

**COMMONWEALTH OF KENTUCKY FISCAL NOTE STATEMENT  
LEGISLATIVE RESEARCH COMMISSION  
2019 REGULAR SESSION**

**MEASURE**

2019 BR NUMBER 1507

SENATE BILL NUMBER 147

**TITLE** AN ACT relating to sales and use tax exemptions.

**SPONSOR** Senator Christian McDaniel

**FISCAL SUMMARY**

STATE FISCAL IMPACT:  YES  NO  UNCERTAIN

OTHER FISCAL STATEMENT(S) THAT MAY APPLY:  ACTUARIAL ANALYSIS  LOCAL MANDATE  CORRECTIONS IMPACT  HEALTH BENEFIT MANDATE

APPROPRIATION UNIT(S) IMPACTED: \_\_\_\_\_

FUND(S) IMPACTED:  GENERAL  ROAD  FEDERAL  RESTRICTED \_\_\_\_\_

<b>FISCAL ESTIMATES</b>	<b>2018-2019</b>	<b>2019-2020</b>	<b>ANNUAL IMPACT AT FULL IMPLEMENTATION</b>
<b>REVENUES</b>		(Indeterminable) Negative	(Indeterminable) Negative
<b>EXPENDITURES</b>			
<b>NET EFFECT</b>		(Indeterminable) Negative	(Indeterminable) Negative

( ) indicates a decrease/negative

**PURPOSE OF MEASURE:**

This proposal, if enacted, exempts from sales and use tax tangible personal property sold to or purchased by a person who is under contract to incorporate the tangible personal property into a structure or improvement to real estate and is used to fulfill the terms of a contract with a federal, state or local government entity or a resident, nonprofit educational, charitable, or religious institution. This applies to the purchases made from July 1, 2019 to June 30, 2023.

**FISCAL EXPLANATION:**

Currently, governmental agencies and resident, nonprofit educational, charitable, and religious institutions may purchase tangible personal property exempt from sales and use tax. This includes materials that they purchase to become a permanent part of a structure or an improvement to real estate if the structure or improvement to real estate is used in their exempt function.

Construction contractors that purchase tangible personal property which will enter or become a permanent part of a structure or improvement to real estate must currently pay the sales or use tax on those purchases unless the exempt entity chooses to separately advertise bids and award separate contracts for materials and labor. This workaround may effectively exempt the construction contractor from the tax and in turn alleviate the exempt entity from reimbursing the construction contractor for the tax in some instances. However, according to the Department of Revenue, not all exempt entities separately bid materials from

the labor and award separate contracts and not all exempt entities use this method on all construction contracts.

Based on data from the Department of Defense, Federal Highway Administration, U. S. Bureau of the Census, and the Kentucky Department of Education, staff estimate the annual construction costs are approximately \$5.9 billion. Data is not available for nonprofits, therefore this number does not represent the total construction costs.

This office does not have sufficient data to estimate the number of contracts currently not using the work around or the value related to the materials that would be exempted under those contracts. However, the negative impact to the General Fund may be substantial.

**DATA SOURCE(S): A&R Staff**

**PREPARER: Jennifer Hays NOTE NUMBER: 62 REVIEW: JAB DATE: 2/18/2019**