

COMMITTEE ON LEGISLATIVE RESEARCH
OVERSIGHT DIVISION

FISCAL NOTE

L.R. No.: 3761-02
Bill No.: SB 529
Subject: Taxation and Revenue - Sales and Use; Political Subdivisions
Type: Original
Date: January 28, 2020

Bill Summary: This proposal modifies provisions relating to use taxes

FISCAL SUMMARY

ESTIMATED NET EFFECT ON GENERAL REVENUE FUND			
FUND AFFECTED	FY 2021	FY 2022	FY 2023
General Revenue Fund	(Greater than \$2,970,911)	(Could exceed \$1,968,252)	(Could exceed \$1,984,132)
Total Estimated Net Effect on General Revenue	(Greater than \$2,970,911)	(Could exceed \$1,968,252)	(Could exceed \$1,984,132)

Numbers within parentheses: () indicate costs or losses. This fiscal note contains 21 pages.

ESTIMATED NET EFFECT ON OTHER STATE FUNDS			
FUND AFFECTED	FY 2021*	FY 2022*	FY 2023
School Transportation Fund	Less than \$55,661,572 to \$85,038,513	Less than \$78,374,087 to \$119,738,189	\$82,727,834 to \$126,389,748
County Jail Reimbursement Fund	Less than \$13,915,393 to \$21,259,628	Less than \$19,593,522 to \$29,934,547	\$20,681,959 to \$31,597,437
Conservation Commission Fund (0609)	Less than \$2,174,280 to \$3,321,817	Less than \$3,061,488 to \$4,677,273	\$3,231,556 to \$4,937,100
Parks and Soils State Sales Tax Funds (0613 & 0614)	Less than \$1,739,424 to \$2,657,454	Less than \$2,449,190 to \$3,741,818	\$2,585,245 to \$3,949,680
Total Estimated Net Effect on <u>Other</u> State Funds	Less than \$73,490,670 to \$112,277,412	Less than \$103,478,287 to \$158,091,827	\$109,226,594 to \$166,873,965

*Subsection 144.752.2 does not require marketplace facilitators to register or collect taxes until January 1, 2022. This may significantly lower online tax collections in Fiscal Year(s) 2021 and 2022.

ESTIMATED NET EFFECT ON FEDERAL FUNDS			
FUND AFFECTED	FY 2021	FY 2022	FY 2023
Total Estimated Net Effect on <u>All</u> Federal Funds	\$0	\$0	\$0

ESTIMATED NET EFFECT ON FULL TIME EQUIVALENT (FTE)			
FUND AFFECTED	FY 2021	FY 2022	FY 2023
General Revenue	33 FTE	33 FTE	33 FTE
Total Estimated Net Effect on FTE	33 FTE	33 FTE	33 FTE

Estimated Net Effect (expenditures or reduced revenues) expected to exceed \$100,000 in any of the three fiscal years after implementation of the act.

ESTIMATED NET EFFECT ON LOCAL FUNDS			
FUND AFFECTED	FY 2021	FY 2022	FY 2023
Local Government	Less than \$27,005,173 to \$41,257,903	Less than \$38,024,542 to \$58,093,050	\$40,136,838 to \$61,320,168

FISCAL ANALYSIS

ASSUMPTION

Section 32.310 - DOR Sales and Use Tax Map

Officials from the **Office of Administration - Budget and Planning Division (B&P)** state this section adds use tax information to the Missouri Department of Revenue's (DOR) mapping system. This section will not impact Total State Revenue (TSR) or the calculation under Article X, Section 18(e).

Officials from the **Missouri Department of Revenue (DOR)** state this proposal adds "use tax" to the DOR mapping feature which currently states sales tax. DOR assumes this will not have a fiscal impact as use tax is already included in the map.

Section 144.605 and 144.752 - Out-of State Sellers Use Tax and Marketplace Facilitators

Officials from **B&P** state this proposal would require out-of-state vendors with at least \$100,000 in in-state sales to collect and remit state and local use tax, beginning October 1, 2020.

B&P and the Department of Revenue (DOR) worked together to estimate the potential revenue gains from the U.S. Supreme Court *Wayfair* decision, which overturned the *Quill* decision and held that states may charge a tax on purchases made from out-of-state sellers, even if the seller doesn't have a physical presence in the taxing state. In November 2017, the U.S. Government and Accountability Office (GAO) released state-by-state estimates for potential revenue gains if the 1992 *Quill* decision were overturned during the *Wayfair* case. In the report, the GAO estimated that Missouri could gain \$180 million to \$275 million in state and local sales taxes during 2017 from e-commerce sales tax revenue. B&P notes that there were three limitations to the study which B&P and DOR attempted to address by further refining the GAO estimates.

At the time of the study, the GAO did not remove the sales of digital downloads from the state and local estimates due to data limitations and different tax treatments across states. B&P notes that digital downloads are currently exempt from sales tax under Missouri law. B&P and DOR were able to find limited studies on the e-commerce market share for such sales. The studies indicated that digital downloads account for approximately 14.1% of all e-commerce sales. B&P and DOR then reduced the original GAO estimates by that 14.1%.

