

COMMITTEE ON LEGISLATIVE RESEARCH
OVERSIGHT DIVISION

FISCAL NOTE

L.R. No.: 3105-01
Bill No.: HB 1244
Subject: Drugs and Controlled Substances; Pharmacy; Revenue Dept.; Taxation and
Revenue - Sales and Use
Type: Original
Date: February 3, 2010

Bill Summary: Would authorize a state and local sales and use tax exemption for
over-the-counter or nonprescription drugs prescribed by a practitioner.

FISCAL SUMMARY

ESTIMATED NET EFFECT ON GENERAL REVENUE FUND			
FUND AFFECTED	FY 2011	FY 2012	FY 2013
Total Estimated Net Effect on General Revenue Fund	\$0	\$0	\$0

ESTIMATED NET EFFECT ON OTHER STATE FUNDS			
FUND AFFECTED	FY 2011	FY 2012	FY 2013
Total Estimated Net Effect on <u>Other</u> State Funds	\$0	\$0	\$0

Numbers within parentheses: () indicate costs or losses.
This fiscal note contains 6 pages.

ESTIMATED NET EFFECT ON FEDERAL FUNDS			
FUND AFFECTED	FY 2011	FY 2012	FY 2013
Total Estimated Net Effect on <u>All</u> Federal Funds	\$0	\$0	\$0

ESTIMATED NET EFFECT ON FULL TIME EQUIVALENT (FTE)			
FUND AFFECTED	FY 2011	FY 2012	FY 2013
Total Estimated Net Effect on FTE	0	0	0

☐ Estimated Total Net Effect on All funds expected to exceed \$100,000 savings or (cost).

☐ Estimated Net Effect on General Revenue Fund expected to exceed \$100,000 (cost).

ESTIMATED NET EFFECT ON LOCAL FUNDS			
FUND AFFECTED	FY 2011	FY 2012	FY 2013
Local Government	\$0	\$0	\$0

FISCAL ANALYSIS

ASSUMPTION

Officials from the **Office of the Secretary of State (SOS)** responded that 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.

Officials from the **Department of Health and Senior Services** and the **Department of Revenue** assume this proposal would have no fiscal impact on their organizations.

Officials from the **Department of Social Services (DOS)** assume this proposal would eliminate the sales tax exemption for over-the-counter (OTC) and nonprescription drugs for individuals with disabilities, and would create a sales tax exemption for OTC and nonprescription drugs that are prescribed by a physician. DOS officials stated that there would be no fiscal impact to their organization since Mo Healthnet pays pharmacy providers directly for OTC drugs dispensed to members. The Mo HealthNet program does not pay sales tax.

Although officials from the **Office of Administration, Division of Budget and Planning (BAP)** did not respond to our request for information, in response to a similar proposal in the previous session (HB 36 LR 0131-01 (2009)) BAP officials assumed there would be no added cost to their organization as a result of this proposal. BAP officials noted that this proposal would exempt from sales tax any OTC or nonprescription drugs prescribed by a practitioner.

ASSUMPTION (continued)

In response to that same proposal, BAP officials provided statistics from a trade association for OTC drug manufacturers, the Consumer Healthcare Products Association. According to the association, retail sales of OTC drugs for the last several years were:

2003	\$14.2 billion
2004	\$14.1 billion
2005	\$15.0 billion
2006	\$15.3 billion
2007	\$16.1 billion

Assuming 1.7% of these sales were made in Missouri, then \$273.7 million in sales occurred in 2007 in the state. BAP did not have information suggesting how much of these amounts were by prescription. The table suggests average growth of about 3.4% each year.

Oversight notes that the Consumer healthcare products association reported sales of \$16.8 billion for 2008; 2009 sales are not yet available.

Oversight also notes that this proposal would eliminate the current sales tax exemption for OTC drugs purchased by disabled person, and would create a sales tax exemption for the purchase of OTC drugs prescribed by a practitioner.

Oversight is not able to determine the number of OTC drugs which are purchased by disabled persons nor the cost of those drugs. Oversight assumes that most disabled purchasers of OTC drugs, who would be eligible for the current exemption, would be able to obtain a prescription for those drugs and qualify for the exemption created by this proposal. Although there could be a minimal number of disabled persons who would not be able to obtain a prescription for those drugs, Oversight assumes the fiscal impact to the state and to local governments from those purchases would be insignificant.

Oversight will indicate no fiscal impact for this proposal.

<u>FISCAL IMPACT - State Government</u>	FY 2011 (10 Mo.)	FY 2012	FY 2013
	<u>\$0</u>	<u>\$0</u>	<u>\$0</u>

<u>FISCAL IMPACT - Local Government</u>	FY 2011 (10 Mo.)	FY 2012	FY 2013
	<u>\$0</u>	<u>\$0</u>	<u>\$0</u>

FISCAL IMPACT - Small Business

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

FISCAL DESCRIPTION

This proposal would proposal would eliminate the current sales tax exemption for OTC drugs purchased by disabled person and would create a sales tax exemption for the purchase of OTC drugs prescribed by a practitioner.

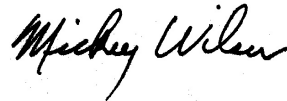
This legislation is not federally mandated, would not duplicate any other program and would not require additional capital improvements or rental space.

SOURCES OF INFORMATION

Office of the Secretary of State
Department of Health and Senior services
Department of Revenue
Department of Social Services

NOT RESPONDING

Office of Administration
Division of Budget and Planning

A handwritten signature in black ink that reads "Mickey Wilson". The signature is written in a cursive, flowing style.

Mickey Wilson, CPA
Director
February 3, 2010