

Source: Public Communications

Agenda Item No:

To: City Council  
From: City Manager and Staff

Council Meeting Date: Aug 19, 2013

Re: SS/HB 253 - Consideration of Position on Governor's Veto

**EXECUTIVE SUMMARY:**

Citing drafting errors, the potential of significantly lower state revenues, negative effects on education and other "vital" state services and taxpayer inequity, Governor Nixon vetoed this bill June 5. The Governor's veto is subject to override during the legislative veto session on September 11. The bill's opponents, organized as "Coalition for Missouri's Future," agree with the Governor. "Grow Missouri," a group supporting the bill, says it will allow Missouri to successfully compete for jobs now flowing to neighboring states (including Kansas) which have lowered income tax rates to stimulate economic growth. Council may wish to consider adopting and communicating a position - to either sustain or override the veto - to area legislators.

**DISCUSSION:**

**Legislative action:** SS/HB 253 passed the Senate 24-9 (Schaefer "yes") and was truly agreed to in the House 103-51 (Jones and Rowden "yes"; Webber and Wright "no"; Kelly absent with leave). Overriding the Governor's veto would require 23 votes in the Senate and 109 votes in House. Recent news reports indicate that if the House margin isn't confirmed in advance, an override attempt is unlikely.

**"Risk" as core Issue:** The bill merges Missouri income tax reductions with changes in Missouri and federal sales tax administration, with hard-to-predict, cascading effects:

- Reduced individual and corporate income tax rates, some of which are phased in over several years and some that would not take effect unless revenue collections grow to specific levels;
- An additional income tax rate reduction if Congress passes the Federal Marketplace Fairness Act (would authorize a tax on remote or online sales); and
- Missouri's adoption of the Streamlined Sales and Use Tax Agreement, which requires a uniform state and local tax base and centralized tax administration by the Missouri Dept. of Revenue.

Supporters believe more risk accrues from maintaining the current tax system and possibly losing jobs to neighboring states. Economic growth, along with streamlined and expanded sales tax collections, could make up for revenue lost through income tax reductions. Opponents argue there is more risk and uncertainty with the proposed changes, especially for state revenues. There is no guarantee that new jobs will be created or that sales tax collections will compensate for lower income tax collections. Minimal tax benefits for individuals, opponents suggest, would be outweighed by loss of sales tax exemptions for prescription drugs and college textbooks.

**Local effects:** Staff suggests that uncertainty is the greater risk for the City and the community. Possible local effects include the following.

- Loss of state matching funds for federal programs that benefit the City if overall state revenues decline
- Assuming, under the Streamlined Sales and Use Tax Agreement, that various state tax holidays remain in effect, the City would not be able to opt out and would lose local sales tax revenue
- Loss of the 2% allowance the City now receives from the Dept. of Revenue for timely collection and remittance of tax
- Uncertainty of voter approval if losses are so great that new local tax proposals are needed

Columbia Public Schools and the University of Missouri also anticipate declining state support through lower General Revenue. In anticipation of the bill's taking effect, Governor Nixon is withholding \$400 million from FY 2014 state spending, including \$100 million for K-12 and higher education, more than \$45 million in Medicaid provider cuts and \$14 million for state employee raises.

**FISCAL IMPACT:**

If SS/HB 253 becomes law, we cannot estimate, with any certainty, what the fiscal impact will be for the City or for the community. In his veto message, Governor Nixon suggested that the bill's fiscal note, prepared by the General Assembly, falls far short of the possible cost: a cost of \$492 - \$692 million annually vs. "the bill's true cost" of \$800 million annually. The Governor suggests that additional costs will be incurred when future income tax cuts, tied to passage of the Federal Fair Marketplace Act, take place. There is as much uncertainty about increased economic activity and sales tax collections as there is about state revenue losses. Not mentioned is the potential for tax refunds if revenue collections exceed limits set by the Missouri Constitution's Hancock Amendment.

**VISION IMPACT:**

<http://www.gocolumbiamo.com/Council/Meetings/visionimpact.php>

NA

**SUGGESTED COUNCIL ACTIONS:**

Council may choose to communicate a position after reviewing the attachments to this memo and considering the intergovernmental guiding principles adopted last January.

"The City Council may consider communicating the City's position on legislation, policies, rules and budgets when those proposals have the potential to:

1. Affect the City's ability to live within its financial means or draw upon local revenue sources;
2. Impose new mandates without new funding;
3. Affect local government discretion, in balance with City values and priorities; or
4. For any other reason the City Council deems appropriate."

FISCAL and VISION NOTES:					
City Fiscal Impact Enter all that apply		Program Impact		Mandates	
City's current net FY cost	\$0.00	New Program/ Agency?		Federal or State mandated?	Yes
Amount of funds already appropriated	\$0.00	Duplicates/Expands an existing program?		Vision Implementation Impact	
Amount of budget amendment needed	\$0.00	Fiscal Impact on any local political subdivision?		Enter all that apply: Refer to Web site	
Estimated 2 year net costs:		Resources Required		Vision Impact?	
One Time	\$0.00	Requires add'l FTE Personnel?		Primary Vision, Strategy and/or Goal Item #	
Operating/ Ongoing	\$0.00	Requires add'l facilities?		Secondary Vision, Strategy and/or Goal Item #	
		Requires add'l capital equipment?		Fiscal year implementation Task #	

**SS/HB 253 – Resource Packet  
August 13, 2013**

**Contents**

- **SS/HB 253 – Truly agreed to bill summary, Missouri House of Representatives**  
<http://www.house.mo.gov/billssummary.aspx?bill=HB253&year=2013&code=R>
- **List of stakeholders participating in Grow Missouri (support veto override) and Coalition for Missouri’s Future (oppose override)**
- **Veto message, Governor Nixon**  
<http://governor.mo.gov/newsroom/pdf/2013/HB253veto.pdf>
- **“Exploding Myths,” Grow Missouri**  
<http://www.growmissouri.com/timeline/>
- **Talking Points, distributed by Missouri Municipal League in cooperation with Coalition for Missouri’s Future**
- **“Issue Brief: Collection of Taxes on Purchases Made Over the Internet/Other Remote Means (with notes on Streamlined Sales Tax Project), Government Finances Officers Association of the US and Canada**  
[http://www.gfoa.org/index.php?option=com\\_content&task=view&id=2041](http://www.gfoa.org/index.php?option=com_content&task=view&id=2041)
- **S. 743, Marketplace Fairness Act, U.S. House of Representatives**  
<http://www.govtrack.us/congress/bills/113/s743/text>
- **Community Improvement District, Missouri Department of Economic Development**  
<http://www.missouridevelopment.org/community%20services/Local%20Finance%20Initiatives/Community%20Improvement%20District.html>
- **Transportation Development District, Missouri Department of Economic Development**  
<http://www.missouridevelopment.org/community%20services/Local%20Finance%20Initiatives/Transportation%20Development%20District.html>

**User’s Tip**

The truly agreed to bill summary includes links to all but two of the documents listed above: the stakeholders list and talking points were not posted online in the format provided here

Because of their size, some material is only available by using links

- **Streamlined Sales and Use Tax Governing Board website – FAQ**  
<http://www.streamlinedsalestax.org/index.php?page=general-and-miscellaneous>
- **Truly agreed to fiscal note prepared by Legislative Oversight**  
<http://www.moga.mo.gov/Oversight/OVER13/fishtm/0619-05T.ORG.htm>
- **SS/HB 253 – all information, Missouri House of Representatives**  
<http://www.house.mo.gov/billssummary.aspx?bill=HB253&year=2013&code=R>

Links to resources are provided in each section of the bill summary, so you won’t have to hunt excessively to find them

**Bill Summary prepared by Missouri House of Representatives**  
<http://www.house.mo.gov/billssummary.aspx?bill=HB253&year=2013&code=R>

With City of Columbia Staff Notes and Other Resources

SS HB 253 - TAXATION

(Vetoed by the Governor)

This bill changes the laws regarding taxation.

STREAMLINED SALES AND USE TAX AGREEMENT

The 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. 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, RSMo);
- (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);
- (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 - 67.1545, 67.1775, 67.2000, and 67.2530); and
- (4) When a seller fails to properly collect taxes based on certain information provided by the department, the seller will be relieved from the tax liability (Sections 144.123 - 144.124).

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 as a member of the agreement for amending the agreement 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 (Section 32.086);

(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 32.087 and 66.620 -67.2530);

(4) Defines "delivery charges," "food," "bottled water," "candy," "ancillary services," "lease or rental," "purchase price," and "sales price" as they apply in the streamlined agreement. The bill also defines "engages in business activities within the 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 144.040 - 144.043);

(7) Requires the department director to participate in an on-line 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) Authorizes a deduction from taxable sales for a seller 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 detailing taxable property and services (Sections 144.123 - 144.124);

(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 the state's participation in the streamlined agreement (Section 144.125); and

(12) Requires the department director to provide a monetary allowance under the automated collection system of 2% of the amount of remittance that sellers and certified service providers are allowed for collecting and remitting the state and local sales taxes. Currently, sellers are allowed to keep 2% for collecting and timely remitting the tax. A seller cannot simultaneously receive this monetary allowance and the 2% timely filing deduction (Section 144.140).

### **Staff Notes and Other Resources**

These provisions were added in the Senate. While there is no legal mandate to enact the streamlined tax and income tax provisions together, this may be seen as a way to increase revenues from currently untaxed online sales. Even when a state conforms with the agreement, it's voluntary for sellers to participate; thus, there appears to be no guarantee that all online or remote sales tax would be collected. Both the public and private sectors developed the streamlining agreement but, because the aim is consistency and central administration, it may raise questions for local governments.

