HCS HB 2540 -- STATE REVENUES

SPONSOR: Haahr

COMMITTEE ACTION: Voted "Do Pass with HCS" by the Standing Committee on Ways and Means by a vote of 6 to 3. Voted "Do Pass" by the Rules- Administrative Oversight Committee by vote of 8 to 1 with 1 present.

DEPARTMENT OF TAXATION AND REVENUE

This bill changes the name of the Department of Revenue to the "Department of Taxation and Revenue" (Sections 32.005 to 32.006, RSMo).

STREAMLINED SALES AND USE TAX

This bill requires the Director of the Department of Revenue to enter into the "Streamlined Sales and Use Tax Agreement" with one or more states to simplify and modernize sales and use tax administration in order to substantially reduce the burden of tax compliance for all sellers and types of commerce. The bill specifies that:

(1) When a city annexes or detaches property, the city clerk must forward a certified copy of the ordinance to the department director within 10 days of adoption of the ordinance. The tax rate in the added or abolished territory must become effective on the first day of the calendar quarter 120 days after the sellers receive notice of the change (Section 32.087.18);

(2) When a political subdivision changes the tax rate or the local sales tax boundary, the change must become effective on the first day of the calendar quarter 120 days after the sellers receive notice of the change (Section 32.087.19); and

(3) When specified political subdivisions repeal an existing tax, the repeal must become effective on the first day of the calendar quarter 120 days after notice to sellers (Sections 66.620 to 67.1545, 67.1775, 67.2000, and 67.2530).

The bill also:

(1) Requires the department to establish the necessary rules to implement the compliance provisions of the agreement. The state must be represented by three delegates including a person appointed by the Governor, a member of the General Assembly appointed by mutual consent of the President Pro Tem of the Senate and the Speaker of the House of Representatives, and the department

director or his or her designee. The delegates must make an annual report by January 15 on the status of the agreement (Section 32.070);

(2) Authorizes the department director to retain 1% of the amount of any local sales or use taxes collected by the department for the cost of collection (Sections 32.086 and 67.395 to 67.576);

(3) Requires the department director to perform all functions regarding the administration, collection, enforcement, and operation of all sales taxes. All state and local sales taxes must have the same base which means that exemptions at the state and local level must be identical (Sections 67.1545, 67.2030, and 67.2530);

(4) Defines "delivery charges," "food and food ingredients," "bottled water," "candy," "ancillary services," "lease or rental," and "purchase price" as they apply in the streamlined agreement. The bill also defines "engages in business activities within this state" and "maintains a place of business in this state" as they relate to the collection of taxes and defines "tangible personal property" to exclude specified digital products, digital audio-visual works, digital audio works, and digital books (Section 144.010);

(5) Establishes rules to determine the taxability of bundled transactions involving both taxable and nontaxable goods or services (Section 144.022);

(6) Requires uniform sourcing rules to determine what tax rates will apply to certain transactions (Sections 144.043, and 144.111 to 144.112);

(7) Requires the department director to participate in an online registration system that will allow sellers to register in this state and other member states. Registration with the central registration system and the collection of sales and use taxes in this state must not be used as a factor in determining whether the seller has nexus with this state for any tax at any time (Section 144.082);

(8) Requires the department director to establish rules and regulations for the remittance of sales and use taxes that allow for payments by all remitters and requires a seller to submit its sales and use tax returns electronically in a simplified format approved and prescribed by the department director (Section 144.084);

(9) Requires a seller to be allowed a deduction from taxable sales

for bad debts attributable to taxable sales that have become uncollectable (Section 144.105);

(10) Requires the department director to provide and maintain an electronic database that describes boundary changes for all taxing jurisdictions and the effective dates of the changes for sales and use tax purposes, a database of all sales and use tax rates for all taxing jurisdictions, and a database that assigns each five- and nine-digit zip code to the proper rates and taxing jurisdictions. The department director must complete a taxability matrix and provide reasonable notice of changes in the taxability of products or services listed in the matrix. A seller or certified service provider cannot be held liable for reliance upon erroneous data provided by the department director on tax rates, boundaries, or taxing jurisdiction assignments (Sections 144.123 to 144.124); and

(11) Authorizes an amnesty to certain out-of-state sellers with uncollected or unpaid sales or use tax if the seller was not registered in Missouri in the prior 12-month period before the effective date of this state's participation in the streamlined agreement (Section 144.125).

