

MISSOURI STATE AUDITOR'S OFFICE
FISCAL NOTE (No. 03-06)

Subject

Initiative Petition for a proposed statutory change from Husch & Eppenberger, LLC, regarding the Education and Health Care Protection Act – Version 2. (Received November 26, 2003).

Date

December 17, 2003

Description

The proposed statutory initiative petition amends the Revised Statutes by adding an Education and Health Care Protection Act.

This Act will assure there will not be spending reductions in the basic state investment in education and the basic state investment in health care during this period of economic downturn and lessened general revenues.

A one percent (1%) temporary additional sales and use tax will be effective on January 1, 2005 and will cease on December 31, 2007. The provisions of this Act will terminate on June 30, 2009.

The revenues received by the state as a result of this Act shall be deposited in the Education and Health Care Protection Trust Fund and used solely to fund authorized programs encompassed within the basic state investment in education and the basic state investment in health care. The revenues received by the state as a result of this Act will not be used for any other purposes except for costs of collection and refunds.

This Act ensures that the current economic downturn and lessened general revenues will not reduce the state's support for elementary and secondary education and health care services for the elderly and disabled and children and their parents and caregivers who are enrolled in the state's Medicaid Program.

The general assembly will appropriate sufficient monies to assure the authorized state programs encompassed within the basic state investment in education and the basic state investment in health care are fully funded. Any monies appropriated from the Education and Health Care Protection Trust fund will be expended and not withhold. Monies in this fund that are not appropriated and expended will not lapse into General Revenue.

The general assembly will not divert revenues or reduce the level of state funding from other revenue sources for the authorized programs which was in effect for the just

completed year because of the appropriation of funds for such programs from the Act. Any temporary additional sales and use taxes will not be a part of "total state revenues" nor will the taxes be a part of "new annual revenues" and the expenditure of the taxes will not be an "expense of state government".

Books of account will be established by the commissioner of administration to ensure these funds are used and expended only for the purposes authorized by the Act. The State Auditor will provide an annual audit as a result of the taxes from this Act. The provisions of this Act are self enforcing.

Assumptions

This statutory change would impose a temporary additional sales and use tax rate of one percent to be used for education and health care services. The additional rate will become effective January 1, 2005 and will expire on December 31, 2007. Any revenues received will be deemed non-state revenues and will be deposited into the Education and Health Care Protection Trust Fund, which is created by the Act.

Based on information from the Office of Administration, Division of Budget and Planning the following chart provides an estimate of what an additional one cent general revenue sales tax would yield in Fiscal Years 2004 – 2007, based upon the following assumptions:

1. The current general revenue sales tax rate is three cents, which is used to estimate the revenue from an additional one cent sales tax.
2. Each fiscal year shown is a full year amount.
3. The Fiscal Year 2004 estimate is based on the Governor's revised July 2003 general revenue estimate.
4. The OA Division of Budget and Planning estimates sales tax growth in Fiscal Year 2005 and beyond will be 2.5%.

Fiscal Year		General Revenue Sales Tax (millions)	Gross Revenue From a One Cent Increase
2003	Actual	\$1,799.3	
2004*	Estimate	\$1,826.6	\$608.9
2005**	Estimate	\$1,872.3	\$624.1
2006	Estimate	\$1,919.1	\$639.7
2007	Estimate	\$1,967.0	\$655.7

* Although the first year the tax could go into effect is FY 2005, the FYs 2003-2004 are provided for informational purposes.

** The maximum time the tax could be in effect for FY 2005 is six months, but the full year amount is shown for informational purposes.

Fiscal Year	Gross Revenue From a One Cent Increase (millions)	Estimated Refunds***	Net Revenue From a One Cent Increase
2004	\$608.9	\$21.7	\$587.2
2005	\$624.1	\$21.7	\$602.4
2006	\$639.7	\$23.3	\$616.4
2007	\$655.7	\$23.3	\$632.4

*** OA Budget and Planning estimated amount of refunds related to an additional one cent sales and use tax.

As stated in this initiative petition, revenues received by the state as a result of this Act will not be used for any other purposes except for costs of collection and refunds. Past audits by the State Auditor's Office have reported that state law does not require vendors to return sales and use tax refunds and related interest to the original purchaser when applicable.

Officials from the Department of Revenue indicate this Amendment would have an administrative impact. Funding would be needed for the notification of the new rate for 150,000 businesses each year, at an approximate cost of \$40,200 per year. Costs of collection would not increase. The Department of Revenue did not provide an estimate of additional sales tax revenue but instead agreed to have the OA Division of Budget and Planning provide that information.

Officials from the Department of Elementary and Secondary Education indicate this proposal will have no impact on the Department. The cost of this proposal will be borne by taxpayers in the form of increased sales and use taxes. For fiscal impact purposes, we assume receipt of temporary tax collections will begin during FY05; however, distributions to school districts will not likely occur until FY06 pending appropriation by the generally assembly.

Officials from Department of Social Services – Division of Medical Services (DMS) and the Office of Administration indicate there will be no fiscal impact or explicit additional costs imposed.

The State Auditor's Office would be required to perform an annual audit of the Education and Health Care Protection Fund. This audit requirement would require additional audit resources. It is estimated that this audit requirement would require 1,000 staff hours and 150 manager hours to complete. This audit would cost approximately \$35,000.

Public comments and other input

The State Auditor's Office contacted or obtained information from the Department of Elementary and Secondary Education, the Department of Revenue, the Department of Social Services and the Office of Administration.

Fiscal Note Summary

The statutory change would impose a temporary additional sales and use tax of one percent, which would generate additional net revenue of approximately \$602 million in 2005, \$616 million in 2006, and \$632 million in 2007. The indirect fiscal impact on state and local governments, if any, is unknown.