- With tax collection and distribution centralized at the Dept. of Revenue, does that affect the City's Finance Department workload or the amount of revenue we receive?
- How does a single sales tax base affect the City's ability to raise future revenue, including for special purposes like the lodging tax? What about the County or special taxing districts, such as TDDs?
- What will "sourcing" rules require? The tax collected where a purchase is made could be different from the tax collected where the purchase is delivered and cause local revenue uncertainty.

**Government Finance Officers Assn – Issue Brief: Collection of Taxes on Purchases Made Over the Internet/Other Remote Means, January 2010 – see references to Streamlined Sales Tax, esp. those relating to “sourcing” and local governments’ interest**

[http://www.gfoa.org/index.php?option=com\\_content&task=view&id=2041](http://www.gfoa.org/index.php?option=com_content&task=view&id=2041)

**Streamlined Sales and Use Tax Governing Board website - FAQ**

<http://www.streamlinedsalestax.org/index.php?page=general-and-miscellaneous>

**Q1. What is the Streamlined Sales and Use Tax Agreement?**

**Answer:** This Agreement is the result of the cooperative effort of 44 states, the District of Columbia, local governments and the business community to simplify sales and use tax collection and administration by retailers and states. The Agreement minimizes costs and administrative burdens on retailers that collect sales tax, particularly retailers operating in multiple states. It encourages "remote sellers" selling over the Internet and by mail

order to collect tax on sales to customers living in the Streamlined states. It levels the playing field so that local "brick-and-mortar" stores and remote sellers operate under the same rules. This Agreement ensures that all retailers can conduct their business in a fair, competitive environment.

**Q5. Why must there be a federal solution?**

**Answer:** Local brick-and-mortar stores operate at a competitive disadvantage with remote sellers who don't collect or pay taxes. Local stores find themselves serving as showrooms for Internet and catalog sellers. Prospective customers check out the merchandise locally but buy the product online or through a catalog to avoid paying sales tax. Local merchants are at a competitive price disadvantage simply because remote sellers do not collect sales tax.

The U.S. Supreme Court in 1992 said in *Quill vs. North Dakota* that Congress has the power under the Commerce Clause to create a level playing field for local merchants.

Fourteen hundred retailers collect sales tax in Streamlined states under a voluntary system. Those 1,400 retailers have collected over \$700 million in sales tax for Streamlined states, but that is a very small fraction of the amount of sales tax that remains uncollected. **Some studies estimate that states lose billions a year in uncollected sales tax and it could reach as much as \$23 billion by 2012. Only Congress has the authority to let states require collection of the billions of dollars in uncollected sales tax.** Now that these states have made tax collection simple and easy for retailers, Congress can adopt legislation that applies to the products and services sold by remote sellers.

**Truly agreed to bill summary prepared by Missouri House of Representatives**

<http://www.house.mo.gov/billsummary.aspx?bill=HB253&year=2013&code=R>

**Truly agreed to fiscal note prepared by Legislative Oversight**

<http://www.moga.mo.gov/Oversight/OVER13/fishtm/0619-05T.ORG.htm>

**HB 253 – all information, Missouri House of Representatives**

<http://www.house.mo.gov/billsummary.aspx?bill=HB253&year=2013&code=R>

## TAX AMNESTY

The bill authorizes an amnesty from the assessment or payment of all penalties, additions to tax, and interest on delinquencies of unpaid taxes administered by the Department of Revenue which occurred on or prior to December 31, 2012. A taxpayer must apply for amnesty; pay the unpaid taxes in full from August 1, 2013, to October 31, 2013; and agree to comply with state tax laws for the next eight years from the date of the agreement. If a taxpayer is granted amnesty, he or she will not be eligible to participate in any future amnesty for the same tax. All tax payments received from the tax amnesty program must be deposited into the General Revenue Fund unless otherwise earmarked by the Missouri Constitution (Section 32.383).

### **Staff Notes and Other Resources**

While amnesty provisions may not directly affect City government, any increased collections could provide more stable resources for General Revenue services, such as education.

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#### **HB 253 – all information, Missouri House of Representatives**

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## COMMUNITY DEVELOPMENT DISTRICT TAX

The bill changes the items that are to be exempt from a community development district tax to the retail sale of fuels used to power motor vehicles, aircraft, locomotives, or watercraft; the retail sale of electricity, piped natural or artificial gas, or other fuels delivered by the seller; and the retail sale or transfer of motor vehicles, aircraft, watercraft, modular homes, manufactured homes, or mobile homes. Currently, the sales of motor vehicles, trailers, boats or outboard motors, and sales to or by public utilities and providers of communications, cable or video services are exempt (Section 67.1545).

### **Staff Notes and Other Resources**

This section should refer to community “improvement” districts, locally created entities that raise funds through membership assessments for public improvements within district boundaries. Columbia has two CIDs: the former Downtown Special Business District and a CID near Auburn Hills Park, the site of Moser’s Discount Foods and future commercial development, in northeast Columbia. It’s possible that these changes reflect aspects of the Streamlined Sales and Use Tax Agreement. Would they affect a district’s collections and its ability to fund planned improvements?

#### **Community Improvement Districts – Mo. Dept. of Economic Development**

<http://www.missouridevelopment.org/community%20services/Local%20Finance%20Initiatives/Community%20Improvement%20District.html>

#### **Truly agreed to bill summary prepared by Missouri House of Representatives**

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#### **Truly agreed to fiscal note prepared by Legislative Oversight**

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#### **HB 253 – all information, Missouri House of Representatives**

<http://www.house.mo.gov/billsummary.aspx?bill=HB253&year=2013&code=R>

## INCOME TAX

The bill:

(1) Modifies the individual income tax rate table. Beginning with the 2014 tax year, the maximum tax rate on personal income will be reduced by 0.5% over a period of 10 years. However, the reduction can only occur if the tax revenues collected in the current year exceed those collected in any of the three prior fiscal years by at least \$100 million. After the rate reduction is fully phased-in, the maximum tax rate will be 5.5%. If the federal government passes the Marketplace Fairness Act of 2013, or similar legislation, the maximum rate of tax on personal income will be reduced an additional 0.5% (Sections 143.011 and 143.021);

(2) Creates an individual income tax deduction for business income and phases it in over a five-year period. A taxpayer will be allowed to deduct 10% of business income for the 2014 tax year and, once fully phased-in, will be allowed a 50% deduction for all tax years after the 2017 tax year. A shareholder of a S-corporation and a partner in a partnership will be allowed a proportional deduction based on his or her share of ownership (Section 143.022);

(3) Reduces the tax rate on corporate income by 3% over a period of 10 years, beginning with the 2014 tax year. However, the reduction can only occur if the tax revenues collected in the current year exceed those collected in any of the three prior fiscal years by at least \$100 million. After the rate reduction is fully phased-in, the tax rate on corporate income will be 3.25% (Section 143.071); and

(4) Authorizes, beginning January 1, 2014, an additional personal exemption of \$1,000 for every individual with a Missouri adjusted gross income of less than \$20,000. Currently, the personal exemption for individual income tax is \$2,100 (Section 143.151).

### Staff Notes and Other Resources

These are the most hotly debated provisions. The Governor's veto message addresses it in parts II, III, VI, VII and VIII and it's the basis for his view that state revenues will drop. Grow Missouri refutes his points in parts 1, 2 and 4 of "Exploding Myths." The Coalition for Missouri's Future describes possible effects on taxpayers (links to both all are provided below). Questions and concerns remain:

- Is the potential income tax cut for individual taxpayers enough to stimulate spending?
- Will business use their savings to create more jobs or grow their businesses in ways that generate more sales tax revenue?
- Is it reasonable to tie additional income tax rates to passage of the Marketplace Fairness Act of 2013, "or similar legislation?" There's no deadline for Congress to pass, or for the President to sign, this bill. The

enacted version might differ significantly from the introduced version, setting the stage for litigation to determine if the intent federal law matches the intent of SS/BB 253.

**Text of S. 743 – Marketplace Fairness Act**

<http://www.govtrack.us/congress/bills/113/s743/text>

**S. 743 - Library of Congress Summary**

4/16/2013--Introduced.

Marketplace Fairness Act of 2013 - Authorizes each member state under the Streamlined Sales and Use Tax Agreement (the multistate agreement for the administration and collection of sales and use taxes adopted on November 12, 2002) to require all sellers not qualifying for a small-seller exception (applicable to sellers with annual gross receipts in total U.S. remote sales not exceeding \$1 million) to collect and remit sales and use taxes with respect to remote sales under provisions of the Agreement, but only if such Agreement includes minimum simplification requirements relating to the administration of the tax, audits, and streamlined filing. Defines "remote sale" as a sale of goods or services into a state in which the seller would not legally be required to pay, collect, or remit state or local sales and use taxes unless provided by this Act.

**Truly agreed to bill summary prepared by Missouri House of Representatives**

<http://www.house.mo.gov/billsummary.aspx?bill=HB253&year=2013&code=R>

**Truly agreed to fiscal note prepared by Legislative Oversight**

<http://www.moga.mo.gov/Oversight/OVER13/fishtm/0619-05T.ORG.htm>

**HB 253 – all information, Missouri House of Representatives**

<http://www.house.mo.gov/billsummary.aspx?bill=HB253&year=2013&code=R>

**Governor's veto message**

<http://governor.mo.gov/newsroom/pdf/2013/HB253veto.pdf>

**Grow Missouri**

<http://www.growmissouri.com/timeline/>

**Coalition for Missouri's Future**

<http://www.missourifuture.net/hb253/> or see attached talking points distributed by Coalition and MML

## WITHHOLDING TAX FILING REQUIREMENTS

Currently, an employer is allowed to file an annual withholding tax return instead of four quarterly returns when the aggregate amount withheld is less than \$20 in each of the four preceding quarters. The bill changes the amount to less than \$100 in each of the four preceding quarters if the employer is not otherwise required to file a withholding return on a quarterly or monthly basis (Section 143.221).

### **Staff Notes and Other Resources**

This provision does not appear to have any adverse effect on the City.

