

COMMITTEE ON LEGISLATIVE RESEARCH  
OVERSIGHT DIVISION

**FISCAL NOTE**

L.R. No.: 3105-02  
Bill No.: HCS for HB 1244  
Subject: Drugs and Controlled Substances; Pharmacy; Revenue Dept.; Taxation and  
Revenue - Sales and Use  
Type: Original  
Date: March 30, 2010

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Bill Summary: Would eliminate the current sales tax exemption for OTC drugs purchased by a disabled person and would create sales tax exemptions for the purchase of OTC drugs prescribed by a practitioner as well as for sales of equipment, supplies, or devices paid for by Medicare, Medicaid, or a third-party provider.

**FISCAL SUMMARY**

<b>ESTIMATED NET EFFECT ON GENERAL REVENUE FUND</b>			
<b>FUND AFFECTED</b>	<b>FY 2011</b>	<b>FY 2012</b>	<b>FY 2013</b>
General Revenue	(Unknown)	(Unknown)	(Unknown)
<b>Total Estimated Net Effect on General Revenue Fund</b>	<b>(Unknown)</b>	<b>(Unknown)</b>	<b>(Unknown)</b>

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

<b>ESTIMATED NET EFFECT ON OTHER STATE FUNDS</b>			
<b>FUND AFFECTED</b>	<b>FY 2011</b>	<b>FY 2012</b>	<b>FY 2013</b>
Conservation Commission	(Unknown)	(Unknown)	(Unknown)
Parks, and Soil and Water	(Unknown)	(Unknown)	(Unknown)
School District Trust	(Unknown)	(Unknown)	(Unknown)
<b>Total Estimated Net Effect on <u>Other</u> State Funds</b>	<b>(Unknown)</b>	<b>(Unknown)</b>	<b>(Unknown)</b>

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

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

☐ 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	(Unknown)	(Unknown)	(Unknown)

### 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.

ASSUMPTION (continued)

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.

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, as well as for medical equipment, supplies, or devices that are provided to a person on or by the order of a physician, or that are otherwise paid for by a third party health insurer, Medicare, or Medicaid.

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.

ASSUMPTION (continued)

Officials from the **Department of Revenue** stated that the Medicare and Medicaid programs would not be charged sales tax on sales that would be exempted by this proposal but third party providers such as insurances companies would be charged sales tax.

**Oversight** will indicate an unknown negative fiscal impact for the state general revenue fund and for those other state funds which receive sales tax revenues, and for local governments.

<u>FISCAL IMPACT - State Government</u>	FY 2011 (10 Mo.)	FY 2012	FY 2013
<b>GENERAL REVENUE FUND</b>			
<u>Revenue reduction</u> - sales tax exemptions	<u>(Unknown)</u>	<u>(Unknown)</u>	<u>(Unknown)</u>
<b>ESTIMATED NET EFFECT ON GENERAL REVENUE FUND</b>	<b><u>(Unknown)</u></b>	<b><u>(Unknown)</u></b>	<b><u>(Unknown)</u></b>
<b>CONSERVATION COMMISSION FUND</b>			
<u>Revenue reduction</u> - sales tax exemptions	<u>(Unknown)</u>	<u>(Unknown)</u>	<u>(Unknown)</u>
<b>ESTIMATED NET EFFECT ON CONSERVATION COMMISSION FUND</b>	<b><u>(Unknown)</u></b>	<b><u>(Unknown)</u></b>	<b><u>(Unknown)</u></b>
<b>PARKS, AND SOIL AND WATER FUNDS</b>			
<u>Revenue reduction</u> - sales tax exemptions	<u>(Unknown)</u>	<u>(Unknown)</u>	<u>(Unknown)</u>
<b>ESTIMATED NET EFFECT ON PARKS, AND SOIL AND WATER FUNDS</b>	<b><u>(Unknown)</u></b>	<b><u>(Unknown)</u></b>	<b><u>(Unknown)</u></b>

<u>FISCAL IMPACT - State Government</u>	FY 2011 (10 Mo.)	FY 2012	FY 2013
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**SCHOOL DISTRICT TRUST FUND**

<u>Revenue reduction - sales tax exemptions</u>	<u>(Unknown)</u>	<u>(Unknown)</u>	<u>(Unknown)</u>
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<b>ESTIMATED NET EFFECT ON SCHOOL DISTRICT TRUST FUND</b>	<b><u>(Unknown)</u></b>	<b><u>(Unknown)</u></b>	<b><u>(Unknown)</u></b>
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<u>FISCAL IMPACT - Local Government</u>	FY 2011 (10 Mo.)	FY 2012	FY 2013
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**LOCAL GOVERNMENTS**

<u>Revenue reduction - sales tax exemptions</u>	<u>(Unknown)</u>	<u>(Unknown)</u>	<u>(Unknown)</u>
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<b>ESTIMATED NET EFFECT ON LOCAL GOVERNMENTS</b>	<b><u>(Unknown)</u></b>	<b><u>(Unknown)</u></b>	<b><u>(Unknown)</u></b>
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FISCAL IMPACT - Small Business

This proposal could have a direct fiscal impact to small businesses involved in the specific transactions which would be exempted from sales tax by this proposal.

FISCAL DESCRIPTION

This proposal would eliminate the current sales tax exemption for OTC drugs purchased by disabled person and would create sales tax exemptions for the purchase of OTC drugs prescribed by a practitioner as well as for sales of equipment, supplies, or devices paid for by Medicare, Medicaid, or a third-party provider.

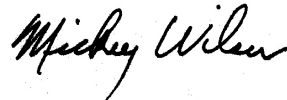
This legislation is not federally mandated, would not duplicate any other program and would not require additional capital improvements or rental space.

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  
March 30, 2010