

COMMITTEE ON LEGISLATIVE RESEARCH  
OVERSIGHT DIVISION

**FISCAL NOTE**

L.R. No.: 3761-08  
Bill No.: SCS for SB 529  
Subject: Taxation and Revenue - Sales and Use; Political Subdivisions  
Type: Original  
Date: February 17, 2020

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Bill Summary: This proposal modifies provisions relating to use taxes.

**FISCAL SUMMARY**

<b>ESTIMATED NET EFFECT ON GENERAL REVENUE FUND</b>				
FUND AFFECTED	FY 2021	FY 2022	FY 2023	Fully Implemented (FY 2024)
General Revenue	\$0	(Greater than \$3,312,056)	(Could exceed \$1,984,132)	(Could exceed \$2,000,172)
<b>Total Estimated Net Effect on General Revenue</b>	<b>\$0</b>	<b>(Greater than \$3,312,056)</b>	<b>Could exceed \$1,984,132)</b>	<b>(Could exceed \$2,000,172)</b>

Numbers within parentheses: ( ) indicate costs or losses. This fiscal note contains 23 pages.

<b>ESTIMATED NET EFFECT ON OTHER STATE FUNDS</b>				
<b>FUND AFFECTED</b>	<b>FY 2021</b>	<b>FY 2022</b>	<b>FY 2023</b>	<b>Fully Implemented (FY 2024)</b>
Cash Operating Expense Fund	\$0	Less than \$37,844,388 to \$57,817,814	Less than \$77,557,346 to \$118,490,389	Less than \$80,942,090 to \$123,661,526
School District Trust Fund	\$0	Less than \$12,614,796 to \$19,272,605	Less than \$25,852,449 to \$39,496,796	Less than \$26,980,697 to \$41,220,509
Conservation Commission Fund	\$0	Less than \$1,576,850 to \$2,409,076	Less than \$3,231,556 to \$4,937,100	Less than \$3,372,587 to \$5,152,564
Parks and Soils State Sales Tax Fund(s)	\$0	Less than \$1,261,480 to \$1,927,261	Less than \$2,585,245 to \$3,949,680	Less than \$2,698,070 to \$4,122,051
<b>Total Estimated Net Effect on <u>Other</u> State Funds</b>	<b>\$0</b>	<b>Less than \$53,297,514 to \$81,426,756</b>	<b>Less than \$109,226,596 to \$166,873,965</b>	<b>Less than \$113,993,444 to \$174,156,650</b>

<b>ESTIMATED NET EFFECT ON FEDERAL FUNDS</b>				
<b>FUND AFFECTED</b>	<b>FY 2021</b>	<b>FY 2022</b>	<b>FY 2023</b>	<b>Fully Implemented (FY 2024)</b>
<b>Total Estimated Net Effect on <u>All</u> Federal Funds</b>	<b>\$0</b>	<b>\$0</b>	<b>\$0</b>	<b>\$0</b>

<b>ESTIMATED NET EFFECT ON FULL TIME EQUIVALENT (FTE)</b>				
<b>FUND AFFECTED</b>	<b>FY 2021</b>	<b>FY 2022</b>	<b>FY 2023</b>	<b>Fully Implemented (FY 2024)</b>
General Revenue	0	33	33	33
<b>Total Estimated Net Effect on FTE</b>	<b>0</b>	<b>33</b>	<b>33</b>	<b>33</b>

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

<b>ESTIMATED NET EFFECT ON LOCAL FUNDS</b>				
<b>FUND AFFECTED</b>	<b>FY 2021</b>	<b>FY 2022</b>	<b>FY 2023</b>	<b>Fully Implemented (FY 2024)</b>
<b>Local Government</b>	<b>\$0</b>	<b>Less than \$19,584,915 to \$29,921,398</b>	<b>Less than \$40,136,837 to \$61,320,168</b>	<b>Less than \$41,888,482 to \$63,996,293</b>

## FISCAL ANALYSIS

### ASSUMPTION

#### Section 32.310 - DOR Use Tax Map (Begins 8/28/2020)

Officials from the **Office of Administration - Budget & Planning Division (B&P)** state this section adds use tax information to the DOR mapping system. This section further requires local jurisdictions to provide use tax information by January 1, 2021. In the event local jurisdictions do not supply sales or use tax data to DOR then DOR will use the last known information. This section requires DOR to implement the use tax map by August 28, 2021.

