

COMMITTEE ON LEGISLATIVE RESEARCH
OVERSIGHT DIVISION

FISCAL NOTE

L.R. No.: 0066-01
Bill No.: HB 55
Subject: Drugs and Controlled Substances; Pharmacy; Revenue Department - Taxation;
Revenue Department - Sales and Use
Type: Original
Date: January 26, 2011

Bill Summary: Would authorize a state and local sales and use tax exemption for over-the-counter or nonprescription drugs which are prescribed by a practitioner, and for certain medical equipment, supplies, and devices.

FISCAL SUMMARY

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

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

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

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	(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 Elementary and Secondary Education**, the **Department of Health and Senior Services**, the **Department of Revenue**, and the **City of Kansas City** 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)

Officials from the **Office of Administration, Division of Budget and Planning** (BAP) assumed there would be no additional costs or savings to their organization as a result of this proposal. BAP officials noted that this proposal would remove the current exemption on sales of drugs to persons with disabilities, and would create a new exemption for OTC drugs prescribed by a professional.

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 (excluding Wal-Mart) are shown in the following table.

2003	\$14.2 billion
2004	\$14.1 billion
2005	\$15.0 billion
2006	\$15.3 billion
2007	\$16.0 billion
2008	\$16.8 billion
2009	\$16.9 billion

Assuming 1.7% of these sales were made in Missouri, then \$287.3 million in sales occurred in 2009 in the state. The table suggests average growth of about 3.4% each year. BAP did not have information suggesting how much of these amounts were by prescription, nor the amount of Wal-Mart sales of OTC drugs. BAP officials concluded that this proposal would have an unknown impact on general and total state revenues.

Oversight notes that this proposal would eliminate the current sales tax exemption for OTC drugs purchased by a 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.

ASSUMPTION (continued)

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.

Officials from the **Department of Conservation** assume this proposal would have a negative impact that is unknown but greater than \$100,000 per year on Conservation Commission revenues from a decrease in Conservation Sales Tax collections.

Officials from the **Department of Natural Resources** assume this proposal would have an unknown negative fiscal impact on the state General Revenue Fund and on Parks and Soils Sales Tax Funds.

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
GENERAL REVENUE FUND			
<u>Revenue reduction</u> - sales tax exemptions	<u>(Unknown)</u>	<u>(Unknown)</u>	<u>(Unknown)</u>
ESTIMATED NET EFFECT ON GENERAL REVENUE FUND	<u>(Unknown)</u>	<u>(Unknown)</u>	<u>(Unknown)</u>
CONSERVATION COMMISSION FUND			
<u>Revenue reduction</u> - sales tax exemptions	<u>(Unknown)</u>	<u>(Unknown)</u>	<u>(Unknown)</u>
ESTIMATED NET EFFECT ON CONSERVATION COMMISSION FUND	<u>(Unknown)</u>	<u>(Unknown)</u>	<u>(Unknown)</u>

<u>FISCAL IMPACT - State Government</u>	FY 2011 (10 Mo.)	FY 2012	FY 2013
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PARKS, AND SOIL AND WATER FUNDS

<u>Revenue reduction - sales tax exemptions</u>	<u>(Unknown)</u>	<u>(Unknown)</u>	<u>(Unknown)</u>
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ESTIMATED NET EFFECT ON PARKS, AND SOIL AND WATER FUNDS

<u>(Unknown)</u>	<u>(Unknown)</u>	<u>(Unknown)</u>
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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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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 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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ESTIMATED NET EFFECT ON LOCAL GOVERNMENTS

<u>(Unknown)</u>	<u>(Unknown)</u>	<u>(Unknown)</u>
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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.

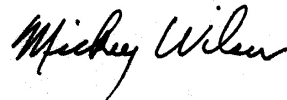
FISCAL DESCRIPTION

This proposal would eliminate the current sales tax exemption for OTC drugs purchased by 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.

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
Office of Administration
 Division of Budget and Planning
Department of Conservation
Department of Elementary and Secondary Education
Department of Health and Senior Services
Department of Natural Resources
Department of Revenue
Department of Social Services
City of Kansas City



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Director
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