

COMMITTEE ON LEGISLATIVE RESEARCH
OVERSIGHT DIVISION

FISCAL NOTE

L.R. No.: 5159-04
Bill No.: HCS#2 for HB 1802
Subject: Taxation and Revenue - General, Taxation and Revenue - Sales and Use,
Economic Development, Business and Commerce, Administrative Law
Type: Original
Date: March 28, 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
Total Estimated Net Effect on General Revenue	\$0	\$0	\$0

ESTIMATED NET EFFECT ON OTHER STATE FUNDS			
FUND AFFECTED	FY 2019	FY 2020	FY 2021
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 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	\$0	\$0	\$0

FISCAL ANALYSIS

ASSUMPTION

Officials at the **Department of Revenue** assume there is no fiscal impact from this proposal.

Officials at the **Office of Administration Division of Budget and Planning (B&P)** assume this bill would add telecommunications to the manufacturing sales tax exemption. B&P notes that this exemption was originally granted by the Missouri Supreme Court beginning in 2002. While the Missouri Supreme Court reversed that decision in the spring of 2016, statutory changes have prevented DOR from sending notice to taxpayers of the exemption change; therefore, DOR is not currently collecting these taxes. B&P estimates that this proposal will not impact Total State Revenue or the calculation under Article X, Section 18(e).

In response to the previous version, 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, any additional state and local sales tax exemption could be a loss to the Parks and Soils Sales Tax Funds.

In response to the previous version, officials at the **City of Kansas City** assumed 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.

In response to the previous version, officials at **St. Louis County** assumed revenues from local sales and use taxes will be reduced in an unknown amount.

In response to the previous version, officials at the **Lathrop School District** assumed that if taxes are cut it will impact the state tax income the school district gets.

ASSUMPTION (continued)

Officials at the **City of St. Louis** assume the proposal seeks to include telecommunications services within the definition of "manufactured products" for the purposes of applying the sales tax exemption to the telecommunications industry. A sales tax exemption on telecommunications services would result in a serious loss of City sales tax revenue estimated to exceed \$6.6 million per year as illustrated below.

An estimate for the potential loss in revenue can be calculated based on revenue derived from the current 7.5% gross receipts tax on telecommunications. With estimated receipts in the current fiscal year of \$10.4 million, total gross receipts for the industry can be estimated at \$138.7 million. Applying the various City sales tax rates to this total results in projected City sales taxes of over \$6.6 million.

General & Capital Fund	1.875%	\$2,600,625
Transportation (Metro Oper.)	0.500%	\$693,500
Transportation (Metro)	0.500%	\$693,500
Metro Parks	0.288%	\$399,456
Local Parks	0.125%	\$173,375
Economic Development	0.500%	\$693,500
Public Safety I	0.500%	\$693,500
Public Safety II (eff. 4/1/18)	<u>0.500%</u>	<u>\$693,500</u>
Total City Sales Tax	4.788%	\$6,640,956

In response to the previous version, officials at the **City of Springfield** assumed a negative fiscal impact of more than \$4.7 million.

In response to the previous version, officials at the **Wellsville-Middletown R-I** and the **Summersville R-II School Districts** each assumed this proposal will have a negative fiscal impact on the district.

In response to the previous version, officials at the **Kirksville R-III School District** assumed a negative fiscal impact on the district.

In response to the previous version, officials at the **West Plains School District** assumed this would have a negative fiscal impact on the district.

Oversight will utilize the estimates provided by the Department of Revenue and the Office of Administration - Budget and Planning.

<u>FISCAL IMPACT - State Government</u>	FY 2019 (10 Mo.)	FY 2020	FY 2021
	<u>\$0</u>	<u>\$0</u>	<u>\$0</u>
<u>FISCAL IMPACT - Local Government</u>	FY 2019 (10 Mo.)	FY 2020	FY 2021
	<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 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

City of St. Louis
Department of Natural Resources
Department of Conservation
Department of Revenue
Lathrop School District
Office of Administration
Division of Budget and Planning
City of Kansas City
City of Springfield
West Plains School District
Kirksville R-III School District
Summersville R-II School District
Wellsville-Middletown R-I School District

Ross Strobe

A handwritten signature in black ink, appearing to read "Ross Strobe", with a stylized, cursive script.

Acting Director
March 28, 2018