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#### **Truly agreed to fiscal note prepared by Legislative Oversight**

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#### **HB 253 – all information, Missouri House of Representatives**

<http://www.house.mo.gov/billssummary.aspx?bill=HB253&year=2013&code=R>

## SALES AND USE TAX

The bill:

(1) Authorizes a state and local sales and use tax exemption for all sales of kidney dialysis equipment and enteral feeding systems; durable medical equipment, prosthetic devices, and mobility enhancing equipment; and over-the-counter drugs prescribed by a licensed health care practitioner (Section 144.030.2(19));

(2) Revises the list of items exempted from state and local sales and use tax to add all sales of piped natural or artificial gas or other fuels delivered by the seller for domestic use and to remove all sales of electrical current, natural, artificial or propane gas, wood, coal, or home heating oil. It also repeals the exemption for all sales of water service for domestic use in St. Louis City (Section 144.030.2(24));

(3) Authorizes a sales tax exemption for all sales of new light aircraft, light aircraft kits, or light aircraft parts or components manufactured or substantially completed within this state when sold by the manufacturer to a qualified purchaser (Section 144.030.2(43));

(4) Authorizes a sales tax exemption for all sales of computer printouts, computer output on microfilm or microfiche, and computer-assisted photo compositions (Section 144.030.2(44); and

(5) Specifies that the 2% timely remittance of payment allowance applies to sales transactions with tax exemptions under Sections 144.210 and 144.212 (Section 144.710).

### **Staff Notes and Other Resources**

These provisions appear to build much of the Streamlined Sales and Use Tax Agreement into state statutes. Is this necessary? To accommodate future amendments to the agreement, would it be better to incorporate it by reference? Sales tax provisions are found throughout the 177-page bill.

In his veto message, Governor Nixon criticized the repeal of sales tax exemptions for prescription drugs and college textbooks. Those supporting the bill say the drug provisions can be fixed during the next legislative session. Staff's initial review suggests the sales tax exemption for food in Sec. 644.032, RSMo also might have been repealed in charter counties with up to one million population. Taken together, repeal of exemptions could be significant pocket-book issues for Missouri families.

**Truly agreed to bill summary prepared by Missouri House of Representatives**

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## USE TAX NEXUS

The bill changes the laws regarding the collection of sales and use taxes relating to nexus with Missouri. In its main provisions, the bill:

- (1) Voids any ruling, agreement, or contract between the executive branch or any other state agency or department and any person that exempts the person from the collection of sales and use tax unless it is approved by the General Assembly (Section 144.522);
- (2) Revises the definition of "engages in business activities within this state" as it relates to the collection of use taxes to remove the provisions including the use of media to purposefully or systematically exploit Missouri's market and being owned or controlled by the same interests that own or control a seller engaged in the same or similar line of business in this state (Section 144.605);
- (3) Creates a presumption that a vendor engages in business activities within this state if any person, other than a common carrier acting in its capacity as one, that has a substantial nexus with Missouri performs specified activities in relation to the vendor within this state. The presumption may be rebutted by showing that the person's activities are not significantly associated with the vendor's ability to establish or maintain a market in Missouri for the vendor's sales (Section 144.605);
- (4) Creates an additional presumption that a vendor engages in business activities within this state if the vendor enters into an agreement with one or more residents of Missouri to refer potential customers to the vendor and the sales generated by the agreement exceeds \$10,000 in the preceding 12 months. This presumption may be rebutted by showing proof that the Missouri resident did not engage in any activity within Missouri that was significantly associated with the vendor's ability to establish or maintain the vendor's market in Missouri in the preceding 12 months (Section 144.605);
- (5) Revises the definition of "maintains a place of business in this state" as it applies to the collection of use taxes to exclude a place of business owned or operated by a common carrier acting in that capacity (Section 144.605);
- (6) Repeals the provision that exempts a vendor with less than \$500,000 total gross receipts in Missouri or \$12.5 million nationwide with no selling agents in Missouri and no place of business in this state from the definition of "vendor" as it relates to the collection of use taxes (Section 144.605); and

(7) Specifies that an out-of-state seller not legally required to collect use tax but who chooses to register to collect and remit use tax to file a return for the calendar year by January 31 of the following year. If the amount collected is \$1,000 or more, the seller must file a return and remit the tax monthly (Section 144.655).

#### **Staff Notes and Other Resources**

At this time, staff is not certain that the provisions conform with the Streamlined Sales and Use Tax Agreement...but they might. It is unknown how passage of the Marketplace Fairness Act would affect state provisions.

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#### **HB 253 – all information, Missouri House of Representatives**

<http://www.house.mo.gov/billssummary.aspx?bill=HB253&year=2013&code=R>

## TRANSPORTATION DEVELOPMENT DISTRICT TAX

The bill changes the items that are exempt from a transportation development district tax to the retail sale or use of fuels used to power motor vehicles, aircraft, locomotives, or watercraft; electricity, piped natural or artificial gas, or other fuels delivered by the seller; and the retail sales or transfer of motor vehicles, aircraft, watercraft, modular homes, manufactured homes, or mobile homes. Currently, the sale or use of motor vehicles, trailers, boats or outboard motors; all sales of electricity or electrical current, water and gas, natural or artificial; and the sales of service to telephone subscribers are exempt (Section 238.235).

### **Staff Notes and Other Resources**

Columbia has at least a dozen TDDs, entities that typically collect sales tax to help finance road improvements for commercial areas within district boundaries. It's possible that these provisions make state statutes consistent with the Streamline Sales and Use Tax Agreement, but will they negatively affect collections and the district's ability to make improvements, as planned?

#### **Transportation Development Districts – Mo. Dept. of Economic Development**

<http://www.missouridevelopment.org/community%20services/Local%20Finance%20Initiatives/Transportation%20Development%20District.html>

#### **Truly agreed to bill summary prepared by Missouri House of Representatives**

<http://www.house.mo.gov/billsummary.aspx?bill=HB253&year=2013&code=R>

#### **Truly agreed to fiscal note prepared by Legislative Oversight**

<http://www.moga.mo.gov/Oversight/OVER13/fishtm/0619-05T.ORG.htm>

#### **HB 253 – all information, Missouri House of Representatives**

<http://www.house.mo.gov/billsummary.aspx?bill=HB253&year=2013&code=R>

## Effective Dates

The provisions of the bill regarding the Streamlined Sales and Use Tax Agreement will become effective January 1, 2015.

The provisions of the bill regarding use tax nexus in Section 144.605 will expire January 1, 2015, and the provisions regarding the tax amnesty will expire December 31, 2021.

The provisions of the bill regarding the tax amnesty contain an emergency clause.

## **Staff Notes and Other Resources**

The emergency clause makes the amnesty provisions take effect upon the bill's passage and approval.

### **Truly agreed to bill summary prepared by Missouri House of Representatives**

<http://www.house.mo.gov/billssummary.aspx?bill=HB253&year=2013&code=R>

### **Truly agreed to fiscal note prepared by Legislative Oversight**

<http://www.moga.mo.gov/Oversight/OVER13/fishtm/0619-05T.ORG.htm>

### **HB 253 – all information, Missouri House of Representatives**

<http://www.house.mo.gov/billssummary.aspx?bill=HB253&year=2013&code=R>

## Stakeholders Associated with SS/HB 253 (as of August 12, 2013)

### FOR: Grow Missouri

- Missouri Chamber of Commerce and Industry
- National Federation of Independent Business – Missouri
- Associated Industries of Missouri
- Associated Builders and Contractors
- Americans for Prosperity – Missouri
- Missouri Club for Growth
- Save Missouri Jobs
- United for Missouri
- Missouri Family Network
- Missouri Society of Certified Public Accountants
- Missouri Grocers Association
- Missouri Restaurant Association
- Missouri Egg Council
- Missouri Pork Association
- The Poultry Federation – Arkansas, Missouri, Oklahoma
- Missouri Cattlemen's Association
- Missouri Dairy Association

### AGAINST: Coalition for Missouri's Future

- AARP Missouri
- AFSCME Council 72
- Civic Council of Kansas City
- CCO – Communities Creating Opportunity
- Cooperating School Districts of Greater Kansas City
- Cooperating School Districts of Greater St. Louis
- Council on Public Higher Education
- First Chance for Children
- George K. Baum
- GRO – Grass Roots Organizing
- James Shortal & Associates, LLC
- Jewish Community Relations Council of St. Louis
- League of Women Voters of Missouri
- League of Women Voters of Saint Louis

- Missouri AFL-CIO
- Missouri AFT (American Federation of Teachers)
- Missouri Association for Social Welfare
- Missouri Association of Elementary School Principals
- Missouri Association of School Administrators
- Missouri Association of School Business Officials
- Missouri Association of Secondary School Principals
- Missouri Budget Project
- Missouri Community College Association
- Missouri Faith Voices
- Missouri Health Advocacy Alliance
- Missouri Healthcare Association
- Missouri Immigrant and Refugee Advocates
- Missouri Jobs with Justice
- Missouri Municipal League
- Missouri NEA (National Education Association)
- Missouri NEA – Retired Teachers Organization
- Missouri PTA – Parent Teachers Association
- Missouri Public School Advocates
- Missouri Retired Teachers Association
- Missouri School Boards Association
- Missouri State Council of Fire Fighters
- Missouri State Teachers Association
- Missouri Women's Leadership Coalition
- Missouri Women's Political Caucus
- National Active and Retired Federal Employees
- National Council of Jewish Women – St. Louis Section
- Parents As Teachers National Center
- Partnership for Children
- Patron Insight
- Progress Missouri
- PROMO
- Service Employees International Union (SEIU)
- Sierra Club, Missouri Chapter
- Women's Voices Raised for Social Justice



GOVERNOR OF MISSOURI

JEFFERSON CITY

65102

JEREMIAH W. (JAY) NIXON  
GOVERNOR

P.O. Box 720  
(573) 751-3222

June 5, 2013

TO THE SECRETARY OF STATE OF THE STATE OF MISSOURI

Herewith I return to you Senate Substitute for House Bill No. 253 entitled:

AN ACT

To repeal sections 32.087, 66.601, 66.620, 67.395, 67.525, 67.571, 67.576, 67.578, 67.581, 67.582, 67.583, 67.584, 67.712, 67.713, 67.729, 67.737, 67.738, 67.745, 67.782, 67.799, 67.997, 67.1300, 67.1303, 67.1305, 67.1545, 67.1712, 67.1713, 67.1775, 67.1959, 67.1971, 67.2000, 67.2030, 67.2525, 67.2530, 94.578, 94.605, 94.660, 94.705, 143.011, 143.021, 143.071, 143.151, 143.221, 144.010, 144.014, 144.030, 144.032, 144.043, 144.049, 144.054, 144.069, 144.070, 144.080, 144.083, 144.100, 144.140, 144.210, 144.285, 144.517, 144.526, 144.605, 144.655, 144.710, 144.1000, 144.1003, 144.1006, 144.1009, 144.1012, 144.1015, 221.407, 238.235, 238.410, 644.032, RSMo, and to enact in lieu thereof seventy-nine new sections relating to taxation, with penalty provisions, effective dates for certain sections, and an emergency clause.