SALES AND USE TAX CHANGES FOR STREAMLINED SALES AND USE TAX

The bill:

(1) Authorizes a state and local sales and use tax exemption for sales of over-the-counter drugs to individuals with disabilities, and all sales of durable medical equipment, prosthetic devices, mobility enhancing equipment, and drugs dispensed by prescription (Section 144.030.2(19));

(2) Moves the state and local sales and use tax exemption for usual and customary delivery charges (SB 16 (2017)) (Section 144.030.2(46));

(3) Removes the opt-out option for locals, changes the purchase limits on the back-to-school sales tax holiday from a per transaction limit to a per item limit and adds instructional materials and school computer supplies (Section 144.049); and

(4) Requires any out-of-state seller who voluntarily collects and remits use tax to file and remit the tax annually by January 31 of the following year (Section 144.655.7).

The provisions of the bill regarding the "Streamlined Sales and Use Tax Agreement" will become effective January 1 the year after the Quill v. North Dakota is affirmed by an opinion in South Dakota v. Wayfair, Inc.

SINGLE SALES FACTOR APPORTIONMENT

Currently, a corporation can use three factor apportionment (property, payroll, & sales) or single factor (sales) apportionment to determine its Missouri taxable income when the corporation has both in-state and out-of-state income. This bill eliminates the three factor, requiring corporations to use single factor (Section 32.200).

COMPETITIVE BIDDING AND REVERSE AUCTIONS

This bill changes the exception limit to the competitive bidding rules from purchases equal to or less than $3,000 to a new $10,000 limit. It also increases the expenditure limit for purchases that require special notice, advertising, and solicitation requirements by the Commissioner of Administration from projects estimated at $25,000 or more to those projects estimated at $100,000 or more.

The bill authorizes the Commissioner of the Office of Administration to hold reverse auctions for the purchase of merchandise, supplies, raw materials, or finished goods if the price is the primary factor in evaluating the bids (Sections 34.040 to 34.353).

SENIOR CITIZENS PROPERTY TAX CREDIT FOR RENTERS

This bill prohibits the issuance of the renter's portion of the senior citizens property tax credit (Sections 135.025 to 135.030).

INCOME TAX

Currently, the law provides for a reduction in the top rate of income tax over a period of years from 6% to 5.5%, with each cut becoming effective if net general revenue collections meet a certain trigger. This bill eliminates some of the tax rate brackets so that the top tax rate is 5% for all income over $7,000, indexed for inflation beginning in the 2020 calendar year (Sections 143.011 and 143.021).

BUSINESS PASS-THROUGH INCOME DEDUCTION

Currently, a pass-through entity can deduct 5% from its 2017 Missouri taxable income. The amount of the deduction will increase 5% each year certain net general revenue limits are met up to a maximum 25% deduction. This bill eliminates the increase in the deduction, keeping it at 5% (Section 143.022).

CORPORATE INCOME TAX

Beginning January 1, 2019, this bill reduces the corporation tax rate from 6.25% to 5% (Section 143.071).

PERSONAL & DEPENDENCY EXEMPTIONS

Currently, an individual can deduct $2,100 as a personal exemption, $2,100 for a spouse, and $1,200 for each dependent. This bill eliminates these deductions beginning January 1, 2018 to match the deductions allowed under the new federal tax reform (Sections 143.151 and 143.161).

FEDERAL TAX DEDUCTION

Currently, an individual can deduct his or her federal income tax liability up to $5,000 or if a combined return, up to $10,000; and a corporation can deduct up to 50% of its federal income tax liability. Beginning January 1, 2019, this bill phases out this deduction for both individuals and corporations based on taxable income limits (Section 143.171).

WITHHOLDING TAX COMPENSATION

Currently, an employer is allowed to retain an amount between .5% to 2% of the amount of withholding tax due to the state if the employer timely remits the tax due on or before the due date. This bill repeals such allowance (Sections 143.225 and 143.261).