ASSUMPTION (continued)

The GAO provided a point-in-time estimate for potential state and local revenue gains during 2017. This estimate, though, does not account for anticipated growth in e-commerce sales. To address this, B&P and DOR adjusted the GAO estimate to incorporate e-commerce sales growth for tangible personal property from 2018 through 2022. Only growth for e-commerce sales of tangible personal property were used, rather than growth in the full e-commerce market, in order to accurately reflect growth in the online sales tax base. B&P notes that using growth in the full e-commerce market would overestimate the sales tax base as services and digital download products are not currently taxable in Missouri.

At the time of the study, the GAO did not incorporate potential in-state sales or in-state transaction requirements that would limit the companies required to comply with e-commerce sales tax collections. Using data published by the U.S. Census Bureau and industry reports, B&P and DOR were able to estimate the percent of sales that would remain taxable if Missouri instituted an in-state sales threshold of \$100,000. If Missouri were to enact a \$100,000 in-state sales threshold, B&P and DOR estimate that approximately 86.7% of all e-commerce sales would remain taxable. B&P and DOR used this estimate to further adjust the GAO provided revenue estimate.

B&P and DOR were unable to estimate the impact from a potential in-state transaction requirement. B&P notes that the majority of states are currently enacting e-commerce sales tax requirements of \$100,000 in in-state sales or 200 in-state transactions.

Subparagraph 144.605(2)(g)c requires that the use tax remitted under this provision be deposited into two newly created funds. B&P assumes this would include the 3% tax that would otherwise be deposited into General Revenue (GR) and the 1% tax that would otherwise be deposited into the School District Trust Fund (SDTF). Item (i) states that 80% of revenues shall be deposited into the School Transportation Fund. Item (ii) states that 20% of revenues shall be deposited into the County Jail Reimbursement Fund.

Oversight notes B&P has estimated that 94.67% (4.00% / 4.225%) of the total revenues collected from out-of-state vendors and marketplace facilitators would be diverted from GR (71% of total revenues collected) and the School District Trust Fund (23.67 percent of total revenues collected) and deposited into the School Transportation Fund (80% of the 94.67%) and the County Jail Reimbursement Fund (20% of the 94.67%). The remaining 5.33% of the total revenues collected from out-of-state vendors and market place facilitators would continue to be deposited into the funds designated by the Missouri Constitution (Conservation Commission Fund (0609) and the Parks and Soils Fund(s) (0613 and 0614)).

B&P and DOR estimate that in Calendar Year 2020 Missouri could gain up to \$23.3 million to \$35.6 million in Total State Revenues (TSR). By Calendar Year 2022, B&P and DOR estimate that TSR could be increased by \$106.6 million to \$162.9 million. Table 1 shows the estimated impact by calendar year.

ASSUMPTION (continued)

Table 1: Collections by Calendar Year

Revenue Estimates	2020		2021		2022	
	Low	High	Low	High	Low	High
School Transportation Fund	\$17,654,831	\$26,972,659	\$76,013,482	\$116,131,708	\$80,734,694	\$123,344,670
County Jail Reimbursement Fund	\$4,413,708	\$6,743,165	\$19,003,370	\$29,032,927	\$20,183,673	\$30,836,167
Total (GR & SDTF Diversion)	\$22,068,539	\$33,715,824	\$95,016,852	\$145,164,635	\$100,918,367	\$154,180,837
Conservation	\$689,642	\$1,053,619	\$2,969,277	\$4,536,395	\$3,153,699	\$4,818,151
Parks, Soil, Water	\$551,713	\$842,896	\$2,375,421	\$3,629,116	\$2,522,959	\$3,854,521
TSR	\$23,309,894	\$35,612,339	\$100,361,550	\$153,330,145	\$106,595,025	\$162,853,509
Local (pop weighted use tax rate 1.385%)	\$8,565,546	\$13,086,251	\$36,879,253	\$56,343,303	\$39,169,830	\$59,842,796

*Section 144.637.3 requires that the lowest combined tax rate within a zip code be used to determine local sales tax due. This may lower the actual local tax collections.

Oversight notes Calendar Year 2020 only reports revenues for the three months in which collections would be authorized, as this proposed legislation would require out-of-state vendors and marketplace facilitators to remit use tax beginning October 1, 2020.

B&P notes that these estimates reflect the full potential revenue and do not include adjustments for implementation timing or business compliance. Therefore, the actual revenue collected in earlier years may be significantly lower than the estimated amount. In addition, B&P notes that subsection 144.752.2 does not require marketplace facilitators to register or collect taxes until January 1, 2022. This will significantly lower online tax collections prior to January 1, 2022.

Section 144.752 defines market place facilitators and states that a facilitator counts as one seller. Starting January 1, 2022 market place facilitators that reach the sales thresholds outlined under Section 144.605.(2)(g) must register with DOR and begin remitting sales tax on behalf of individual marketplace sellers. B&P notes that this provision would apply to retailers such as Amazon's market place, ETSY, EBAY, etc. Subsection 144.752.4 grants eligible marketplace facilitators a 2% timely filing discount. This section explicitly excludes travel agencies and third party financial institutions from the definition of marketplace facilitators. This exclusion will not impact the estimates provided in this analysis.