I disapprove of Senate Substitute for House Bill No. 253. My reasons for disapproval are as follows:

Senate Substitute for House Bill No. 253 is an ill-conceived, fiscally irresponsible experiment that would inject far-reaching uncertainty into our economy, undermine our state's fiscal health, and jeopardize basic funding for education and vital public services. At the same time, the legislation would increase taxes on prescription drugs and college textbooks, provide special treatment for some businesses while discriminating against others, and make our tax code less economically efficient and less fair. For these reasons and to protect the long-term economic prosperity of our state, Senate Substitute for House Bill No. 253 does not receive my approval.

Over the past four and a half years, we have balanced our state budget and made strategic investments in economic development. We have enacted targeted tax cuts for small businesses that create good jobs, and we are eliminating the outdated franchise tax on employers and the income tax on military pensions for our veterans. But along with these targeted tax cuts, we

have maintained steady, fiscal discipline by reducing spending to ensure balanced budgets. Not only has this protected our spotless AAA credit rating, Missouri families and businesses are reaping the benefits as our economy continues to grow. Our exports over the past two years set an all-time record, and the most recent jobs report showed Missouri employers added another 12,000 jobs, while our unemployment rate dropped to 6.6 percent—the forty-fourth consecutive month it has been at or below the national average. In every corner of our state, businesses large and small are deciding to invest and expand in Missouri because of our stable, predictable business climate and our skilled, productive workforce.

Senate Substitute for House Bill No. 253 would veer Missouri irretrievably off this steady course and abandon our strong tradition of fiscal discipline. With a premise based on unproven assumptions, careless drafting, and an utter disregard for long-term consequences, Senate Substitute for House Bill No. 253 would irreparably damage vital public services, including the very educational system that provides the skilled, productive workforce employers demand.

### **I. Missouri Is Already a Low Tax State**

Like most Missourians, I support keeping taxes low and predictable. Indeed, I am proud that, with or without Senate Substitute for House Bill No. 253, Missouri will continue to have among the lowest taxes in the nation. In a September 2011 report, the State Auditor recognized that Missouri has the seventh-lowest state taxes as a percentage of personal income. In 2012, the Federation of Tax Administrators ranked Missouri the fifth-lowest in per capita state taxes in the country, representing a lower tax burden than all of our surrounding states. Moreover, a 2012 report by Ernst & Young and the Council on State Taxation ranked Missouri's effective business tax rate as the eighth-lowest in the country. Not only are Missouri taxes among the lowest in the nation, our low tax climate is stable and predictable. This encourages businesses to grow and invest here with certainty that their tax burden will not constantly shift on the whim of policymakers testing out the latest fad. This stability also gives businesses and consumers the confidence that they will not see higher property taxes or sales taxes to stave off cuts to education and vital public services when risky experiments with the income tax fail to live up to their billing.

### **II. The Fiscal Note Dramatically Understates the Cost of the Bill**

The cost of Senate Substitute for House Bill No. 253 would be far greater than that estimated by the fiscal note. Although the fiscal note for the Senate Substitute assumes a cost of between \$492 and \$692 million annually when fully-phased in—a considerable amount—the bill's true cost would exceed \$800 million annually. The fiscal note estimate failed to account for the full cost of the business income exemption because it only considered "self-employment income" reported on the federal 1040 form even though additional business income would also be exempt. In addition, the fiscal note estimate of \$344 to \$544 million annually in new sales tax revenue from enactment of the Federal Marketplace Fairness Act (FMFA) greatly exceeds even the highest estimate of \$210 million in published studies on the issue. When taking into account the drafting errors in the FMFA provision of Senate Substitute for House Bill No. 253, discussed more fully below, Missouri could see an immediate \$1.2 billion revenue loss in a single year. Perhaps even more significant than the overall cost of this experiment is the inability to undo the

downward spiral Senate Substitute for House Bill No. 253 would set in motion, which could swallow even basic funding for the priorities Missourians share.

### **III. The Bill Would Irreparably Harm Education and Vital Public Services**

Although Missourians expect to have low and predictable taxes, they also want good jobs, quality schools, and safe and healthy communities, and they are not willing to gamble these priorities on unproven experiments. With our taxes already among the lowest in the nation, the additional reductions called for by Senate Substitute for House Bill No. 253 would leave a gaping budget hole for decades to come, requiring cuts of such magnitude that meeting even our basic obligations for K-12 education, for our colleges and universities, for public safety and for other vital services would be out of reach.

The level of reductions necessary to accommodate Senate Substitute for House Bill No. 253 would be the equivalent of closing all of our state prisons, eliminating entirely the Department of Mental Health, or cutting all funding to our colleges and universities. Senate Substitute for House Bill No. 253 would undermine the very foundation of our long-term economic growth and our strongest economic development tool—our educational system. This bill could decimate vital public services like scholarships for high school seniors to attend college, affordable child care for Missouri working families, assistance for foster parents to provide abused and neglected children a loving home, the chance for children with severe disabilities to meet their full potential, home-delivered meals and transportation to doctor's appointments for needy seniors, and the safety of Missourians, with fewer patrolmen and more violent criminals on our streets. This is the Missouri our children would inherit if Senate Substitute for House Bill No. 253 became law and foisted upon them with full force this fiscally irresponsible folly.

### **IV. The Bill Would Increase Taxes on Prescription Drugs**

In addition to its staggering long-term consequences, the problems with Senate Substitute for House Bill No. 253 stemming from its careless and haphazard drafting would begin wreaking havoc immediately. One need look no further for evidence than its elimination of the long-standing sales tax exemption on prescription drugs. With this provision alone, the General Assembly has voted to impose a \$200 million tax increase on Missourians in need of prescription medication—Missourians who are suffering from cancer, from heart disease, and from other life-threatening conditions. In place since 1979, but eliminated in an instant, this exemption may have gone unnoticed by some members of the legislature in their haste to get this bill to my desk, but it will surely be noticed by the sick Missourians forced to pay the bill.

### **V. The Bill Would Increase Taxes on Textbooks**

Senate Substitute for House Bill No. 253 would also add to the tax burden of Missouri families by eliminating the state sales tax exemption for college textbooks. This would increase the cost of college for Missouri students, when other provisions of the bill would reduce revenue available to fund our colleges and universities.

## **VI. The Bill's Revenue Triggers Do Not Apply To Two of the Most Costly Provisions**

In response to concerns about the bill's overall cost and its impact on education and vital public services, proponents of Senate Substitute for House Bill No. 253 have pointed to various revenue "triggers" that must occur before tax reductions in the bill can take effect. Proponents claim that these triggers would protect against shortfalls because revenue collections would have to grow by more than \$100 million before taxes are cut. In other words, if state revenues do not grow enough, then no additional taxes are cut. This is simply not true. Two of the most expensive provisions in the bill—the tax reduction tied to enactment of the Federal Marketplace Fairness Act (FMFA) and the business income exemption—are not tied to any revenue trigger whatsoever and will begin reducing revenues regardless of whether revenue collections are going up or going down.

### **a. The Business Income Exemption Would Take Effect During Fiscal Year 2014**

Senate Substitute for House Bill No. 253's exemption for pass-through entity business income is not subject to any trigger whatsoever and therefore would begin impacting education and vital public services in the fiscal year that will begin July 1, 2013. This provision alone would cost \$230 million annually by the fifth year and will occur regardless of whether revenue collections are going up or going down.

### **b. The FMFA Provision is Not Tied to Any Revenue and Applies Retroactively**

Extremely troubling is Senate Substitute for House Bill No. 253's provision that would reduce the maximum income tax rate by .5% immediately upon enactment of the Federal Marketplace Fairness Act (FMFA). This immediate drop in the tax rate would force an estimated \$300 million cut to education and vital public services, regardless of whether revenues are otherwise increasing or decreasing, since this trigger has no tie to revenue collections whatsoever. While proponents of Senate Substitute for House Bill No. 253 estimate that the FMFA might ultimately generate additional sales tax revenue, any additional revenue from the FMFA would not occur simply upon federal passage of the FMFA; instead, Missouri would also have to meet all of the requirements of the FMFA, which could not occur until 2015 at the earliest, if at all. This means that while there would be an immediate loss of an estimated \$300 million annually upon enactment of the FMFA, any additional revenue to offset this decline could be years away.