SALES AND USE TAX ALLOWANCE

Currently, a vendor is allowed to retain 2% of the amount of sales or use tax due to the state if the vendor timely remits the tax due on or before the due date. This bill eliminates such allowance for sales tax amounts above $1,000 per return (Sections 144.070, 144.140 and 144.710).

FINANCIAL INSTITUTIONS TAX

This bill requires the same reduction in the corporate tax rate to apply to the financial institutions taxes (Sections 148.030, 148.140 and 148.620)

MANAGED CARE ORGANIZATIONS

Currently, each Medicaid managed care organization in this state must pay, in addition to all other fees or taxes required by law, a Medicaid managed care organization reimbursement based on a formula set forth in rules promulgated by the Department of Social Services. Beginning July 1, 2018, this bill changes the allowance to managed care organizations including Health Maintenance Organizations (HMOs) providing benefits to MO HealthNet managed care program eligibility groups. The managed care organization reimbursement allowance may be imposed on the basis of revenue or enrollment and can impose differential rates on Medicaid and commercial business. The Department of Social Services must recognize the cost of the reimbursement allowance as a cost in calculating actuarially sound reimbursement rates (Sections 208.431 to 208.437).

MISSOURI SENIOR SERVICES PROTECTION FUND

This bill requires the Department of Revenue to calculate the amount claimed for the federal tax liability deduction of corporations in Section 143.171 in the 2018 fiscal year and allocate up to $40 million to be transfered, upon appropriation, from the General Revenue Fund to the Missouri Senior Services Protection Fund annually (Section 208.1050).

YIELD TAX ON FORESTRY PRODUCTS

Currently, any timber cut on land classified as forest cropland is subject to a yield tax of 6%. This bill repeals the yield tax on forestry products (Sections 254.075 to 254.210).

MOTOR VEHICLE FEES

This bill increases motor vehicle fees to account for inflation from 1984 to 2018 (Sections 301.015 to 301.4000, 302.012 to 302.735, and 306.012 to 306.550).

The provisions of this bill, as listed in the bill, excluding the provisions for the Streamlined Sales and Use Tax, shall become effective January 1, 2019.

PROPONENTS: Supporters say that this bill will be complementary to the federal tax reform. The reduction and changes in income tax, joining the streamlined sales and use tax, and providing transportation infrastructure funding are very important for this state and will lead to increased in-state employment, help local retailers compete, assist with safer roads and bridges, increase revenue to local political subdivisions, make Missouri competitive with other states, and simplify and make the Missouri tax system more fair. This will put Missouri in the top 10 lowest tax states in the nation making this state open for business and ready to compete for economic growth.

Testifying for the bill were Representative Haahr; Missouri Chamber of Commerce and Industry; Heavy Constructors Association of Greater

Kansas City; City of Kansas City; South Kansas City Chamber of Commerce; St. Louis Regional Chamber of Commerce; Missouri Limestone Producers Association; Exemplar Public Affairs LLC; United For Missouri; Woody Cozad, First Rule, Inc; Denny Marschuetz, J.M. Marschuetz; and Ash Grove Cement Company.

OPPONENTS: Those who oppose the bill say that they oppose the reduction in the 2% timely allowance for collecting tax, are not sure the definitions in the streamlined sales tax are correct or complete, oppose removing renters from the property tax credit, and oppose tax reductions in general because this reduces funding for needed programs including education, childcare, health care, and others helping the poor.

Testifying against the bill were Missouri Retailers Association; Missouri Grocers Association; Missouri Tire Industry Association; Civic Council of Greater Kansas City; Kids Win Missouri; Empower Missouri; AARP; National Federation of Independent Business; Missouri Association of Area Agencies on Aging; Missouri Association of School Administrators; Missouri Petroleum Marketers & Convenience Store Association; Missouri National Education Association; and Jed Penney, Schnucks Markets.

OTHERS: Others testifying on the bill say they want to help people live the best lives possible and recommend the earned income tax credit be added to the bill, want to keep the 2% timely allowances for taxes paid, say the streamlined sales tax language is a problem and better to wait for courts to decide, and request the removal of the pass-through business deduction increases.

Testifying on the bill were Associated Industries of Missouri; Missouri Budget Project; Missouri Restaurant Association; and Edward L. Bryant, The United Way of Greater St. Louis.