds will also required changes to the refund mechanism in MITS. The above modifications will require 2,768 hours of programming at a total cost of \$92,340. The State Data Center cost to implement the proposed legislation will be \$18,013. The DOR did not provide an estimate of revenue loss associated with the sales tax holiday.

Oversight, for purposes of this fiscal note, has reflected the loss in sales tax revenue based upon the estimate provided by the BAP and the actual impact similar legislation had on other states. The revenue estimate was based on 4/365 of the fiscal year taxable sales resulting in a loss to state funds of \$2.7 million in FY 2003 and \$3.5 million in FY 2004 due to the sales tax holidays. No adjustment was made for the \$100 and \$50 caps. **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 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 since this legislation includes a reimbursement to local government for any local sales tax revenue lost for FY03 and it is assumed DOR will be required to track the sales tax revenue lost.

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 four day exemption as it would for a seven day exemption, as it would for a thirty-one day exemption.

ASSUMPTION (continued)

Sales tax refunds

Officials from the **Department of Revenue (DOR)** assume this legislation requires that a refund of sales tax be refunded or credited to the person who originally paid the sales tax. The person who remits the tax must demonstrate that the sales tax refund will be refunded to the person who originally paid the tax.

The DOR assumes the proposed legislation will also require additional documentation on refund claims. The DOR estimates approximately \$10 million of refunds most likely would not be refunded because of the proposed legislation. This figure is subject to change, depending on the types/amounts of refund claims received. In prior fiscal impacts, the DOR estimated this amount might be as high as \$22 million. However, on further review, the DOR has reduced this amount based on an implementation plan that would allow retailers to distribute these refunds using customer discounts and coupons.

In a response to a prior similar proposal, DOR assumed a minimal impact on programming to be completed with existing resources.

Since DOR's estimate is based on prior year refund amounts and DOR assumes taxpayers will become better informed about sales tax rules and not overcharge customers in the future with the passage of this legislation, **Oversight** has shown the fiscal impact in FY04 and FY05 as unknown.

Amnesty

Officials from the **Office of the State Courts Administrator (CTS)**, the **Attorney General's Office (AGO)**, the **Office of the State Treasurer (STO)** and the **Office of Administration, Administrative Hearing Commission (AHC)** assume this bill has no fiscal impact to their agencies.

Officials of the **Department of Revenue (DOR)** state this legislation provides statutory procedures for a limited tax amnesty program.

DOR assumes Section 32.380 indicates amnesty only applies to state taxes but it should also include local taxes DOR collects. An amnesty sales tax form will need to be developed.

DOR assumes overtime may be incurred to have the amnesty wrapped up within the 60 days proposed in the legislation with notification back to the taxpayer of approval or not. Additional postage will be incurred, it is unknown, it could be \$10,000 or much more. It will depend on taxpayer response to the amnesty.

ASSUMPTION (continued)

DOR assumes this legislation will impact several separate and unique systems MINITS, COINS, Employer Withholding, MITS, Motor Vehicle Delinquent Fee. Each of the systems will need program changes to generate letters to notify taxpayers of the amnesty program. Approval letters

will also need to be generated. Each system will need to be programmed to earmark the amount collected as a result of the amnesty to the school moneys fund instead of GR. An amnesty program will need to be developed for each tax system in order to monitor and administer the program. DOR estimates that the above program changes (to all tax systems) will require 6,055 hours of programming for a total cost of \$201,995. The State Data Center cost to implement the proposed legislation will be \$39,404.

Officials of the **Office of the Secretary of State (SOS)** assume this bill establishes procedures relating to assessment and collection of taxes for the DOR. DOR may promulgate rules to implement this bill. These rules will be published in both the *Missouri Register* and the *Code of State Regulations*. Based on experience with other divisions, the rules, regulations and forms issued by DOR could require as many as 16 pages in the *Code of State Regulations*. For any given rule, roughly half again as many pages are published in the *Missouri Register* in the Code because cost statements, fiscal notes and the like are not repeated in the Code. These costs are estimated. The estimated cost of a page in the *Missouri Register* is \$23. The estimated cost of a page in the *Code of State Regulations* is \$27. The actual cost for FY03 is estimated at \$984 but could be more or less than the numbers given. The impact of this legislation in future years is unknown and depends upon the frequency and length of rules filed, amended, rescinded or withdrawn.

Oversight assumes the SOS could absorb the costs of printing and distributing regulations related to this proposal. If multiple bills pass which require the printing and distribution of regulations at substantial costs, the SOS could request funding through the appropriations process. Any decisions to raise fees to defray costs would likely be made in subsequent fiscal years

Officials from the **Office of Administration, Budget and Planning (BAP)** assume this proposed legislation should not result in additional costs or savings to BAP. BAP noted that according to DOR, the tax amnesty program will increase revenues by \$15 million in FY 2003.

This legislation could increase total state revenues.