ASSUMPTION (continued)

B&P and DOR estimate that in Fiscal Year 2021 Missouri could gain up to \$73.5 million to \$112.3 million in TSR. By Fiscal Year 2023, B&P and DOR estimate that TSR could be increased by \$109.2 million to \$166.9 million.

Table 2 shows the estimated impact by fiscal year. However, as noted above, subsection 144.752.2 does not require marketplace facilitators to register or collect taxes until January 1, 2022. This will significantly lower online tax collections in Fiscal Year(s) 2021 and 2022.

Table 2: Collections by Fiscal Year

Revenue Estimates	2021		2022		2023	
	Low	High	Low	High	Low	High
School Transportation Fund	Significantly Less Than \$55,661,572	Significantly Less Than \$85,038,513	Significantly Less Than \$78,374,087	Significantly Less Than \$119,738,189	\$82,727,834	\$126,389,748
County Jail Reimbursement Fund	Significantly Less Than \$13,915,393	Significantly Less Than \$21,259,628	Significantly Less Than \$19,593,522	Significantly Less Than \$29,934,547	\$20,681,959	\$31,597,437
Total	Significantly Less Than	Significantly Less Than	Significantly Less Than	Significantly Less Than	\$103,409,793	\$157,987,185
(GR & SDTF Diversion)	\$69,576,965	\$106,298,141	\$97,967,609	\$149,672,736		
Conservation	Significantly Less Than \$2,174,280	Significantly Less Than \$3,321,817	Significantly Less Than \$3,061,488	Significantly Less Than \$4,677,273	\$3,231,556	\$4,937,100
Parks, Soil, Water	Significantly Less Than \$1,739,424	Significantly Less Than \$2,657,454	Significantly Less Than \$2,449,190	Significantly Less Than \$3,741,818	\$2,585,245	\$3,949,680
TSR	Significantly Less Than \$73,490,670	Significantly Less Than \$112,277,412	Significantly Less Than \$103,478,287	Significantly Less Than \$158,091,827	\$109,226,594	\$166,873,965
Local* (pop weighted use tax rate 1.385%)	Significantly Less Than \$27,005,173	Significantly Less Than \$41,257,903	Significantly Less Than \$38,024,542	Significantly Less Than \$58,093,050	\$40,136,838	\$61,320,168

*Section 144.637.3 requires that the lowest combined tax rate within a zip code be used to determine local sales tax due. This may lower the actual local tax collections.

Oversight notes Fiscal Year 2021 estimates include three months from Calendar Year 2020 and six months from Calendar Year 2021. Fiscal Year 2022 includes the remaining six months of Calendar Year 2021 and six months of Calendar Year 2022; in which each fiscal year thereafter

ASSUMPTION (continued)

will follow suit.

Officials from the **DOR** state B&P and DOR worked together to estimate the potential revenue gains from the U.S. Supreme Court *Wayfair* decision, which overturned the *Quill* decision and held that states may charge a tax on purchases made from out-of-state sellers, even if the seller doesn't have a physical presence in the taxing state. In November 2017, the U.S. Government and Accountability Office (GAO) released state-by-state estimates for potential revenue gains if the 1992 *Quill* decision were overturned during the *Wayfair* case. In the report, the GAO estimated that Missouri could gain \$180 million to \$275 million in state and local sales taxes during 2017 from e-commerce sales tax revenue. B&P notes that there were three limitations to the study which B&P and DOR attempted to address by further refining the GAO estimates.

At the time of the study, the GAO did not remove the sales of digital downloads from the state and local estimates due to data limitations and different tax treatments across states. B&P notes that digital downloads are currently exempt from sales tax under Missouri law. B&P and DOR were able to find limited studies on the e-commerce market share for such sales. The studies indicated that digital downloads account for approximately 14.1% of all e-commerce sales. B&P and DOR then reduced the original GAO estimates by that 14.1%.

The GAO provided a point-in-time estimate for potential state and local revenue gains during 2017. This estimate, though, does not account for anticipated growth in e-commerce sales. To address this, B&P and DOR adjusted the GAO estimate to incorporate e-commerce sales growth for tangible personal property from 2018 through 2022. Only growth for e-commerce sales of tangible personal property were used, rather than growth in the full e-commerce market, in order to accurately reflect growth in the online sales tax base. B&P notes that using growth in the full e-commerce market would overestimate the sales tax base as services and digital download products are not currently taxable in Missouri.

At the time of the study, the GAO did not incorporate potential in-state sales or in-state transaction requirements that would limit the companies required to comply with e-commerce sales tax collections. Using data published by the U.S. Census Bureau and industry reports, B&P and DOR were able to estimate the percent of sales that would remain taxable if Missouri instituted an in-state sales threshold of \$100,000. If Missouri were to enact a \$100,000 in-state sales threshold, B&P and DOR estimate that approximately 86.7% of all e-commerce sales would remain taxable. B&P and DOR used this estimate to further adjust the GAO provided revenue estimate.