This section will not impact 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. This section further requires all political subdivisions to submit their use tax information to DOR by January 1, 2021 and for DOR to have the updated website working by August 28, 2021. DOR assumes this will not have a fiscal impact as use tax is already included in the map where it was provided by the political subdivision.

**Oversight** notes B&P and DOR do not anticipate this section of this proposed legislation to have a fiscal impact on their agencies. Oversight does not have any information to the contrary. Therefore, Oversight will reflect a zero fiscal impact as it relates to DOR updating the mapping feature on its website to include use taxes.

#### Section 33.575 and Section B - Cash Operating Expense Fund (Emergency Clause)

Officials from **B&P** state this section creates the "Cash Operating Expense Fund" (COEF). The State Treasurer will be the custodian of the fund, and funds remaining at the biennium shall not revert to the credit of the general revenue fund. Section B contains an emergency clause for this provision. Therefore, for the purpose of this fiscal note B&P will assume that this section would become effective July 1, 2020.

Deposits into the fund will come from: 1) the state use taxes collected on behalf of the state, except for revenues from Section 144.701 (School District Trust Fund), as well as Article IV, Section 43(a) (Conservation Commission Fund) and Article IV 47(a) (Parks and Soils State Sales Tax Fund(s)) of the Missouri Constitution, 2) subject to appropriation, funds appropriated to the Governor's Office for emergency duties that were unexpected at the end of the fiscal year, and 3) funds appropriated by the General Assembly.

ASSUMPTION (continued)

B&P notes that Section 144.701 contains the 1% sales tax dedicated to the School District Trust Fund. Article IV, Section 43(a) contains the 0.125% sales tax dedicated to Conservation. Article IV, Section 47(a) contains the 0.1% sales tax dedicated to the Parks, Soil and Water funds. Therefore, this proposal would only divert the 3% sales taxes that would have otherwise been deposited into General Revenue (GR).

In any fiscal year where actual revenues are less than the revenue estimates used in the budgeting process, or when there is a budget need due to a natural disaster, the Governor may, subject to appropriation, transfer from the COEF to GR.

If, at the end of any fiscal year, the balance in the fund exceeds two and one-half percent (2.5%) of the net general revenue for the previous fiscal year, the excess amount shall be transferred, subject to appropriation, as follows: 1) fifty percent (50%) shall be transferred to the State Road Fund (0320) to cover transportation cost-share programs and 2) fifty percent (50%) shall be transferred to the newly created debt retirement fund.

This section creates the "Debt Retirement Fund" where monies in the fund shall be used for the retirement of debt related to bonds issued on or behalf of the state and for which the Office of Administration (OA ) is required to file annual continuing disclosure reports.

This section will not impact TSR or the calculation under Article X, Section 18(e).

Officials from **DOR** state this proposed section creates the Cash Operating Expense Fund (the Fund). The Fund is to receive the use tax collected per Sections 144.605(2)(e) and 144.752. This Fund however, would not receive any of the funds outlined in Section 144.701 which is the School District Trust Fund, the Conservation Commission Fund and the Parks, Soil & Water Funds which are constitutionally created. It appears it would receive the 3% general revenue portion of the use tax collected. It is unclear if the local portion of the use tax collected by the marketplace facilitators (Section 144.752.11) is to be deposited into the fund. DOR will show the local portion still being distributed locally as is customary practice.

**Oversight** notes this proposed legislation creates the Cash Operating Expense Fund (the Fund) which shall consist of money (GR portion) generated from the use tax collection from online retail sellers, money appropriated to the Governor's office for expenses related to emergency duties performed by the national guard when ordered out by the Governor, for matching funds for federal grants and for emergency assistance as provided in Section 44.032, and for expenses of any state agency responding during a declared emergency to provided the services furnish immediate aid and relief.

