

HCS SCS SB 11 -- TAXATION

SPONSOR: Kinder (Cooper, 120)

COMMITTEE ACTION: Voted "do pass" by the Committee on Tax Policy by a vote of 14 to 4.

This substitute creates a state sales and use tax holiday for certain clothing, personal computers, and school supplies purchased during a three-day period each August. Any political subdivision may opt in to the holiday by adoption of a local ordinance if submitted to the Department of Revenue by July 1 each year. The tax holiday will expire July 1, 2005.

The substitute also creates the Joint Legislative Committee on Tax Policy consisting of five members from both the House of Representatives and the Senate. The committee will be responsible for continuous study and review of state tax policy and to issue reports on its findings and recommendations to the General Assembly as deemed necessary.

The substitute also makes various changes to the collection of various taxes by the Department of Revenue. The substitute:

- (1) Requires every vendor or affiliate of a vendor seeking to provide goods and services to the State of Missouri by contract to collect and properly pay all sales and use taxes;
- (2) Requires any amount of pension, annuity, or retirement allowance deducted for state individual income tax purposes to be included in the taxpayer's federal adjusted gross income and not otherwise deducted in the calculation of Missouri taxable income. Persons who are 100% disabled, as defined by federal law, are exempted from this provision;
- (3) Requires all lottery and other gaming winnings to be included in Missouri nonresident adjusted gross income when the winnings are from a Missouri source;
- (4) Allows the director of the department to require the remittance of sales and use taxes and withholding taxes through an electronic funds payment system for employers and sellers who are required to file and pay on a quarter-monthly frequency;
- (5) Includes court costs in excess of \$25 related to the State Supreme Court, Court of Appeals, or any circuit court of Missouri as amounts that can be offset against a refund of taxes owed to a taxpayer;
- (6) Adds additional requirements on any article being traded in

for the purpose of receiving a sales or use tax credit against a new article being purchased. The article being traded in must have originally had sales or use tax paid on it or have been specifically exempted from sales and use taxes by law. Grain and livestock raised or produced by a purchaser may be traded in on a motor vehicle or trailer used for agricultural purposes by the purchaser;

(7) Requires as a condition of employment with state government that all state income taxes due be filed and paid by the employee;

(8) Requires all state income taxes due to be paid by members of the General Assembly, statewide elected officials, and members of the judiciary; and

(9) Requires a tax clearance from the department prior to the issuance or renewal of any professional license granted by the state.

The substitute exempts certain investment funds service corporations from the local license fees and local business taxes and allows the apportionment of income in determination of the Kansas City earnings tax.

The substitute changes provisions related to the carry-forward and carry-back provisions of net operating losses for income tax purposes. Any amount of net operating losses taken against federal taxes but disallowed against Missouri taxes since July 1, 2002, may be carried forward and used up to 20 years in the future. In addition, certain net operating losses relating to farming may be carried back and forward in the same manner as allowed by federal law.

The substitute changes the effective date of the pharmacy tax from July 1, 2002, to July 1, 2003, and allows the Department of Social Services to adjust the pharmacy tax rate quarterly, on a prospective basis. The tax will expire 90 days after stated conditions are met. The director of the department is required to notify the Revisor of Statutes of the expiration date if the conditions are met. If the conditions are not met, the tax will expire on June 30, 2005.

The substitute contains an emergency clause.

FISCAL NOTE: Estimated Net Income to General Revenue Fund of \$17,702,141 to Unknown in FY 2004, \$7,667,219 to Unknown in FY 2005, and \$9,522,283 to Unknown in FY 2006. Estimated Net Savings to Pharmacy Tax Fund of \$31,494,070 in FY 2004, \$31,490,334 in FY 2005, and \$31,490,334 in FY 2006. Estimated

Net Effect to All Other State Funds of a cost of \$580,953 to an income of Unknown in FY 2004, a cost of \$714,561 to an income of Unknown in FY 2005, and an income of Unknown in FY 2006.

PROPOSERS: Supporters of the bill as it passed the Senate say that a sales tax holiday during August is a good way to stimulate the retail economy and will likely produce additional revenue for the state through increases in non-exempt sales during the same period. The sales tax holiday concept has been used successfully in many other states.

Testifying for the bill were Senator Kinder; Famous Barr and the Jones Store; Consumer Electronic Association; Missouri Retailers Association; Missouri Chamber of Commerce; and Associated Industries of Missouri.

OPPOSERS: Those who oppose the bill say that local governments cannot afford the losses they will see from including local sales tax in the holiday. They requested that local governments be allowed to choose whether or not they participate in the holiday.

Testifying against the bill were Missouri Municipal League; St. Louis County Municipal League; Missouri Association of Counties; and County Commissioners Association of Missouri.

Bill Tucker, Deputy Director of Research