B&P and DOR were unable to estimate the impact from a potential in-state transaction requirement. B&P notes that the majority of states are currently enacting e-commerce sales tax

ASSUMPTION (continued)

requirements of \$100,000 in in-state sales or 200 in-state transactions.

B&P and DOR estimate that in tax year 2020 Missouri could gain up to \$93.2 million to \$142.5 million in total state revenues. By 2023, B&P and DOR estimate that total state revenues could be increased by \$111.8 million to \$170.9 million. B&P notes that these estimates reflect the full potential revenue and do not include adjustments for implementation timing or business compliance. Therefore, the actual revenue collected in earlier years may be significantly lower than the estimated amount.

The following tables show the potential state and local revenue gains from expanding Missouri sales tax law to include online sales.

By Sales Tax Year:

Revenue Estimates	2020 (3 Months)		2021		2022		2023	
	Low	High	Low	High	Low	High	Low	High
GR (approx. 36% of total collections)	16.6	25.3	71.2	108.7	75.2	114.9	78.2	119.5
Education	5.5	8.4	23.7	36.2	25.1	38.3	26.1	39.8
Conservation	0.7	1.1	3	4.5	3.1	4.8	3.3	5
Parks, Soil, Water	0.6	0.8	2.4	3.6	2.5	3.8	2.6	4
TSR	23.3	35.6	100.2	153.1	106	161.9	110.2	168.3
Local* (Pop Weighted Rate 1.385%)	8.6	13.1	36.8	56.3	38.9	59.5	40.5	61.9

Figures in \$M

*Section 144.637.3 requires that the lowest combined tax rate within a zip code be used to determine local sales tax due. This may lower the actual local tax collections.

Oversight notes GR and the School District Trust Fund (0688), shown as “Education” in the table above, will not experience revenue increases. Rather, the amounts reported in the table above, specific to “GR” and “Education” shall be combined and then allocated into the School Transportation Fund and the County Jail Reimbursement Fund. DOR shows this reallocation of funds in the last table entitled “The General Revenue Portion would be Distributed as Follows” shown on Page 11.

ASSUMPTION (continued)

DOR notes this proposal is to begin October 1, 2020 and, therefore, nine months of use tax will be remitted in Fiscal Year 2021 (3 months from Calendar Year 2020 and 6 months from Calendar Year 2021). This proposal states that the use tax collected under this provision is to be deposited with 80% going to the School Transportation Fund and 20% to the County Jail Reimbursement Fund.

While this proposal states how the money collected from this provision would be deposited, it should be noted that DOR will continue to show the constitutionally created Conservation Commission and Parks, Soil and Water Funds still receiving their funding. DOR will only show the GR portion and School District Trust Fund (0688) money going to the two designated funds. DOR further notes that while this proposal begins October 1, 2020, marketplace facilitators are not required to register and begin collecting use tax until January 1, 2022. This may significantly reduce use tax collections in Tax Years 2020 and 2021, which corresponds with Fiscal Year 2021 and 2022.

By Fiscal Year (assume October 1, 2020 start date):

Revenue Estimates	2021		2022		2023	
	Low	High	Low	High	Low	High
GR (approx. 36% of total collections)	53.4	81.5	75.2	114.9	78.2	119.5
Education	17.8	27.2	25.1	38.3	26.1	39.8
Conservation	2.2	3.4	3.1	4.8	3.3	5
Parks, Soil, Water	1.8	2.7	2.5	3.8	2.6	4
TSR	75.2	114.8	106	161.9	110.2	168.3
Local* (Pop Weighted Rate 1.385%)	27.6	42.2	38.9	59.5	40.5	61.9

Figures in \$M

*Section 144.637.3 requires that the lowest combined tax rate within a zip code be used to determine local sales tax due. This may lower the actual local tax collections.

Oversight notes GR and the School District Trust Fund (0688), shown as “Education” in the table above, will not experience revenue increases. Rather, the amounts reported in the table above, specific to “GR” and “Education” shall be combined and then allocated into the School Transportation Fund and the County Jail Reimbursement Fund. DOR shows this reallocation of funds in the last table entitled “The General Revenue Portion would be Distributed as Follows” shown on Page 11.

ASSUMPTION (continued)

Impact to General Revenue, the Other State Funds and Local Government:

Revenue Estimates	2021		2022		2023		2024	
	Low	High	Low	High	Low	High	Low	High
GR & Education to be split among other funds	71.2	108.7	100.3	153.2	104.3	159.3	107.5	164.1
Conservation	2.2	3.4	3.1	4.8	3.3	5	3.4	5.1
Parks, Soil, Water	1.8	2.7	2.5	3.8	2.6	4	2.7	4.1
Local* (Pop Weighted Rate 1.385%)	27.6	42.2	38.9	59.5	40.5	61.9	41.7	63.7

Figures in \$M

Oversight notes GR and the School District Trust Fund (0688), shown as “Education” in the table above, will not experience revenue increases. Rather, the amounts reported in the table above, specific to “GR” and “Education” shall be combined and then allocated into the School Transportation Fund and the County Jail Reimbursement Fund. DOR shows this reallocation of funds in the next table entitled “The General Revenue Portion would be Distributed as Follows”.