ASSUMPTION (continued)

**Oversight** notes, in any fiscal year in which the actual revenues are less than the revenue estimates upon which appropriations were based or in any fiscal year in which there is a budget need due to a natural disaster, the Governor may, subject to appropriation, transfer from the Fund to GR so that it makes up all or part of the deficit between the actual revenues and the revenue estimates or to meet the needs of the natural disaster. Section B contains an emergency clause for this provision. Therefore, for the purpose of this fiscal note B&P will assume that this section would become effective July 1, 2020.

**Oversight** further notes this proposed legislation allows for, when the balance in the Fund at the close of any fiscal year exceeds two and one-half percent (2.5%) of net general revenue collections from the previous fiscal year, the excess balance may be transferred; with the State Road Fund receiving fifty percent (50%) of the excess and the newly created Debt Retirement Fund receiving fifty percent (50%) of the excess.

**Oversight** notes this proposed legislation creates and establishes the Debt Retirement Fund in the Missouri State Treasury.

**Section 144.605 & 144.752 and Section C - Out-of-State Sellers Use Tax & Marketplace Facilitators** (Begins 1/1/2022)

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. Section C would enact both Sections 144.605 and 144.752 on January 1, 2022.

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%.

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.

B&P notes that this proposal would delete the existing language in **Section 144.605 Paragraphs (e) and (f)** replacing that language with the online use tax vendor language. Paragraph (e) contains a \$100,000 threshold for certain vendor activity. Based on information provided by DOR, no sales tax money has been collected under the current provision. Therefore, B&P estimates that this provision will not impact TSR or the calculation under Article X, Section 18(e).

**Section 144.752** defines market place facilitators and states that a facilitator counts as one seller. Starting January 1, 2022, market place facilitators 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 Calendar Year 2022, Missouri could gain up to \$106.6 million to \$162.9 million in total state revenues (TSR). By Calendar Year 2024, B&P and DOR estimate that TSR could be increased by \$116.1 million to \$177.4 million. Table 1 shows the estimated impact by calendar year.

Table 1: Collections by Calendar Year

Revenue Estimates	2022		2023		2024	
	Low	High	Low	High	Low	High
Cash Operating Expense Fund	\$75,688,775	\$115,635,628	\$79,425,916	\$121,345,149	\$82,458,264	\$125,977,903
Education	\$25,229,592	\$38,545,209	\$26,475,305	\$40,448,383	\$27,486,088	\$41,992,634
Conservation	\$3,153,699	\$4,818,151	\$3,309,413	\$5,056,048	\$3,435,761	\$5,249,079
Parks, Soil, Water	\$2,522,959	\$3,854,521	\$2,647,531	\$4,044,838	\$2,748,609	\$4,199,263
<b>TSR</b>	<b>\$106,595,025</b>	<b>\$162,853,510</b>	<b>\$111,858,165</b>	<b>\$170,894,419</b>	<b>\$116,128,722</b>	<b>\$177,418,880</b>
<b>Local (pop weighted use tax rate 1.385%)</b>	<b>\$39,169,830</b>	<b>\$59,842,796</b>	<b>\$41,103,845</b>	<b>\$62,797,540</b>	<b>\$42,673,120</b>	<b>\$65,195,045</b>

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.

B&P and DOR estimate that in Fiscal Year 2022, Missouri could gain up to \$53.3 million to \$81.4 million in TSR. By Fiscal Year 2024, B&P and DOR estimate that TSR could be increased by \$114.0 million to \$174.2 million. Table 2 shows the estimated impact by calendar year.

Table 2: Collections by Fiscal Year

Revenue Estimates	2022		2023		2024	
	Low	High	Low	High	Low	High
Cash Operating Expense Fund	\$37,844,388	\$57,817,814	\$77,557,346	\$118,490,389	\$80,942,090	\$123,661,526
Education	\$12,614,796	\$19,272,605	\$25,852,449	\$39,496,796	\$26,980,697	\$41,220,509
Conservation	\$1,576,850	\$2,409,076	\$3,231,556	\$4,937,100	\$3,372,587	\$5,152,564
Parks, Soil, Water	\$1,261,480	\$1,927,261	\$2,585,245	\$3,949,680	\$2,698,070	\$4,122,051
<b>TSR</b>	<b>\$53,297,513</b>	<b>\$81,426,755</b>	<b>\$109,226,595</b>	<b>\$166,873,965</b>	<b>\$113,993,444</b>	<b>\$174,156,650</b>
<b>Local (pop weighted use tax rate 1.385%)</b>	<b>\$19,584,915</b>	<b>\$29,921,398</b>	<b>\$40,136,838</b>	<b>\$61,320,168</b>	<b>\$41,888,483</b>	<b>\$63,996,293</b>