Even more troubling are the drafting problems in this provision that allow the reduction in tax rates to apply retroactively to prior tax years. Specifically, the change in Section 143.011.2, RSMo, would require a .5% reduction to the maximum tax rate upon enactment of the FMFA for all tax tables in Section 143.011.1, RSMo. Intentional or not, the effect of this change to all tax tables in Section 143.011.1, RSMo, could enable taxpayers to seek refunds of taxes previously paid for up to three prior tax years (due to the three year statute of limitations for filing amended returns). All told, this could obligate the state to pay out tax refunds of approximately \$300 million per year for taxes paid during the last three tax years—for an additional fiscal impact of \$900 million—all coming in the same year as the immediate approximately \$300 million loss described above.

With both of the above issues, this single provision of Senate Substitute for House Bill No. 253, could reduce funding for education and vital public services by as much as \$1.2 billion in Fiscal Year 2014 if the FMFA were to pass this year. This significant additional cost is not reflected in the bill's fiscal note.

## **VII. The So-Called Revenue "Triggers" Provide Only A False Sense of Security**

Even for provisions of the bill where revenue triggers would apply, they provide little protection from cuts to education and vital public services.

### **a. The Triggers Fail to Prevent Cuts During an Economic Downturn**

The revenue triggers are drafted to allow for permanent changes in the tax code based on a prior year's increase in revenue collections. This is fiscally irresponsible because it could result in a reduction in tax rates even during the depths of an economic recession. For example, if Senate Substitute for House Bill No. 253 had been in effect at the time, the more than \$100 million revenue collection increase in Fiscal Year 2008 would have triggered tax rate reductions in Fiscal Year 2009. This would have meant that tax rates would have been reduced despite the fact that there was a \$553 million reduction in revenue in Fiscal Year 2009 due to the economic recession. Had Senate Substitute for House Bill No. 253 been in effect, steep cuts to education and vital public services could not have been avoided, as the tax reductions would have continued blindly with no way to turn off the experiment once it had begun.

### **b. The Triggers Ignore Tax Refunds**

The revenue triggers are drafted based on overall revenue "collections" and therefore fail to factor in tax refunds. This will further reduce available revenue because a significant amount of tax refunds would reduce any increase in collection to the point that very little new revenue would remain to offset the fiscal impact of the tax reduction triggered. Looking at actual historical collection data, there are a number of years where revenue *collections* may have increased by \$100 million, but the *actual revenue* available after refunds did not. For example, in Fiscal Year 2000, revenue collections increased by \$221 million, but, after refunds, actual revenues were up by only \$6 million. Nevertheless, if Senate Substitute for House Bill No. 253 were in effect at that time, tax reductions would have occurred despite the fact that the cost of the reductions would far exceed actual revenue available.

## **VIII. The Bill Rewards Economically Inefficient Activity**

The business income exemption within Senate Substitute for House Bill No. 253 is fraught with problems that will reward tax avoidance activities even if they are economically inefficient.

First, the critical term "business income" is not adequately defined, which, in addition to enabling the cost of this exemption to be underrepresented in the bill's fiscal note, would provide a strong incentive for creative accounting to game this new exemption by classifying as much income as possible as exempt, even to the point of forming a "business" simply to gain the new tax exemption. This rewards tax avoidance activity without concomitant economic activity and thereby makes our tax code less efficient.

Second, the exemption provides preferential treatment to select Missouri businesses, while discriminating against the majority of others based solely on the paperwork the businesses filed to organize. Businesses organized as “pass-through entities”—e.g. certain LLCs, partnerships—would see half their income exempt within five years, while the majority of business would see just a few tenths of a percent shaved off their tax rate over the next decade. Preferential tax treatment for selected businesses would create a perverse incentive for businesses to restructure solely for tax avoidance and not for economic efficiency. This kind of manipulation through the tax code unduly interferes with the free market by incentivizing economically inefficient behavior. There is simply no principled economic justification for the tax code to pick winners and losers based solely on elevating the form of a business’s organizational structure over its economic substance.

### **IX. The Bill Would Create Uncertainty For Existing Investments**

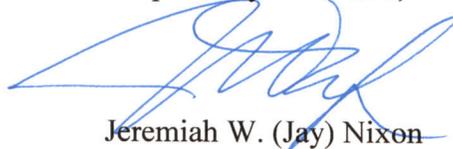
Not only would the business income exemption lead to economically inefficient activity, the other reductions in Senate Substitute for House Bill No. 253 could undermine business confidence in investments that have relied on previously-authorized state incentives based on retained withholding tax. Reduced withholdings for employees as a result of a lowered personal income tax would lessen the value of such incentives and impact debt service on financing long-ago secured. Injecting this uncertainty into our economy at a time when our stable, predictable business climate and rock-solid fiscal discipline are paying dividends would undermine confidence in the investments businesses have already made and jeopardize our ability to effectively compete for additional investments in the future.

### **X. The Bill Would Make Our Tax Code Less Fair**

Ultimately, one of the most striking aspects of Senate Substitute for House Bill No. 253 is its lack of fundamental fairness. No legislation that gives two individual taxpayers with identical incomes—one who owns a business and one who works at one—such drastically different tax exemptions can be called fair. No legislation that would gut K-12 education in exchange for letting LLC shareholders call half of their income exempt can be called fair. No legislation that would give the lobbyists who helped write the bill a 50% tax cut, while shaving just .5% off his mechanic’s tax rate over the next decade can be called fair.

In accordance with the above stated reasons for disapproval, I am returning Senate Substitute for House Bill No. 253 without my approval.

Respectfully submitted,

A handwritten signature in blue ink, appearing to read "Jay Nixon", is written over a printed name and title.

Jeremiah W. (Jay) Nixon  
Governor

# GROWMISSOURI

CONTACT YOUR LEGISLATOR TODAY and tell them to SUPPORT HOUSE BILL 253 to lower income taxes for all Missourians for the first time in nearly 100 years!

Overview	The Problem	The Solution	Exploding Myths
Take Action	Partners		

**Time to Act:**  
40 Day, 14 Hr, 06 Min, 51 Sec

## Timeline

Search ...

### Myth #1: Passage of House Bill 253 will result in state revenue shortfalls.

**FACT:** Missouri ranks 47<sup>th</sup> in the country in economic growth and it's going to take lower taxes to rebuild our state's economy. House Bill 253 gives income tax relief to every business and every individual in a fiscally responsible tax reform package similar to those that have proven to bring in more revenue, not less, in surrounding states. Kansas has collected \$160 million more than the previous year and Oklahoma has collected record revenue levels at the lowest rates in their state's history. In addition, since Gov. Brownback took office and initiated his tax reduction plan in 2011, unemployment in Kansas has dropped from 7.2% to 5.5%, while unemployment in Missouri has remained stagnant at 6.6%. House Bill 253 was carefully crafted to ensure job creators see immediate relief and includes a system of checks-and-balances to

guard against budget shortfalls. Each year, the state would need more money than it needs to operate before triggering a lower individual and corporate income tax cut.

### Myth #2: Passage of House Bill 253 will hurt education.

**FACT:** Missouri schools are being funded at the highest levels in our state's history and the state currently has approximately \$400 million of surplus revenue. However, if Missouri remains one of the worst states in economic performance, the state could lose revenue for schools as a result of businesses and individuals flocking to other states. Alternatively, once House Bill 253 is fully phased-in it will represent a billion dollars of growth in our state economy and generate at least \$300 million in new revenues for things like education. Leadership in the House and Senate are committed to funding education and have passed House Bill 253 as a plan to draw more opportunities to our state. Currently, however, education is being hurt by the withholds that Gov. Nixon has levied against education in this fiscal year AND those he is threatening in the future because he does not want to relinquish control of the surplus revenues that Missourians have earned.

### Myth #3: Passage of House Bill 253 will repeal a sales tax exemption for prescription drugs.

**FACT:** Ironically, the Governor has the sole ability to increase the sales tax on prescription drugs based on his interpretation of language written and approved by the Department of Revenue under his control, meaning if taxes go up on prescription drugs it will be because Gov. Nixon directed his department to do so. However, the House and Senate are committed to protecting Missourians from this tax increase. Despite this, seniors and families in need of medication should not be used as political hostages by the Governor and his state agencies, which is why we are working hard to make sure you are in charge of your money instead of the government. The Department of Revenue cannot be

#### Tweets

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Charlie Davis 31 Jul  
@Mo4charlie

Hundreds of calls and emails from constituents asking for HB253 override. 2 requesting no override. Those against, blinded by rhetoric.

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RT if you agree. @KenWilsonMO should vote to override @govjaynixon and help get MO out of this economic slump. #growmo

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RT if you agree. @azerr01 should vote to override @govjaynixon and help get MO out of this economic slump. #growmo

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trusted; they have a track record of wasting taxpayer dollars and infringing upon the privacy of all Missourians.

**Myth #4: Passage of House Bill 253 will enable taxpayers to re-file their state income tax for amended returns, claiming an additional 0.5 percent reduction in their income taxes, should the Federal Marketplace Fairness Act (FMFA) or similar legislation pass, which would deplete state revenues.**

**FACT:** It is true that all Missourians could see further relief in their income tax burden if the U.S. House and Senate pass the Federal Marketplace Fairness Act (FMFA) this year. However, the state budget would not take the dramatic one-time hit in revenue being projected by those who favor higher taxes because if the FMFA would pass because it is unconstitutional under Article I, Section 13 of the Bill of Rights to enact an ex post facto law that applies retroactive tax rates. Therefore, even though there is a small chance of the FMFA passing this year, it would provide more tax relief for Missourians in a fiscally responsible manner over the next ten years without draining the state's budget.

**Background on Fiscal Impact:** As recently reported by the Kansas City Star, budget projections are not based on fact and are an estimate of revenues collected in previous fiscal years. Therefore, when opponents of lowering taxes argue it will deplete the state's budget and starve public education of adequate funding, they are assuming that none of the money being returned to taxpayers would be circulated back through the economy to generate revenue for the state. History from the state and federal level has shown how lower taxes can stimulate the economy by attracting businesses and increasing consumer spending, thus bringing in more money for the state. House Bill 253 operates on the ideological belief that: 1) Lower taxes can help grow the economy; 2) People can spend their money better than the

government; and 3) If the state has more money than it needs to operate, the funds should be returned to the taxpayers through lower income taxes instead of growing the size of government.