The General Revenue portion would be distributed as follows:

Revenue Estimates	2021		2022		2023		2024	
	Low	High	Low	High	Low	High	Low	High
School Transportation Fund	56.96	86.96	80.24	122.56	83.44	127.44	86	131.28
County Jail Reimbursement Fund	14.24	21.74	20.06	30.64	20.86	31.86	21.5	32.82

Figures in \$M

DOR would notify an estimated 200,000 sellers of their potential reporting requirements, estimated postage and printing costs for notifications to online sellers may be up to an estimated \$100,000.

Oversight assumes DOR could anticipate additional postage and printing costs in Fiscal Year 2022 and Fiscal Year 2023. Therefore, Oversight will report an (Unknown) fiscal impact for these costs.

DOR assumes it will require the following for their Sales and Use Tax Section:

DOR estimates it will need three (3) Revenue Processing Technician I (RPT) to process the additional use tax returns. DOR estimates it will need one (1) RPT to answer additional correspondence. DOR estimates it will need two (2) RPT to process the additional registration applications and perform location maintenance.

ASSUMPTION (continued)

DOR assumes it will require the following for their Field Compliance Bureau (Audit):

DOR will need to increase the number of auditors, especially those in out-of-state offices in order to address the potential of a greater non-compliance tax base. DOR would need to add twenty-five (25) auditors. DOR believes the twenty-five total auditors could increase over a period of time as DOR generally performs three-year audits and there will be limited records to audit in the first several years following the implementation of this proposed legislation. DOR further estimates it will need two (2) additional auditors in training to perform discovery work needed to identify potential audit leads from non-registered businesses.

Oversight will include DOR's administrative and personnel costs in this fiscal note as reported by DOR and Oversight's assumption for an (Unknown) cost for Fiscal Year 2022 and Fiscal Year 2023 for postage and printing.

Officials from the **Missouri Department of Conservation (MDC)** assume an unknown fiscal impact but greater than \$100,000. The Conservation Sales Tax funds are derived from one-eighth of one percent sales and use tax pursuant to Article IV Section 43 (a) of the Missouri Constitution. Any increase in sales and use tax collected would increase revenue to the Conservation Sales Tax funds. However, the initiative is very complex and may require adjustments to Missouri sales tax law which could cause some downside risk to the Conservation Sales Tax. MDC assumes the Department of Revenue would be better able to estimate the anticipated fiscal impact that would result from this proposal.

Oversight notes MDC's Conservation Commission Fund (0609) receives one-eighth of one percent of the revenues generated from sales and use tax. Oversight will report the impact to the Conservation Commission Fund as reported by B&P.

Officials from the **Missouri Department of Natural Resources (DNR)** state DNR'S Parks and Soils Sales Tax Funds are derived from one-tenth of one percent of sales and use tax pursuant to Article IV Section 47(a) of the Missouri Constitution. Any increase in sales tax collected could increase revenue to the Parks and Soils Sales Tax Funds. DNR assumes any increase in revenue to the Parks and Soils Sales Tax Fund would be used for the purposes established in Article IV Section 47(a) of the Missouri Constitution.

DNR assumes the Department of Revenue would be better able to estimate the anticipated fiscal impact that would result from this proposal.

Section 144.752.1(1)c may require the transmission of funds in the current legal tender versus virtual currency by the Marketplace Facilitator. DNR assumes the State Treasurer's Office would be better able to estimate the anticipated fiscal impact that would result from this proposal.

ASSUMPTION (continued)

Oversight notes DNR's Parks and Soils State Sales Tax Funds (0613 & 0614) receives one-tenth of one percent of the revenues generated from sales and use tax. Oversight will report the impact to the Parks and Soils State Sales Tax Fund(s) as reported by B&P.

Officials from the **City of Springfield (Springfield)** state Springfield has reviewed the current draft of SB 529 and does not believe that the additional reporting requirement will have a substantial fiscal impact.

Oversight notes the City of Springfield does not anticipate a substantial fiscal impact from this proposed legislation.

For purposes of this fiscal note, **Oversight** will show the revenue impacts as reported by B&P.

Section 144.637 - DOR Tax Databases

Officials from **B&P** state this section requires DOR to create, maintain, and provide a database that assigns each nine-digit and five-digit zip code with the lowest combined local tax rate for that zip code. Vendors are required to use the database in determining the amount of use tax to collect and remit.

DOR may provide an address level database with the corresponding tax rate for each address. If such a database is created, vendors must use the address level database in lieu of the zip code database when determining the amount of use tax to collect and remit.

Once DOR has created a zip code level database, they may also certify address-based databases provided by third party vendors. Vendors may then choose whether to use the DOR provided zip code database or the third party certified address-based database.