ASSUMPTION (continued)

**Oversight** notes, Fiscal Year 2022 reports approximately 6 months (January 2022 - June 2022) of the estimated Calendar Year 2022 gain in use tax collection. Fiscal Year 2023 reports the remaining six months (July 2022 - December 2022) of the estimated Calendar Year 2022 gain in use tax collection and six months (January 2023 - June 2023) of Calendar Year 2023 gain in use tax collection.

Officials from **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.

ASSUMPTION (continued)

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.

This proposal has an effective date of January 1, 2022. The following tables show the potential state and local revenue gains from expanding Missouri sales tax law to include online sales.

Collections by Calendar Year

Revenue Estimates	2022		2023		2024	
	Low	High	Low	High	Low	High
<b>3% GR tax (deposited into COEF)</b>	\$75,688,775	\$115,635,628	\$79,425,916	\$121,345,149	\$82,458,264	\$125,977,903
Education	\$25,229,592	\$38,545,209	\$26,475,305	\$40,448,383	\$27,486,088	\$41,992,634
Conservation	\$3,153,699	\$4,818,151	\$3,309,413	\$5,056,048	\$3,435,761	\$5,249,079
Parks, Soil, Water	\$2,522,959	\$3,854,521	\$2,647,531	\$4,044,838	\$2,748,609	\$4,199,263
<b>TSR</b>	\$106,595,025	\$162,853,510	\$111,858,165	\$170,894,419	\$116,128,722	\$177,418,880
<b>Local (Pop Weighted Rate 1.385%)</b>	\$39,169,830	\$59,842,796	\$41,103,845	\$62,797,540	\$42,673,120	\$65,195,045

Figures in \$M

B&P and DOR estimate that in Fiscal Year 2022, Missouri could gain up to \$53.3 million to \$81.4 million in TSR. By 2024, B&P and DOR estimate that TSR could be increased by \$114.0 million to \$174.2 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.

Collections by Fiscal Year

Revenue Estimates	2022		2023		2024	
	Low	High	Low	High	Low	High
<b>GR (approx 36% of total collections)</b>	\$37,844,387	\$57,817,814	\$77,557,345	\$118,490,389	\$80,942,090	\$123,661,526
Education	\$12,614,796	\$19,272,605	\$25,852,448	\$39,496,796	\$26,980,697	\$41,220,509
Conservation	\$1,576,849	\$2,409,076	\$3,231,556	\$4,937,100	\$3,372,587	\$5,152,564
Parks, Soil, Water	\$1,261,480	\$1,927,260	\$2,585,245	\$3,949,680	\$2,698,070	\$4,122,051
<b>TSR</b>	\$53,297,512	\$81,426,755	\$109,226,595	\$166,873,964	\$113,993,443	\$174,156,649
<b>Local (Pop Weighted Rate 1.385%)</b>	\$19,584,915	\$29,921,398	\$40,136,837	\$61,320,168	\$41,888,482	\$63,996,293

ASSUMPTION (continued)

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** notes DOR anticipates the postage and printing costs for notifying online sellers of their potential reporting requirements to equal up to \$100,000. Oversight assumes DOR could anticipate additional postage and printing costs each year thereafter, depending on the amount of “new” businesses DOR deems responsible for such reporting requirements. Therefore, Oversight will report an (Unknown) fiscal impact for these costs each year after Fiscal Year 2021.

**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.

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.

ASSUMPTION (continued)

**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.

**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 there is no fiscal impact to Springfield. No new taxes collected from marketplace facilitators under this bill would be distributed to municipalities.

**Oversight** notes the City of Springfield does not anticipate a fiscal impact as a result of this proposed legislation.

