

COMMITTEE ON LEGISLATIVE RESEARCH
OVERSIGHT DIVISION

FISCAL NOTE

L.R. No.: 4782-04
Bill No.: HCS for HB 1749
Subject: Energy; Revenue Department; Taxation and Revenue; Utilities
Type: Original
Date: April 17, 2006

FISCAL SUMMARY

ESTIMATED NET EFFECT ON GENERAL REVENUE FUND			
FUND AFFECTED	FY 2007	FY 2008	FY 2009
General Revenue	(\$94,675 to Unknown)	(\$113,610 to Unknown)	(\$113,610 to Unknown)
Total Estimated Net Effect on General Revenue Fund	(\$94,675 to Unknown)	(\$113,610 to Unknown)	(\$113,610 to Unknown)

ESTIMATED NET EFFECT ON OTHER STATE FUNDS			
FUND AFFECTED	FY 2007	FY 2008	FY 2009
Various State Funds	(\$38,658 to Unknown)	(\$46,390 to Unknown)	(\$46,390 to Unknown)
Total Estimated Net Effect on <u>Other</u> State Funds	(\$38,658 to Unknown)	(\$46,390 to Unknown)	(\$46,390 to Unknown)

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

ESTIMATED NET EFFECT ON FEDERAL FUNDS			
FUND AFFECTED	FY 2007	FY 2008	FY 2009
Total Estimated Net Effect on <u>All</u> Federal Funds	\$0	\$0	\$0

ESTIMATED NET EFFECT ON LOCAL FUNDS			
FUND AFFECTED	FY 2007	FY 2008	FY 2009
Local Government	(Unknown)	(Unknown)	(Unknown)

FISCAL ANALYSIS

ASSUMPTION

Section 144.030 - Motor Fuel tax exemption:

In response to a similar version of this proposal, officials from the **Department of Transportation (MoDOT)** stated under current law, an exemption from local sales tax is permitted for half of the purchase amount of diesel fuel used solely for agricultural purposes. This legislation completely exempts purchases of all motor fuel for agricultural purposes from state and local sales taxes. Because the use of the motor fuel is intended solely for agricultural purposes and not for transportation on the public highways of the state, this fuel, even if taxed, would not produce state revenues derived from highway users. MoDOT assumes, therefore, the proposal would not fiscally impact their agency.

In response to a similar proposal from this year (SCS for SB 744), officials from the **Department of Revenue (DOR)** stated during FY 2005, the department collected approximately \$160,000 in sales taxes (state only) on refunds of clear diesel fuel sold for agriculture purposes. This amount would be exempted under this legislation. DOR states there are no sales taxes collected on gasoline, therefore, no additional revenues would be lost.

ASSUMPTION (continued)

Currently the retailer charges sales tax (both state & local) on $\frac{1}{2}$ of the purchase price of dyed diesel fuel purchased for agricultural purposes. DOR cannot determine how much sales tax is currently being collected on these purchases, therefore, cannot provide an estimate of lost revenues on dyed diesel fuel.

Kerosene is subject to motor fuel tax. If it is used for non-highway purposes, then a refund may be claimed. Sales tax is then charged against the refund unless it was used for home heating purposes.

This exemption would lessen the burden on the retailer collecting sales tax. Also, DOR excise personnel would not have to calculate the price per gallon and the sales tax on refunds of motor fuel for agricultural purposes. This would reduce the process time on those particular refunds.

However, there is some potential for falsely claiming other types of refunds as agricultural refunds. For example, when the price per gallon is high, the sales tax on refunds greatly reduces the overall amount of the refund. Therefore, in order to get a larger portion of the motor fuel refund, unscrupulous entities may falsely claim a refund of motor fuel as agricultural, instead of what it was truly intended for (ie. construction).

Even though there may be a loss in total state revenues, this legislation will not create an impact on Taxation. DOR estimates a loss to the General Revenue fund of \$160,000 in all three fiscal years. DOR states the local sales tax on this fuel is not collected, therefore, the proposal would not fiscally impact the local governments.

In response to a similar proposal from this year (SCS for SB 744), officials from the **Office of Administration - Budget and Planning (BAP)** stated that the proposal would not fiscally impact their agency. BAP stated the Department of Revenue estimates that \$160,000 was collected in diesel fuel taxes in FY 2005. BAP assumed a similar amount would be collected in FY 2006. Therefore, BAP assumed a loss to general revenue resulting from this proposal.

In response to a similar proposal from this year, officials from **St. Louis County** stated when a fuel retailer sells diesel fuel for agricultural purposes and determines that 'motor fuel tax' is not to be charged, sales tax is then charged on the sale of diesel fuel. St. Louis County state it appears that the fiscal impact on their county would be minimal.

In response to a similar proposal from this year, officials from the **City of Kansas City** assumed the proposal would have no adverse or beneficial fiscal impact on the city.

ASSUMPTION (continued)

In response to a similar proposal from this year, officials from **Jefferson County** assumed the proposal would have a minimum fiscal impact to their county.