## FAQ

### Missouri Income Tax Timeline

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2013 - [GrowMissouri.com](http://www.growmissouri.com) - [Click Here to Contact Us](#)

## **Myths and Facts**

**Myth:** House Bill 253 will create more revenue for the state through economic growth.

**Fact:** 500,000 new jobs would have to be created to make up for the revenue loss from HB 253.

**Myth:** House Bill 253 provides broad based tax relief for Missourians.

**Fact:** The average Missouri household of four, making \$48,277 will see a tax cut of \$6 per year in 2014.

**Myth:** Many businesses are leaving Missouri to relocate in Kansas due to their new tax scheme.

**Fact:** There were 15,000 new business filings in Kansas over the last year, but there were nearly the same number of business dissolutions, showing that businesses in the state are changing their filings to take advantage of the new tax incentives, not new businesses moving to the state.

**Myth:** The \$100 million "trigger" will ensure that state revenue grows before tax cuts are implemented.

**Fact:** The so-called "trigger" only applies to some of the tax cuts, and represents growth of less than one-half of the rate of inflation. Even in Fiscal Year 2009, the very depths of the recession, General Revenue grew by more than \$100 million.

**Myth:** The loss of revenue is not as great as reported, because the General Assembly cannot reduce taxes retroactively due to restrictions on ex post facto laws.

**Fact:** Ex post facto refers to retroactive penalties, not benefits like tax cuts. HB 444, passed in 2007, sponsored by then Rep. Will Kraus retroactively eliminated taxes on retirement income.

## **More Reasons to Oppose HB 253**

**The State's Bond Rating:** By maintaining Missouri's AAA bond rating, Missouri elected officials have saved the state, and school districts, millions of dollars in interest costs. Standard and Poors, Fitch Ratings and Moody's have all warned that an override of the veto on HB 253 could result in a lowering of Missouri's long-standing AAA bond rating. In Kansas, after passage of their tax scheme, and resulting cuts to general obligations, their bond rating dropped by two grades, costing the state and school districts millions of dollars.

**Funding Basic State Services:** For the last decade, Missouri has been making consistent cuts to every state department. The Department of Mental Health currently serves only 20% of the need, often pushing costs off to corrections, including county jails. Medicaid eligibility for parents is at the lowest level allowable by federal law and doesn't provide any coverage for non-disabled childless adults and non-elderly adults whose children have left home. The school funding formula is currently underfunded by more than \$600 million per year. Higher education has taken serious cuts, especially since the start of the recession, causing program cuts and drastic tuition increases.

**The Hancock Amendment:** Unlike Kansas, Missouri's General Assembly cannot go back and make changes to the tax scheme without a vote by the people. Even changes to fix minor errors will violate the Hancock Amendment. Any legislative fixes to House Bill 253 would either not fix the revenue shortfall or make the shortfall even worse.

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### **Issue Brief: Collection of Taxes on Purchases Made Over the Internet/Other Remote Means**

*Updated January 2010*

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#### **Background**

To date, Congress and the Supreme Court have prevented state and local governments from collecting taxes on purchases made through remote means. In *National Bellas Hess v. Illinois* (1967) and in *Quill v. North Dakota* (1992), the U.S. Supreme Court ruled that states cannot require vendors to collect and remit taxes on purchases made in states where the vendors do not have a physical presence, or nexus. The basis for these decisions is that requiring businesses to collect taxes on such purchases would impose an undue burden because of the complexity of and variations in state and local government sales tax rates and structures.

Although these Court decisions were based on catalog sales and were handed down before the emergence of e-commerce, the rulings extend to all remote sales—including those made over the Internet. Over the past few years, Congress has attempted to overcome the effects of the *Bellas Hess* and *Quill* decisions and allow state and local governments to require retailers to collect and remit taxes on remote sales.

#### **The Streamlined Sales Tax Project**

To overcome the sticking point in the *Bellas Hess* and *Quill* decisions—the compliance burden on vendors—a group of public and private entities formed the Streamlined Sales Tax Project (SSTP) in March 2000 with the goal of simplifying state and local tax systems. More than 40 states joined the SSTP, along with state and local government associations, retailers and retail associations. The participants developed a set of recommendations for the terms of an *Agreement* that would simplify the multiple sales tax systems across the country and create equity in business practices between “bricks and mortar” and remote vendors.

The first step in moving the *Agreement* forward was to establish a group of implementing states, the Streamlined Sales Tax Implementing States (SSTIS). On Nov. 12, 2002, the SSTIS officially approved the provisions of the *Agreement* outlining a uniform system for the administration and collection of all sales taxes – whether collected at a physical location or remotely.

*The Streamlined Sales and Use Tax Agreement* includes the following provisions:

- Creates a centralized state administration of sales tax collection and the distribution thereof to local jurisdictions;
- Creates an electronic registration system for all vendors;
- Limits state and local governments to a single general sales tax rate per jurisdiction;
- Requires states to create and maintain a database of tax rate information for all taxing jurisdictions;
- Simplifies sourcing rules for all taxable transactions;
- Protects states’ right to exempt any item or service from taxation (e.g., food);
- Uniformly defines goods (e.g., if a state taxes “candy,” it must adopt the *Agreement’s* definition of “candy”);
- Standardizes tax holidays.

A Governing Board comprised of representatives of each member state that has adopted the Agreement, was established to interpret and amend the *Agreement*, to resolve issues such as binding dates, provisions for state participation and non-participation, and appointment of advisory boards, and to certify the automated systems and service providers. Non-member states may have representatives serve as ex-officio members to the Board, providing important input on various aspects of the *Agreement*.

On Oct. 1, 2005 the *Agreement* went into effect for the states that have adopted it through their state legislatures. Retailers in those states, on a voluntary basis, may use the system to collect and remit sales and use taxes for those states. There are currently 19 full member states that are collecting remote sales tax revenues: Arkansas, Indiana, Iowa, Kansas, Kentucky, Michigan, Minnesota, Nebraska, Nevada, New Jersey, North Carolina, North Dakota, Oklahoma, Rhode Island, South Dakota, Vermont, Washington, West Virginia, and Wyoming. Three states are associate member states (those states that have adopted most of the *Agreement* but are not yet in full compliance) -- Ohio, Tennessee and Utah.

The GFOA, the National League of Cities (NLC), the National Association of Counties (NACo), and the U.S. Conference of Mayors (USCM) have representatives serving on the State and Local Government Advisory Council (SLAC). The SLAC serves to provide technical advice to the Governing Board on matters of the *Agreement* that impact state and local governments. Its counterpart, the Business Advisory Council (BAC), represents the views of the business community to the Governing Board.

#### *Important Change to Sourcing Rules Adopted in December 2007*

An amendment on sourcing rules adopted by the Governing Board in December 2007 significantly impacts state and local governments, especially where taxes are collected at the point of origin rather than the point of delivery. The amendment allows states to choose either to have destination sourcing for all sales or to allow for origin sourcing for all in-state sales and destination-sourcing for all out-of-state sales. The change was adopted in order to help states with origin sourcing laws that have been reluctant to join the Project and adopt the *Agreement*.

Prior to the Amendment, a state had to adopt destination sourcing for all sales (in-state and out-of-state; in store and remote). Some local governments in origin states were concerned with this provision, since the change to destination sourcing could have brought dramatic sales tax revenue losses. After months of debate, the Governing Board agreed to allow states to choose which type of sourcing to adopt in their state, with the caveat that the new sourcing arrangement would only occur once it has been adopted by five states.

#### Local Governments' Interest in the *Agreement*

While the SSTP and the *Agreement* address state laws and taxation policy, the GFOA is monitoring specific issues of interest to local governments. These include:

- Amending the *Agreement* to include the simplification of non-sales and use telecommunication taxes and fees. GFOA opposes having the SST include communication taxes and fees simplification within the *Agreement*, as it is not within the scope of the SST's mission, and could be quite harmful to local governments, as it would preempt their current authority to tax communication services.
- Amending the *Agreement* to include any taxes on hotels and rental cars. Similar to concerns with including communication taxes within the *Agreement*, these type of taxes fall outside of the SST's scope. GFOA is concerned that efforts to 'simplify' these taxes could result in a federal preemption of a local government's ability to tax these items.
- Requiring vendors to be compensated for collecting sales and use taxes.
- Implementation and clarification of the sourcing rules.
- Fair remittance procedures from the state to the local government.

#### Federal Legislation

While the *Sales Tax Fairness and Simplification Act* was introduced in the 110th Congress (S. 34 and H.R. 3396), it is uncertain whether legislation that would mandate that collection of taxes on remote sales will be introduced in the 111th Congress.

The GFOA and local government associations support federal legislation that allows states and localities to collect taxes on remote sales, **but remains concerned that the legislation could include provisions that would be harmful to local governments.** For example, the call for state and local governments to simplify their telecommunication taxes before they would be able to collect taxes on remote sales is of great concern. The GFOA, NLC, NACo and USCM all have expressed concern that the legislation could limit the ability of

local governments to impose taxes and fees on a range of communication services, including rights-of-way fees, per-line subscriber charges franchise fees, and other telecommunication services taxes. Revenues from these fees are a major source of funding for local governments. Additionally, such taxes and fees go beyond the SST's scope of simplifying sales and use taxes. **Local government associations continue to call for communications reform proposals to be separate from remote sales and use tax legislation.**

### **Looking Ahead in 2010**

The GFOA will be working closely with the SSTP Governing Board on areas where the *Agreement* impacts local governments. GFOA also will continue its call for the telecommunication tax provisions to be stripped from pending federal legislation and not be included in the SST *Agreement*. Our efforts will be coordinated with our partners at NLC, NACo, and the USCM.