Any and all databases created, maintained, or certified by DOR must be provided at no cost to vendors for their use in collecting and remitting use taxes.

This section will not impact TSR or the calculation under Article X, Section 18(e). B&P defers to DOR for the estimated cost to the agency from this section.

Officials from **DOR** state this proposed section states that the Director of Revenue shall provide and maintain a database that describes boundary changes for all taxing jurisdictions and the effective dates of such changes for the use of vendors collecting the tax imposed under Sections 144.600 to 144.745.

ASSUMPTION (continued)

This proposed section states that for the identification of counties and cities, codes corresponding to the rates shall be provided according to Federal Information Processing Standards. For the identification of all other jurisdictions, codes corresponding to the rates shall be in a format determined by the director.

This proposed section states the electronic databases provided for in subsections 1, 2, 3, and 4 of this section shall be in downloadable format as determined by the director. The databases shall be provided at no cost to the user of the database, and no vendor shall be liable for reliance upon erroneous data provided by the director on tax rates, boundaries, or taxing jurisdiction assignments.

DOR anticipates this proposed section would require a totally new program that would require DOR to contract with a certified service provider. **DOR believes the fiscal impact for this would be significantly greater than \$1 million.** DOR has reached out to multiple CSP providers, though DOR has yet to get any definitive fiscal response. DOR will continue to research and update when needed.

Oversight will show the estimated impact of (Greater than \$1,000,000) as reported by DOR in Fiscal Year 2021 as the proposed legislation does not provide a date in which the systems are required to be completed but would assist in the collection of Use Tax from out-of-state sellers as provided in Section 144.605 and 144.752 which would begin, for Section 144.605 only, October 1, 2020. The provisions created under Section 144.752 for marketplace facilitators would not begin until January 1, 2022. Oversight assumes DOR could incur additional certified service provider costs in Fiscal Year 2022 and Fiscal Year 2023 as a definitive cost has been provided. Therefore, Oversight will report an (Unknown) fiscal impact for these costs in Fiscal Year 2022 and Fiscal Year 2023.

Section 144.757 - Use Tax Ballot Language

Officials from **B&P** state this section would alter the ballot language for certain local sales and use taxes which must be voter approved. The language removes the \$2,000 minimum threshold required before a purchaser must file a use tax return. B&P notes that currently Missouri residents are not required to file a use tax return until total purchases within a calendar year reaches \$2,000. However, once that minimum threshold has been reached, taxpayers are already required to pay use tax on the full amount of purchases, not just the amount over \$2,000. While use tax is legally due on all out-of-state purchases, B&P notes that it is not cost effective to audit taxpayers whose online purchases are lower than \$2,000. Therefore, B&P estimates that this section will not impact TSR or the calculation under Article X, Section 18(e).

ASSUMPTION (continued)

Officials from **DOR** state this proposal modifies the ballot language for sales and use tax issues. DOR assumes no fiscal impact from changing the ballot language.

DOR provides the following summary of this proposed legislation:

	FY 2021		FY 2022		FY 2023		FY 2024	
	Low	High	Low	High	Low	High	Low	High
School Transportation Fund	56.96	86.96	80.24	122.56	83.44	127.44	86	131.28
County Jail Reimbursement Fund	14.24	21.74	20.06	30.64	20.86	31.86	21.5	32.82
Conservation	2.2	3.4	3.1	4.8	3.3	5	3.4	5.1
Parks, Soil, Water	1.8	2.7	2.5	3.8	2.6	4	2.7	4.1
Local* (Pop Weighted Rate 1.385%)	27.6	42.2	38.9	59.5	40.5	61.9	41.7	63.7
GR - computer costs	-1		(UNKNOWN)		(UNKNOWN)		(UNKNOWN)	

Figures in \$M

Officials from the **Joint Committee on Administrative Rules (JCAR)** assume this proposal is not anticipated to cause a fiscal impact beyond current appropriations.

Oversight assumes JCAR will be able to administer any rules resulting from this proposal with existing resources.

Officials from the **Office of the Secretary of State (SOS)** state many bills considered by the General Assembly include provisions allowing or requiring agencies to submit rules and regulations to implement the act. The SOS is provided with core funding to handle a certain amount of normal activity resulting from each year’s legislative session. The fiscal impact for this fiscal note to the SOS for Administrative Rules is less than \$5,000. The SOS recognizes that this is a small amount and does not expect that additional funding would be required to meet these costs. However, the SOS also recognizes that many such bills may be passed by the General Assembly in a given year and that collectively the costs may be in excess of what the office can sustain with the core budget. Therefore, the SOS reserves the right to request funding for the cost of supporting administrative rules requirements should the need arise based on a review of the finally approved bills signed by the governor.

ASSUMPTION (continued)

Oversight assumes the SOS could absorb the costs of printing and distributing regulations related to this proposal. If multiple bills pass which require the printing and distribution of regulations at substantial costs, the SOS could request funding through the appropriation process.