<u>FISCAL IMPACT - State Government</u>	FY 2003	FY 2004	FY 2005
GENERAL REVENUE FUND			
<u>Income</u> - General Revenue Fund	Less than		
Reduction in sales tax refunds	\$10,000,000	Unknown	Unknown
Amnesty Tax Revenue	<u>\$15,000,000</u>	<u>\$0</u>	<u>\$0</u>
Total Income - GR	Less than	Unknown	Unknown
	\$25,000,000		

<u>FISCAL IMPACT - State Government</u>	FY 2003	FY 2004	FY 2005
<u>Cost</u> - Dept. of Revenue (DOR)			
Personnel (3 FTE)	(\$50,600)	(\$62,238)	\$0
Fringe Benefits	(\$18,221)	(\$22,412)	\$0
Expense and Equipment	(\$20,816)	(\$1,206)	\$0
Postage	(\$26,800 to Unknown)	(\$26,800)	\$0
Programming & State Data Center	(\$351,752)	\$0	\$0
Total Costs - DOR	(\$468,189 to Unknown)	(\$112,656)	\$0
<u>Loss</u> to General Revenue Fund			
Sales tax holiday	(\$3,225,616)	(\$4,114,849)	\$0
<u>Transfer</u> to Local Government			
Reimbursement for loss in local sales tax revenue	(\$1,612,808)	\$0	\$0
ESTIMATED NET EFFECT ON GENERAL REVENUE FUND	<u>Less than \$19,693,387</u>	<u>Unknown to (\$4,227,505)</u>	<u>Unknown</u>
<u>Loss</u> to School District Trust Fund			
Sales tax holiday	(\$1,075,025)	(\$1,371,616)	\$0
<u>Loss</u> to Conservation Fund			
Sales tax holiday	(\$134,401)	(\$171,452)	\$0
<u>Loss</u> to Parks and Soil Funds			
Sales tax holiday	(\$107,521)	(\$137,162)	\$0
ESTIMATED NET EFFECT TO ALL STATE FUNDS	<u>Less than \$18,376,260</u>	<u>Unknown to (\$5,907,735)</u>	<u>Unknown</u>
<u>FISCAL IMPACT - Local Government</u>	FY 2003	FY 2004	FY 2005
<u>Income</u> from General Revenue			
Reimbursement	\$1,612,808	\$0	\$0
<u>Loss</u> to Cities			
Sales tax holiday	(\$967,685)	(\$1,234,455)	\$0

<u>FISCAL IMPACT - Local Government</u>	FY 2003	FY 2004	FY 2005
<u>Loss to Counties</u>			
Sales tax holiday	<u>(\$645,123)</u>	<u>(\$822,970)</u>	<u>\$0</u>
ESTIMATED NET EFFECT TO LOCAL GOVERNMENT	<u>\$0</u>	<u>(\$2,057,425)</u>	<u>\$0</u>

FISCAL IMPACT - Small Business

This legislation could affect all businesses that collect sales tax. Sales tax paperwork will be increased for the month that the "holiday" sales tax days are exempt.

Also, small businesses could expect to be fiscally impacted to the extent that they receive abatement on prior taxes due and must file and pay sales or corporate income tax in the future.

DESCRIPTION

Section 144.049 Sales Tax Holiday

This act creates a state and local sales tax holiday for items of clothing (costing no more than \$100 each), school supplies (costing no more than \$50 per purchase), and personal computers (costing no more than \$1,000 each) sold during two three-day periods in August 2002 and 2003. Sales of personal computers to any business or corporation are excluded.

The state will reimburse all local tax revenues lost in calendar year 2002 and individual political subdivisions may, by ordinance, opt their local sales taxes out of the holiday exemption beginning in calendar year 2003. A joint legislative committee is created to study and review the effect of the sales tax holiday and to report their findings and recommendations to the General Assembly by January 8, 2004.

The act has an emergency clause and a sunset date of July 1, 2004.

DESCRIPTION (continued)

Section 144.190 Sales Tax Refunds

This bill requires that any request for a refund of sales taxes by a person who collects and remits the tax will only be granted if the person demonstrates to the satisfaction of the Director of Revenue that the amount will be refunded or credited to the person who originally paid the sales tax. The restriction will not apply if the person seeking the refund shows to the director's satisfaction that he or she originally paid the tax and that it was not collected from the

purchasers.

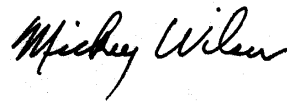
Section 136.320 Amnesty

This legislation creates an amnesty from the assessment or payment of all penalties, additions to tax and interest with respect to taxes reported and paid in full during a period from August 1, 2002 to September 30, 2002. The amnesty applies to state tax liabilities due, but unpaid, on or before December 31, 2001. All revenue resulting from the amnesty will be deposited in General Revenue.

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
Administrative Hearing Commission
State Courts Administrator
Office of the Attorney General
Secretary of State
State Treasurer
States of Texas, Florida and New York



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