Officials from the **City of Kansas City (KC)** state this legislation will have a positive fiscal impact on KC. Requiring vendors and marketplace facilitators with gross receipts over \$100,000 to remit use tax would have a positive fiscal impact on KC, as more use tax would be collected. KC is unable to estimate the gain in use tax revenues.

**Oversight** notes the City of Kansas City anticipates a positive fiscal impact as a result of this proposed legislation.

ASSUMPTION (continued)

Officials from the **City of Columbia (Columbia)** state this proposed legislation, if local voters approved a use tax, would have a positive fiscal impact on Columbia.

**Oversight** notes Columbia anticipates a positive fiscal impact as a result of this proposed legislation.

**Oversight** notes the responses from local political subdivisions (Springfield, KC and Columbia) differ in that Springfield does not anticipate a fiscal impact as a result of this proposed legislation while KC and Columbia both anticipate a positive impact as a result of this proposed legislation.

**Oversight** assumes the variance in responses from local political subdivisions (Springfield, KC and Columbia) are due to differing interpretations of the language found in Section 33.575 (Cash Operating Expense Fund) and Section 144.752 (Marketplace Facilitators).

**Oversight** notes Section 33.575 states the use tax revenues collected on behalf of the State from remittances made under Section 144.752 (Marketplace Facilitators) and Paragraph (e) of Subdivision (2) of Section 144.605 (Out-of-State Vendors/Online Sellers), with the exception of revenues collected under Section 144.701 (School District Trust Fund [0688], Article IV, Sections 43(a) [Conservation Commission Fund (0609)] and Article IV, Section 47(a) [Parks and Soils State Sales Tax Funds (0613 & 0614)] shall be deposited into the Cash Operating Expense Fund.

**Oversight** further notes Section 144.752 (Marketplace Facilitators) states use taxes collected under Section 144.752 on behalf of the State of Missouri shall be deposited to credit the Cash Operating Expense Fund under Section 33.575.

**Oversight** notes it is somewhat unclear, due to the ambiguous language which states “use taxes collected on behalf of the State... shall be deposited into the Cash Operating Expense Fund”, whether local political subdivisions would receive local use tax revenues as a result of this proposed legislation. Oversight is unable to determine whether use taxes collected on behalf of the state would include all use taxes (state and local) or only the state portion of use taxes collected. However, Oversight will reflect the fiscal impact to local political subdivisions assuming they will receive their portion of the sales/use tax proceeds.

ASSUMPTION (continued)

**Section 144.637 - DOR Database (Begins 8/28/2020)**

Officials from **DOR** state this section requires DOR to 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.

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 that 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, January 1, 2021. Oversight assumes DOR could incur additional certified service provider costs in Fiscal Year 2022, Fiscal Year 2023 and Fiscal Year 2024 as a definitive cost has been provided. Therefore, Oversight will report an (Unknown) fiscal impact for these costs in Fiscal Year 2022, Fiscal Year 2023 and Fiscal Year 2024.

Officials from **B&P** state this section requires DOR to provide and maintain an address-based database for assigning taxing jurisdictions and the associated rates. Vendors are required to use the database in determining the amount of use tax to collect and remit.

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

ASSUMPTION (continued)

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.

**Section 144.757 - Local Ballot Language (Begins 8/28/2020)**

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.

This section will not impact TSR or the calculation under Article X, Section 18(e).

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

**Section 144.759 - Local Use Tax Distribution (Begins 1/1/2022)**

Officials from **B&P** state this section would change how use taxes are distributed within St. Louis County. This section will not impact TSR or the calculation under Article X, Section 18(e).

Officials from **DOR** state this proposal would change the distribution of local funds. DOR does not anticipate any administrative impact from this change.