Oversight notes the **Missouri Department of Transportation** and the **Missouri State Treasurer's Office** have stated the proposed legislation would not have a direct fiscal impact on their respective organizations. Oversight does not have any information to the contrary. Therefore, Oversight will reflect a zero impact in the fiscal note for these organizations.

<u>FISCAL IMPACT - State Government</u>	FY 2021 (9 Mo.)	FY 2022	FY 2023
GENERAL REVENUE FUND			
<u>Cost</u> - Section 144.605 and 144.752 - DOR - p. 10			
Personal Services	(\$983,640)	(\$1,192,172)	(\$1,204,093)
Fringe Benefits	(\$643,467)	(\$776,080)	(\$780,039)
Equipment and Expense	(\$243,804)	\$0	\$0
Postage and Printing - p. 10	(\$100,000)	(Unknown)	(Unkown)
<u>Cost</u> - Section 144.637 - DOR Tax Database(s) p. 12	(Greater than <u>\$1,000,000</u>)	(Unknown)	(Unknown)
<u>Total Cost</u>	(Greater than <u>\$2,970,911</u>)	(Could exceed <u>\$1,968,252</u>)	(Could exceed <u>\$1,984,132</u>)
FTE Change for DOR	33 FTE	33 FTE	33 FTE
ESTIMATED NET EFFECT ON GENERAL REVENUE FUND	(Greater than <u>\$2,970,911</u>)	(Could exceed <u>\$1,968,252</u>)	(Could exceed <u>\$1,984,132</u>)
Estimated Net FTE Change on the General Revenue Fund	33 FTE	33 FTE	33 FTE

FISCAL IMPACT - State Government

FY 2021
 (9 Mo.)

FY 2022

FY 2023

SCHOOL TRANSPORTATION FUND

Revenue Gain - Section 144.605 and
 144.752 - Out-of-State and Marketplace
 Facilitator Use Tax Collections p. 7

Less than	Less than	
\$55,661,572 to	\$78,374,087 to	\$82,727,834 to
<u>\$85,038,513</u>	<u>\$119,738,189</u>	<u>\$126,389,748</u>

**ESTIMATED NET EFFECT ON
 SCHOOL TRANSPORTATION FUND**

<u>Less than</u>	<u>Less than</u>	
<u>\$55,661,572 to</u>	<u>\$78,374,087 to</u>	<u>\$82,727,834 to</u>
<u>\$85,038,513</u>	<u>\$119,738,189</u>	<u>\$126,389,748</u>

**COUNTY JAIL REIMBURSEMENT
 FUND**

Revenue Gain - Section 144.605 and
 144.752 - Out-of-State and Marketplace
 Facilitator Use Tax Collections p. 7

Less than	Less than	
\$13,915,393 to	\$19,593,522 to	\$20,681,959 to
<u>\$21,259,628</u>	<u>\$29,934,547</u>	<u>\$31,597,437</u>

**ESTIMATED NET EFFECT ON
 COUNTY JAIL REIMBURSEMENT
 FUND**

<u>Less than</u>	<u>Less than</u>	
<u>\$13,915,393 to</u>	<u>\$19,593,522 to</u>	<u>\$20,681,959 to</u>
<u>\$21,259,628</u>	<u>\$29,934,547</u>	<u>\$31,597,437</u>

**CONSERVATION COMMISSION
 FUND (0609)**

Revenue Gain - Section 144.605 and
 144.752 - Out-of-State and Marketplace
 Facilitator Use Tax Collections p. 7

Less than	Less than	
\$2,174,280 to	\$3,061,488 to	\$3,231,556 to
<u>\$3,321,817</u>	<u>\$4,677,273</u>	<u>\$4,937,100</u>

**ESTIMATED NET EFFECT ON
 CONSERVATION COMMISSION
 FUND**

<u>Less than</u>	<u>Less than</u>	
<u>\$2,174,280 to</u>	<u>\$3,061,488 to</u>	<u>\$3,231,556 to</u>
<u>\$3,321,817</u>	<u>\$4,677,273</u>	<u>\$4,937,100</u>

<u>FISCAL IMPACT - State Government</u>	FY 2021 (9 Mo.)	FY 2022	FY 2023
PARKS AND SOILS STATE SALES TAX FUND(S) (0613 & 0614)			
<u>Revenue Gain</u> - Section 144.605 and 144.752 - Out-of-State and Marketplace Facilitator Use Tax Collections p. 7	Less than \$1,739,424 to <u>\$2,657,454</u>	Less than \$2,449,190 to <u>\$3,741,818</u>	\$2,585,245 to <u>\$3,949,680</u>
ESTIMATED NET EFFECT ON PARKS AND SOILS STATE SALES TAX FUND(S)	<u>Less than</u> <u>\$1,739,424 to</u> <u>\$2,657,454</u>	<u>Less than</u> <u>\$2,449,190 to</u> <u>\$3,741,818</u>	<u>\$2,585,245 to</u> <u>\$3,949,680</u>

