

COMMITTEE ON LEGISLATIVE RESEARCH
OVERSIGHT DIVISION

FISCAL NOTE

L.R. No.: 5159-01
Bill No.: HB 1802
Subject: Taxation and Revenue - General, Taxation and Revenue - Sales and Use,
Economic Development, Business and Commerce, Administrative Law
Type: Original
Date: January 25, 2018

Bill Summary: This proposal changes the law regarding exemptions of sale taxes by clarifying a definition to exempt the productions of communication services.

FISCAL SUMMARY

ESTIMATED NET EFFECT ON GENERAL REVENUE FUND			
FUND AFFECTED	FY 2019	FY 2020	FY 2021
General Revenue	(Unknown)	(Unknown)	(Unknown)
Total Estimated Net Effect on General Revenue	(Unknown)	(Unknown)	(Unknown)

ESTIMATED NET EFFECT ON OTHER STATE FUNDS			
FUND AFFECTED	FY 2019	FY 2020	FY 2021
Conservation Commission	(Unknown)	(Unknown)	(Unknown)
Parks, Soil & Water	(Unknown)	(Unknown)	(Unknown)
School District Trust	(Unknown)	(Unknown)	(Unknown)
Total Estimated Net Effect on <u>Other</u> State Funds	(Unknown)	(Unknown)	(Unknown)

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

ESTIMATED NET EFFECT ON FEDERAL FUNDS			
FUND AFFECTED	FY 2019	FY 2020	FY 2021
Total Estimated Net Effect on <u>All</u> Federal Funds	\$0	\$0	\$0

ESTIMATED NET EFFECT ON FULL TIME EQUIVALENT (FTE)			
FUND AFFECTED	FY 2019	FY 2020	FY 2021
Total Estimated Net Effect on FTE	0	0	0

☒ Estimated Net Effect (expenditures or reduced revenues) expected to exceed \$100,000 in any of the three fiscal years after implementation of the act.

ESTIMATED NET EFFECT ON LOCAL FUNDS			
FUND AFFECTED	FY 2019	FY 2020	FY 2021
Local Government	(Unknown)	(Unknown)	(Unknown)

FISCAL ANALYSIS

ASSUMPTION

Officials at the **Office of Administration Division of Budget and Planning** assume section 144.030 would “abrogate” the Missouri Supreme Court decision for *IBM Corporation v. Director of Revenue*. This section could lead to an expansion of the current manufacturing sales tax exemption because the IBM case also included a ruling that certain companies did not qualify for a manufacturing exemption. By abrogating the entire ruling, it could be possible that those businesses would now qualify for these exemptions. Therefore, Total State Revenue, General Revenue and other state and local funds could be negatively impacted.

Section 144.054 would create in statute a sales tax exemption for telecommunications. This would codify the exemption granted by the Missouri Supreme Court. This section is expected to have no impact on Total State Revenue as the sales tax is not currently collected.

This proposal may impact total state revenues. This proposal may impact the calculation under Article X, Section 18(e).

Officials at the **Department of Revenue** assume §144.030.2(5) and §144.030.2(6) abrogates *IBM* so the legislation does represent a substantive change in the law. This section could lead to an expansion of the current manufacturing sales tax exemption because the IBM case also included a ruling that certain companies did not qualify for a manufacturing exemption. By abrogating the entire ruling, it could be possible that those businesses would now qualify for these exemptions. Therefore, Total State Revenue, General Revenue and other state and local funds could be negatively impacted.

Officials at the **Department of Conservation** assume an unknown negative fiscal impact but greater than \$100,000. The Conservation Sales Tax funds are derived from one-eighth of one percent sales and use tax pursuant to Article IV Section 43(a) of the Missouri Constitution. The Department assumes the Department of Revenue would be better able to estimate the anticipated fiscal impact that would result from this proposal.

Officials at the **Department of Natural Resources** assume this proposal creates a state and local sales tax exemption for production of communications services. The Department’s Parks and Soils Sales Tax Funds are derived from one-tenth of one percent sales and use tax pursuant to Article IV Section 47(a) of the Missouri Constitution. Therefore, the sales tax exemption proposal could result in an unknown loss to the Parks and Soils Sales Tax Funds.