In response to a similar proposal from this year (SB 739), officials from **Jasper County** assumed the proposal would not fiscally impact their county.

Oversight assumes there will be 10/12ths of a year of fiscal impact in FY 2007 with an effective date of August 28, 2006. Oversight assumes the \$160,000 in annual sales taxes that will no longer be collected as a result of this proposal will be divided between the four funds that comprise the state sales tax as shown below.

<u>Fund</u>		<u>Percentage of rate</u>	<u>Percentage of \$160,000</u>
General Revenue	3.000%	71%	\$113,610
School District Trust Fund	1.000%	24%	\$ 37,870
Parks and Soils	.100%	2%	\$ 3,790
Conservation	.125%	3%	\$ 4,730
	4.225%	100%	\$160,000

Section 144.054 - Sales tax exemptions for utilities used in production, prescription pharmaceuticals for consumption by humans or animals, as well as various other things;

Officials from the **Department of Agriculture, State Tax Commission** and the **Department of Economic Development - Public Service Commission** assume the proposal will not fiscally impact their agency.

In response to a previous version of this proposal, officials from the **Department of Revenue** assumed the proposal has no administrative impact to their agency, however, it would have a potential significant unknown loss of revenue due to the expanded sales tax exemption.

In response to a previous version of this proposal, officials from the **Office of Administration - Budget and Planning (BAP)** stated the proposal would provide a state and local sales tax exemption for utilities used in manufacturing, processing, compounding, mining, or production.

ASSUMPTION (continued)

This bill would have no impact on BAP, but will result in a substantial reduction in General Revenue.

2004 taxable sales data from the Department of Revenue for utility services totaled \$3.2 billion. This translates to state and local sales taxes of about \$204 million annually, using an average state tax rate of 4.225% and an average local sales tax rate of 2.225%.

BAP notes that this figure does however include some local sales tax on domestic utilities which this bill does not cover, but also excludes some taxes on commercial and industrial usage addressed by this bill in instances where the local governments have opted not to impose a local sales tax.

Based upon the responses from the Department of Revenue and Budget and Planning, **Oversight** will assume the proposal will result in an unknown loss of revenue to the various sales tax funds. Oversight will assume this loss could greatly exceed \$100,000.

This proposal will reduce Total State Revenues.

<u>FISCAL IMPACT - State Government</u>	FY 2007 (10 Mo.)	FY 2008	FY 2009
GENERAL REVENUE			
<u>Loss – Sales Tax Exemptions (Section 144.054)</u>	(Unknown)	(Unknown)	(Unknown)
<u>Loss - sales tax revenue from exemption of motor fuel used for agricultural purposes (Section 144.030)</u>	<u>(\$94,675)</u>	<u>(\$113,610)</u>	<u>(\$113,610)</u>
ESTIMATED NET EFFECT ON GENERAL REVENUE	<u>(\$94,675 to Unknown)</u>	<u>(\$113,610 to Unknown)</u>	<u>(\$113,610 to Unknown)</u>

<u>FISCAL IMPACT - State Government</u> (continued)	FY 2007 (10 Mo.)	FY 2008	FY 2009
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VARIOUS STATE FUNDS

<u>Loss</u> – sales tax exemptions in Section 144.054	(Unknown)	(Unknown)	(Unknown)
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<u>Loss</u> - sales tax revenue from exemption of motor fuel used for agricultural purposes (Section 144.030)	<u>(\$38,658)</u>	<u>(\$46,390)</u>	<u>(\$46,390)</u>
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ESTIMATED NET EFFECT ON OTHER STATE FUNDS	<u>(\$38,658 to Unknown)</u>	<u>(\$46,390 to Unknown)</u>	<u>(\$46,390 to Unknown)</u>
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<u>FISCAL IMPACT - Local Government</u>	FY 2007 (10 Mo.)	FY 2008	FY 2009
<u>Loss</u> – Local Sales Tax Revenues Sales Tax Exemptions (Section 144.054)	<u>(Unknown)</u>	<u>(Unknown)</u>	<u>(Unknown)</u>

FISCAL IMPACT - Small Business

Small businesses that use utilities to manufacture, process, compound, mine or produce any product could be fiscally impacted from this proposal.

DESCRIPTION

Section 144.030; under current law, an exemption from local sales tax is permitted for half of the purchase amount of diesel fuel used for agricultural purposes. This act completely exempts purchases of motor fuel for agricultural purposes from local sales tax.

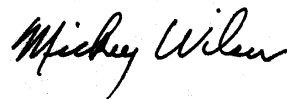
DESCRIPTION (continued)

Section 144.054; authorizes an exemption from state and local sales and use tax for the cost of all utilities used in the manufacturing, processing, compounding, mining, or production of a product.

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 Economic Development
Department of Transportation
Department of Agriculture
State Tax Commission
St. Louis County
Jefferson County
Jasper County
City of Kansas City



Mickey Wilson, CPA
Director
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