### **Related Public Policy Statements**

- **Taxation of Remote Commerce (2008)**
- **Federal Preemption of State and Local Government Taxing Authority (1997)**
- **State and Local Government Authority Over Telecommunications (1995)**

### **Additional Resources**

- Streamlined Sales Tax Project: [www.streamlinedsalestax.org](http://www.streamlinedsalestax.org)

GFOA • Federal Liaison Center • (202) 393-8020 • (202) 393-0780 FAX • [Email](#)

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113TH CONGRESS  
1ST SESSION

# S. 743

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IN THE HOUSE OF REPRESENTATIVES

MAY 20, 2013

Referred to the Committee on the Judiciary

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## AN ACT

To restore States' sovereign rights to enforce State and local sales and use tax laws, and for other purposes.

1 *Be it enacted by the Senate and House of Representa-*  
2 *tives of the United States of America in Congress assembled,*

1 **SECTION 1. SHORT TITLE.**

2       This Act may be cited as the “Marketplace Fairness  
3 Act of 2013”.

4 **SEC. 2. AUTHORIZATION TO REQUIRE COLLECTION OF**  
5                                   **SALES AND USE TAXES.**

6       (a) **STREAMLINED SALES AND USE TAX AGREE-**  
7 **MENT.**—Each Member State under the Streamlined Sales  
8 and Use Tax Agreement is authorized to require all sellers  
9 not qualifying for the small seller exception described in  
10 subsection (c) to collect and remit sales and use taxes with  
11 respect to remote sales sourced to that Member State pur-  
12 suant to the provisions of the Streamlined Sales and Use  
13 Tax Agreement, but only if any changes to the Stream-  
14 lined Sales and Use Tax Agreement made after the date  
15 of the enactment of this Act are not in conflict with the  
16 minimum simplification requirements in subsection (b)(2).  
17 A State may exercise authority under this Act beginning  
18 180 days after the State publishes notice of the State’s  
19 intent to exercise the authority under this Act, but no ear-  
20 lier than the first day of the calendar quarter that is at  
21 least 180 days after the date of the enactment of this Act.

22       (b) **ALTERNATIVE.**—A State that is not a Member  
23 State under the Streamlined Sales and Use Tax Agree-  
24 ment is authorized notwithstanding any other provision of  
25 law to require all sellers not qualifying for the small seller  
26 exception described in subsection (c) to collect and remit

1 sales and use taxes with respect to remote sales sourced  
2 to that State, but only if the State adopts and implements  
3 the minimum simplification requirements in paragraph  
4 (2). Such authority shall commence beginning no earlier  
5 than the first day of the calendar quarter that is at least  
6 6 months after the date that the State—

7 (1) enacts legislation to exercise the authority  
8 granted by this Act—

9 (A) specifying the tax or taxes to which  
10 such authority and the minimum simplification  
11 requirements in paragraph (2) shall apply; and

12 (B) specifying the products and services  
13 otherwise subject to the tax or taxes identified  
14 by the State under subparagraph (A) to which  
15 the authority of this Act shall not apply; and

16 (2) implements each of the following minimum  
17 simplification requirements:

18 (A) Provide—

19 (i) a single entity within the State re-  
20 sponsible for all State and local sales and  
21 use tax administration, return processing,  
22 and audits for remote sales sourced to the  
23 State;

1 (ii) a single audit of a remote seller  
2 for all State and local taxing jurisdictions  
3 within that State; and

4 (iii) a single sales and use tax return  
5 to be used by remote sellers to be filed  
6 with the single entity responsible for tax  
7 administration.

8 A State may not require a remote seller to file  
9 sales and use tax returns any more frequently  
10 than returns are required for nonremote sellers  
11 or impose requirements on remote sellers that  
12 the State does not impose on nonremote sellers  
13 with respect to the collection of sales and use  
14 taxes under this Act. No local jurisdiction may  
15 require a remote seller to submit a sales and  
16 use tax return or to collect sales and use taxes  
17 other than as provided by this paragraph.

18 (B) Provide a uniform sales and use tax  
19 base among the State and the local taxing juris-  
20 dictions within the State pursuant to paragraph  
21 (1).

22 (C) Source all remote sales in compliance  
23 with the sourcing definition set forth in section  
24 4(7).

25 (D) Provide—

1 (i) information indicating the tax-  
2 ability of products and services along with  
3 any product and service exemptions from  
4 sales and use tax in the State and a rates  
5 and boundary database;

6 (ii) software free of charge for remote  
7 sellers that calculates sales and use taxes  
8 due on each transaction at the time the  
9 transaction is completed, that files sales  
10 and use tax returns, and that is updated to  
11 reflect rate changes as described in sub-  
12 paragraph (H); and

13 (iii) certification procedures for per-  
14 sons to be approved as certified software  
15 providers.

16 For purposes of clause (iii), the software pro-  
17 vided by certified software providers shall be ca-  
18 pable of calculating and filing sales and use  
19 taxes in all States qualified under this Act.

20 (E) Relieve remote sellers from liability to  
21 the State or locality for the incorrect collection,  
22 remittance, or noncollection of sales and use  
23 taxes, including any penalties or interest, if the  
24 liability is the result of an error or omission  
25 made by a certified software provider.

1 (F) Relieve certified software providers  
2 from liability to the State or locality for the in-  
3 correct collection, remittance, or noncollection  
4 of sales and use taxes, including any penalties  
5 or interest, if the liability is the result of mis-  
6 leading or inaccurate information provided by a  
7 remote seller.

8 (G) Relieve remote sellers and certified  
9 software providers from liability to the State or  
10 locality for incorrect collection, remittance, or  
11 noncollection of sales and use taxes, including  
12 any penalties or interest, if the liability is the  
13 result of incorrect information or software pro-  
14 vided by the State.

15 (H) Provide remote sellers and certified  
16 software providers with 90 days notice of a rate  
17 change by the State or any locality in the State  
18 and update the information described in sub-  
19 paragraph (D)(i) accordingly and relieve any re-  
20 mote seller or certified software provider from  
21 liability for collecting sales and use taxes at the  
22 immediately preceding effective rate during the  
23 90-day notice period if the required notice is  
24 not provided.

1 (c) **SMALL SELLER EXCEPTION.**—A State is author-  
2 ized to require a remote seller to collect sales and use taxes  
3 under this Act only if the remote seller has gross annual  
4 receipts in total remote sales in the United States in the  
5 preceding calendar year exceeding \$1,000,000. For pur-  
6 poses of determining whether the threshold in this section  
7 is met, the gross annual receipts from remote sales of 2  
8 or more persons shall be aggregated if—

9 (1) such persons are related to the remote seller  
10 within the meaning of subsections (b) and (c) of sec-  
11 tion 267 or section 707(b)(1) of the Internal Rev-  
12 enue Code of 1986; or

13 (2) such persons have 1 or more ownership re-  
14 lationships and such relationships were designed  
15 with a principal purpose of avoiding the application  
16 of these rules.

17 **SEC. 3. LIMITATIONS.**

18 (a) **IN GENERAL.**—Nothing in this Act shall be con-  
19 strued as—

20 (1) subjecting a seller or any other person to  
21 franchise, income, occupation, or any other type of  
22 taxes, other than sales and use taxes;

23 (2) affecting the application of such taxes; or

24 (3) enlarging or reducing State authority to im-  
25 pose such taxes.

1 (b) NO EFFECT ON NEXUS.—This Act shall not be  
2 construed to create any nexus or alter the standards for  
3 determining nexus between a person and a State or local-  
4 ity.

5 (c) NO EFFECT ON SELLER CHOICE.—Nothing in  
6 this Act shall be construed to deny the ability of a remote  
7 seller to deploy and utilize a certified software provider  
8 of the seller's choice.

9 (d) LICENSING AND REGULATORY REQUIRE-  
10 MENTS.—Nothing in this Act shall be construed as permit-  
11 ting or prohibiting a State from—

12 (1) licensing or regulating any person;

13 (2) requiring any person to qualify to transact  
14 intrastate business;

15 (3) subjecting any person to State or local taxes  
16 not related to the sale of products or services; or

17 (4) exercising authority over matters of inter-  
18 state commerce.

19 (e) NO NEW TAXES.—Nothing in this Act shall be  
20 construed as encouraging a State to impose sales and use  
21 taxes on any products or services not subject to taxation  
22 prior to the date of the enactment of this Act.

23 (f) NO EFFECT ON INTRASTATE SALES.—The provi-  
24 sions of this Act shall apply only to remote sales and shall  
25 not apply to intrastate sales or intrastate sourcing rules.

1 States granted authority under section 2(a) shall comply  
2 with all intrastate provisions of the Streamlined Sales and  
3 Use Tax Agreement.

4 (g) NO EFFECT ON MOBILE TELECOMMUNICATIONS  
5 SOURCING ACT.—Nothing in this Act shall be construed  
6 as altering in any manner or preempting the Mobile Tele-  
7 communications Sourcing Act (4 U.S.C. 116–126).

8 **SEC. 4. DEFINITIONS AND SPECIAL RULES.**

9 In this Act:

10 (1) CERTIFIED SOFTWARE PROVIDER.—The  
11 term “certified software provider” means a person  
12 that—

13 (A) provides software to remote sellers to  
14 facilitate State and local sales and use tax com-  
15 pliance pursuant to section 2(b)(2)(D)(ii); and

16 (B) is certified by a State to so provide  
17 such software.

18 (2) LOCALITY; LOCAL.—The terms “locality”  
19 and “local” refer to any political subdivision of a  
20 State.

21 (3) MEMBER STATE.—The term “Member  
22 State”—

23 (A) means a Member State as that term is  
24 used under the Streamlined Sales and Use Tax

1 Agreement as in effect on the date of the enact-  
2 ment of this Act; and

3 (B) does not include any associate member  
4 under the Streamlined Sales and Use Tax  
5 Agreement.