ASSUMPTION (continued)

Officials at the **Department of Elementary and Secondary Education (DESE)** assume other than the potential impact on the revenue stream of state and local governments (which our department has no means to calculate), this proposal does not impact DESE.

Officials at the **City of Kansas City** assume by redefining the term "product" to include telecommunication services and "manufacturing" to include electronic transmissions, additional sales tax exemptions are being proposed. In general, increasing the number of sales tax exemptions has a negative fiscal impact on the City because it limits the City's ability to collect sales tax. Kansas City is unable to estimate the loss in sales tax revenue.

Officials at the **Kirksville R-III School District, Summersville R-II School District, and West Plains School District** each assume this proposal will have a negative fiscal impact on the district.

Officials at the **City of Columbia, St Louis County, the Platte County Board of Elections, the Jackson County Board of Election Commissioners, and the St. Louis County Board of Elections Commissioners** each assume there is no fiscal impact from this proposal.

<u>FISCAL IMPACT - State Government</u>	FY 2019 (10 Mo.)	FY 2020	FY 2021
GENERAL REVENUE			
<u>Revenue Reduction</u> - manufacturing sales tax exemption	<u>(Unknown)</u>	<u>(Unknown)</u>	<u>(Unknown)</u>
ESTIMATED NET EFFECT ON GENERAL REVENUE	<u>(Unknown)</u>	<u>(Unknown)</u>	<u>(Unknown)</u>
CONSERVATION COMMISSION			
<u>Revenue Reduction</u> - manufacturing sales tax exemption	<u>(Unknown)</u>	<u>(Unknown)</u>	<u>(Unknown)</u>
ESTIMATED NET EFFECT ON THE CONSERVATION COMMISSION	<u>(Unknown)</u>	<u>(Unknown)</u>	<u>(Unknown)</u>

<u>FISCAL IMPACT - State Government</u> (continued)	FY 2019 (10 Mo.)	FY 2020	FY 2021
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PARKS, SOIL & WATER FUND

<u>Revenue Reduction</u> - manufacturing sales tax exemption	<u>(Unknown)</u>	<u>(Unknown)</u>	<u>(Unknown)</u>
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ESTIMATED NET EFFECT ON PARKS, SOIL & WATER FUND	<u>(Unknown)</u>	<u>(Unknown)</u>	<u>(Unknown)</u>
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SCHOOL DISTRICT TRUST FUND

<u>Revenue Reduction</u> - manufacturing sales tax exemption	<u>(Unknown)</u>	<u>(Unknown)</u>	<u>(Unknown)</u>
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ESTIMATED NET EFFECT ON SCHOOL DISTRICT TRUST FUND	<u>(Unknown)</u>	<u>(Unknown)</u>	<u>(Unknown)</u>
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<u>FISCAL IMPACT - Local Government</u>	FY 2019 (10 Mo.)	FY 2020	FY 2021
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LOCAL POLITICAL SUBDIVISIONS

<u>Revenue Reduction</u> - manufacturing sales tax exemption	<u>(Unknown)</u>	<u>(Unknown)</u>	<u>(Unknown)</u>
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ESTIMATED NET EFFECT ON LOCAL POLITICAL SUBDIVISIONS	<u>(Unknown)</u>	<u>(Unknown)</u>	<u>(Unknown)</u>
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FISCAL IMPACT - Small Business

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

FISCAL DESCRIPTION


This bill exempts the production and transmission of telecommunications services, as well as the services themselves, from any state and local sales and use taxes. The bill also overrides the judicial opinion IBM Corporation v. Director of Revenue, 491 S.W.3d 535 (Mo. banc 2016) to the extent it is inconsistent with the prior decisions Southwestern Bell Telephone Company v. Director of Revenue, 78 S.W.3d 763 (Mo. banc 2002) and Southwestern Bell Telephone Company v. Director of Revenue, 182 S.W.3d 226 (Mo. banc 2005).

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 Elementary and Secondary Education
Department of Natural Resources
Department of Conservation
Department of Revenue
Office of Administration Division of Budget and Planning
City of Kansas City
St. Louis County
City of Columbia
West Plains School District
Kirksville R-III School District
Summersville R-II School District
Platte County Board of Election Commission
Jackson County Board of Election Commission
St. Louis County Board of Election Commission

Ross Strobe



Acting Director
January 25, 2018

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