<u>FISCAL IMPACT - Local Government</u>	FY 2021 (9 Mo.)	FY 2022	FY 2023
LOCAL POLITICAL SUBDIVISIONS			
<u>Revenue Gain</u> - Section 144.605 and 144.752 - Out-of-State and Marketplace Facilitator Use Tax Collections p. 7	Less than \$27,005,173 to <u>\$41,257,903</u>	Less than \$38,024,542 to <u>\$58,093,050</u>	\$40,136,838 to <u>\$61,320,168</u>
ESTIMATED NET EFFECT ON LOCAL POLITICAL SUBDIVISIONS	<u>Less than</u> <u>\$27,005,173 to</u> <u>\$41,257,903</u>	<u>Less than</u> <u>\$38,024,542 to</u> <u>\$58,093,050</u>	<u>\$40,136,838 to</u> <u>\$61,320,168</u>

FISCAL IMPACT - Small Business

The collection of use tax from out-of-state sellers could even the playing field for local in-state small businesses; therefore, they could experience revenue growth. Out-of-state small businesses would be required to collect and remit the tax to the Missouri Department of Revenue; increasing their administrative costs and decreasing their net revenues. (Section 144.605 and 144.752).

FISCAL DESCRIPTION

Current law requires the Department of Revenue to create and maintain a mapping feature on its website that displays various sales tax information. This act requires such mapping feature to include use tax information. (Section 32.310)

FISCAL DESCRIPTION (continued)

Beginning October 1, 2020, this act provides that a vendor shall be considered to be engaging in business activities in this state if such vendor had cumulative gross receipts of at least \$100,000 from the sale of tangible personal property for the purpose of storage, use, or consumption in this state in the previous twelve-month period, as described in the act. Vendors meeting such criteria shall be required to collect and remit the use tax as provided under current law.

Eighty percent of the use tax revenue collected from remittances made pursuant to this provision shall be deposited in the School Transportation Fund, which is created by the act, to fund school district transportation costs pursuant to current law. The remaining twenty percent of use tax revenues shall be deposited in the County Jail Reimbursement Fund, which is created by the act, to fund reimbursements made to counties for certain jail costs as provided under current law. (Section 144.605)

This act requires the Director of Revenue to provide and maintain a downloadable electronic database at no cost to the user of the database for taxing jurisdiction boundary changes and tax rates. Such databases may be directly provided by the Director, or may be provided by a third party as designated by the Director.

Vendors shall not be liable for reliance upon erroneous data provided by the Director on tax rates, boundaries, or taxing jurisdiction assignments. (Section 144.637)

This act modifies ballot language required for the submission of a local use tax to voters by including language stating that the approval of the local use tax will eliminate the disparity in tax rates collected by local and out-of-state sellers by imposing the same rate on all sellers. (Section 144.757)

By January 1, 2022, marketplace facilitators, as defined in the act, that meet the use tax economic nexus threshold established in the act shall register with the Department to collect and remit sales and use tax on sales made into the state through the marketplace facilitator's marketplace by or on behalf of a marketplace seller, as defined in the act. Such retail sales shall include those made directly by the marketplace facilitator as well as those made by marketplace sellers through the marketplace facilitator's marketplace.

Marketplace facilitators shall report and remit sales and use tax collected under this act on a separate form developed by the Department. Marketplace facilitators properly collecting and remitting sales and use tax in a timely manner shall be eligible for any discount provided for under current law.

FISCAL DESCRIPTION (continued)

Marketplace facilitators shall provide purchasers with a statement or invoice showing that the sales and use tax was collected and shall be remitted on the purchaser's behalf.

No class action shall be brought against a marketplace facilitator in any court in this state on behalf of purchasers arising from or in any way related to an overpayment of sales or use tax collected on retail sales facilitated by a marketplace facilitator, regardless of whether that claim is characterized as a tax refund claim.

If the Department audits a marketplace facilitator, it shall only audit such facilitator and not the marketplace sellers on behalf of whom the marketplace facilitator facilitates sales.

Marketplace facilitators may apply to the Department for relief from liability for the failure to collect and remit the correct amount of sales or use tax on retail sales facilitated for marketplace sellers under certain circumstances, as described in the act. Relief from liability shall be a percentage of the sales and use tax collected by the marketplace facilitator, with such percentage being four percent for sales made during the 2022 calendar year, two percent for sales made during the 2023 calendar year, one percent for sales made during the 2024 calendar year, and zero percent thereafter.

The Department may grant a waiver from the requirements of the act if a marketplace facilitator demonstrates to the satisfaction of the Department that all of its marketplace sellers are already registered to collect and remit sales and use tax. If such waiver is granted, the sales or use tax due shall be collected and remitted by the marketplace seller. (Section 144.752)


This legislation is not federally mandated, would not duplicate any other program and would not require additional capital improvements or rental space.

SOURCES OF INFORMATION

Office of Administration - Budget & Planning Division
Missouri Department of Revenue
Missouri Department of Conservation
Missouri Department of Natural Resources
City of Springfield
Joint Committee on Administrative Rules
Missouri Secretary of State's Office
Missouri Department of Transportation
Missouri State Treasurer's Office



Julie Morff
Director
January 28, 2020



Ross Strope
Assistant Director
January 28, 2020