6 (4) PERSON.—The term “person” means an in-  
7 dividual, trust, estate, fiduciary, partnership, cor-  
8 poration, limited liability company, or other legal en-  
9 tity, and a State or local government.

10 (5) REMOTE SALE.—The term “remote sale”  
11 means a sale into a State, as determined under the  
12 sourcing rules under paragraph (7), in which the  
13 seller would not legally be required to pay, collect,  
14 or remit State or local sales and use taxes unless  
15 provided by this Act.

16 (6) REMOTE SELLER.—The term “remote sell-  
17 er” means a person that makes remote sales in the  
18 State.

19 (7) SOURCED.—For purposes of a State grant-  
20 ed authority under section 2(b), the location to  
21 which a remote sale is sourced refers to the location  
22 where the product or service sold is received by the  
23 purchaser, based on the location indicated by in-  
24 structions for delivery that the purchaser furnishes  
25 to the seller. When no delivery location is specified,

1 the remote sale is sourced to the customer's address  
2 that is either known to the seller or, if not known,  
3 obtained by the seller during the consummation of  
4 the transaction, including the address of the cus-  
5 tomer's payment instrument if no other address is  
6 available. If an address is unknown and a billing ad-  
7 dress cannot be obtained, the remote sale is sourced  
8 to the address of the seller from which the remote  
9 sale was made. A State granted authority under sec-  
10 tion 2(a) shall comply with the sourcing provisions  
11 of the Streamlined Sales and Use Tax Agreement.

12 (8) STATE.—The term "State" means each of  
13 the several States, the District of Columbia, the  
14 Commonwealth of Puerto Rico, Guam, American  
15 Samoa, the United States Virgin Islands, the Com-  
16 monwealth of the Northern Mariana Islands, and  
17 any other territory or possession of the United  
18 States, and any tribal organization (as defined in  
19 section 4 of the Indian Self-Determination and Edu-  
20 cation Assistance Act (25 U.S.C. 450b)).

21 (9) STREAMLINED SALES AND USE TAX AGREE-  
22 MENT.—The term "Streamlined Sales and Use Tax  
23 Agreement" means the multi-State agreement with  
24 that title adopted on November 12, 2002, as in ef-

1       fect on the date of the enactment of this Act and as  
2       further amended from time to time.

3 **SEC. 5. SEVERABILITY.**

4       If any provision of this Act or the application of such  
5 provision to any person or circumstance is held to be un-  
6 constitutional, the remainder of this Act and the applica-  
7 tion of the provisions of such to any person or cir-  
8 cumstance shall not be affected thereby.

9 **SEC. 6. PREEMPTION.**

10       Except as otherwise provided in this Act, this Act  
11 shall not be construed to preempt or limit any power exer-  
12 cised or to be exercised by a State or local jurisdiction  
13 under the law of such State or local jurisdiction or under  
14 any other Federal law.

Passed the Senate May 6, 2013.

Attest:

NANCY ERICKSON,

*Secretary.*



# COMMUNITY SERVICES

- Community Planning
- Forming a NFP or CDC
- Home Ownership
- Local Finance Initiatives

- Community Improvement District
- Local Option Economic Development Sales Tax
- Neighborhood Improvement District
- Property Tax Abatement
- Tax Increment Financing
- Transportation Development District

Who to Call

DED Home > Business and Community Services Home >  
 Community Services > Local Finance Initiatives > Community  
 Improvement District

## Community Improvement District

A Community Improvement District (CID) may be either a political subdivision or a not-for-profit corporation. CID's are organized for the purpose of financing a wide range of public-use facilities and establishing and managing policies and public services relative to the needs of the district.

### Organizing A CID

By request petition, signed by property owners owning at least 50% of the assessed value of the real property, and more than 50% per capita of all owners of real property within the proposed CID, presented for authorizing ordinance to the governing body of the local municipality in which the proposed CID would be located. Language contained in the petition narrative must include a five year plan, describing the purposes of the proposed district, the services it will provide, the improvements it will make and an estimate of the costs of those services and improvements, and the maximum rates of property taxes and special assessments that may be imposed within the proposed district. Other information must state how the CID would be organized and governed, and whether the governing board would be elected or appointed. There are specific rules that provide the required elements of a CID petition, and the procedures for publication, public hearings, etc. Your Missouri Department of Economic Development will be happy to provide details of these rules upon request.

### Supporting Organizations

Unlike a Neighborhood Improvement District, a CID is a separate legal entity, and is distinct and apart from the municipality that creates the district. A CID is, however, created by ordinance of the governing body of the municipality in which the CID is located, and may have other direct organizational or operational ties to the local government, depending upon the charter of the CID.

### Typical Budget Items And Responsibilities

A CID may finance new facilities or improvements to existing facilities that are for the use of the public. Such public-use facilities include:

1. Convention centers, arenas, meeting facilities, pedestrian or shopping malls and plazas

- Missouri Association of Community Action
- Missouri Association of Counties
- Missouri Chamber of Commerce
- Missouri Community Betterment
- Missouri Development Finance Board
- Missouri Economic Development Council
- Missouri Housing Development Commission
- Missouri Main Street Connection
- Missouri Municipal League
- State Emergency Management Association
- US Census Bureau
- US Department of Agriculture
- US Department of Housing and Urban Development

2. Paintings, murals, fountains or kiosks
3. Parks, lawns, gardens, trees or other landscapes
4. Streetscapes, lighting, benches, marquees, awnings, canopies, trash receptacles, walls
5. Lakes, dams and waterways
6. Sidewalks, streets, alleyways, bridges, ramps, tunnels, traffic signs and signals utilities, drainage works, water, storm and sewer systems and other site improvements
7. Parking lots, garages
8. Child care facilities and any other useful, necessary or desired improvement

A CID may also provide a variety of public services, some of which may be:

1. Operating or contracting for the operation of parking facilities, shuttle bus services
2. Leasing space for sidewalk café tables and chairs
3. Providing trash collection and disposal services
4. With consent of the municipality, prohibiting, or restricting vehicular and pedestrian traffic and vendors on streets
5. Within a designated "blighted area", contract with any private property owner to demolish, or rehabilitate any building or structure owned by such property owner
6. Providing or contracting for security personnel, equipment or facilities

#### **Financial Resources**

Funding of CID projects and services must be set forth in the requesting petition that is presented to the local governing body of the municipality in which the CID is located. Funding may be accomplished by district-wide special assessment, rents, fees, and charges for the use of CID property or services, grants, gifts or donations. If the CID is organized as a political subdivision, property and sales taxes may also be imposed within the boundaries of the CID.

The ability of Missouri's communities to establish CIDs for the purpose of improving their public use facilities for the enjoyment, convenience, safety and common good of all citizens is an outstanding example of local economic development excellence. The Missouri Department of Economic Development has additional information available and strongly recommends retaining qualified professional consultation or assistance of counsel in the formation of a special district.

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Business and Community Services  
301 W. High Street, Rooms 720, 770, Jefferson City,

Missouri 65102

Tel: 800-523-1434 Fax: 573-751-7384 Email:  
missouridevelopment@ded.mo.gov

Business Solutions | Community Services



# COMMUNITY SERVICES

- Community Planning
- Forming a NFP or CDC
- Home Ownership
- Local Finance Initiatives
  - Community Improvement District
  - Local Option Economic Development Sales Tax
  - Neighborhood Improvement District
  - Property Tax Abatement
  - Tax Increment Financing
  - Transportation Development District
- Who to Call

DED Home > Business and Community Services Home > Community Services > Local Finance Initiatives > Transportation Development District

## Transportation Development District

### Creating A TDD

A Transportation Development District (TDD) may be created to act as the entity responsible for developing, improving, maintaining, or operating one or more "projects" relative to the transportation needs of the area in which the District is located. A TDD may be created by request petition filed in the circuit court of any county partially or totally within the proposed district. There are specific rules that provide filing procedures and content requirements of TDD creating petitions. Your Department of Economic Development will be happy to provide details of these rules upon request. [Link here for full details...](#)

### State Or Local Government Project Support

Before beginning to build or fund any project, the TDD will submit the proposed project to the Missouri Highways and Transportation Commission for its approval. If the proposed project is not intended to be part of the state highways or transportation system, the TDD will also submit its plans for approval by the local transportation authority that will become owner of the project. A "local transportation authority" may be any local public authority(s) or political subdivision(s) having jurisdiction over any transportation service, improvement, or infrastructure in which the TDD is located.

### Typical Budget Items

A TDD serves to fund, promote, plan, design, construct, improve maintain or operate one or more "projects" or to assist in such activity. "Projects may include any:

- Street, highway, road, interchange, intersection, bridge, traffic signal light or signage;
- Bus stop, terminal, station, wharf, dock, rest area or shelter;
- Airport, river, or lake port, railroad, light rail or other mass transit and any similar or related improvement or infrastructure.

### Financial Resources

Funding of TDD projects may be accomplished through the creation of District-wide special assessments or property or

- Missouri Association of Community Action
- Missouri Association of Counties
- Missouri Chamber of Commerce
- Missouri Community Betterment
- Missouri Development Finance Board
- Missouri Economic Development Council
- Missouri Housing Development Commission
- Missouri Main Street Connection
- Missouri Municipal League
- State Emergency Management Association
- US Census Bureau
- US Department of Agriculture
- US Department of Housing and Urban Development

sales taxes with a required majority voter or petition approval. Other funding sources requiring voter majority approval may include establishing tolls or fees for the use of the project. The TDD may also issue bonds, notes, and other obligations in accordance with the authority granted to the entity for such issuance.

Effective, modern, and safe transportation systems and related infrastructure are fundamental to the economic vitality of Missouri, its communities, and regional areas. The Missouri Department of Economic Development can assist your community or region by providing information and resources you can use to create a Transportation Development District to serve the needs of your area.

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