**DOR** provides the following summary for this proposed legislation:

Revenue Estimates	2022		2023		2024	
	Low	High	Low	High	Low	High
<b>Cash Operating Expense Fund</b>	\$37,844,387	\$57,817,814	\$77,557,345	\$118,490,389	\$80,942,090	\$123,661,526
Education	\$12,614,796	\$19,272,605	\$25,852,448	\$39,496,796	\$26,980,697	\$41,220,509
Conservation	\$1,576,849	\$2,409,076	\$3,231,556	\$4,937,100	\$3,372,587	\$5,152,564
Parks, Soil, Water	\$1,261,480	\$1,927,260	\$2,585,245	\$3,949,680	\$2,698,070	\$4,122,051
<b>TSR</b>	\$53,297,512	\$81,426,755	\$109,226,595	\$166,873,964	\$113,993,443	\$174,156,649
<b>Local (Pop Weighted Rate 1.385%)</b>	\$19,584,915	\$29,921,398	\$40,136,837	\$61,320,168	\$41,888,482	\$63,996,293

ASSUMPTION (continued)

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 **Missouri Department of Transportation (MoDOT)** deferred to DOR to provide a fiscal impact. However, MoDOT notes Article IV, Section 30(b) and (d) of the Missouri Constitution would require the moneys deposited into the State Road Fund be spent on projects on the State Highway System.

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.

**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 State Treasurer's Office** has stated the proposed legislation would not have a direct fiscal impact on their respective organization. Oversight does not have any information to the contrary. Therefore, Oversight will reflect a zero impact in the fiscal note for this organization.





<u>FISCAL IMPACT -</u> <u>State Government</u> (continued)	FY 2021 (10 Mo.)	FY 2022	FY 2023	Fully Implemented (FY 2024)
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**SCHOOL  
 DISTRICT TRUST  
 FUND (0688)**

<u>Revenue Gain -</u> Section 144.605 & 144.752 - Online Use Tax Collection - p. 8	\$0	Less than \$12,614,796 to <u>\$19,272,605</u>	Less than \$25,852,449 to <u>\$39,496,796</u>	Less than \$26,980,697 to <u>\$41,220,509</u>
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<b>ESTIMATED NET EFFECT ON SCHOOL DISTRICT TRUST FUND</b>	<b><u>\$0</u></b>	<b><u>Less than</u> <u>\$12,614,796 to</u> <u>\$19,272,605</u></b>	<b><u>Less than</u> <u>\$25,852,449 to</u> <u>\$39,496,796</u></b>	<b><u>Less than</u> <u>\$26,980,697 to</u> <u>\$41,220,509</u></b>
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**CONSERVATION  
 COMMISSION  
 TRUST FUND  
 (0609)**

<u>Revenue Gain -</u> Section 144.605 & 144.752 - Online Use Tax Collection - p. 8	\$0	Less than \$1,576,850 to <u>\$2,409,076</u>	Less than \$3,231,556 to <u>\$4,937,100</u>	Less than \$3,372,587 to <u>\$5,152,564</u>
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<b>ESTIMATED NET EFFECT ON CONSERVATION COMMISSION TRUST FUND</b>	<b><u>\$0</u></b>	<b><u>Less than</u> <u>\$1,576,850 to</u> <u>\$2,409,076</u></b>	<b><u>Less than</u> <u>\$3,231,556 to</u> <u>\$4,937,100</u></b>	<b><u>Less than</u> <u>\$3,372,587 to</u> <u>\$5,152,564</u></b>
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<u>FISCAL IMPACT - State Government (continued)</u>	FY 2021 (10 Mo.)	FY 2022	FY 2023	Fully Implemented (FY 2024)
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**PARKS AND  
SOILS STATE  
SALES TAX  
FUND(S)**

<u>Revenue Gain - Section 144.605 &amp; 144.752 - Online Use Tax Collection - p. 8</u>	<u>\$0</u>	Less than \$1,261,480 to <u>\$1,927,261</u>	Less than \$2,585,245 to <u>\$3,949,680</u>	Less than \$2,698,070 to <u>\$4,122,051</u>
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**ESTIMATED NET  
EFFECT ON  
PARKS AND  
SOILS STATE  
SALES TAX  
FUND(S)**

<u>\$0</u>	<u>Less than \$1,261,480 to \$1,927,261</u>	<u>Less than \$2,585,245 to \$3,949,680</u>	<u>Less than \$2,698,070 to \$4,122,051</u>
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<u>FISCAL IMPACT - Local Government</u>	FY 2021 (10 Mo.)	FY 2022	FY 2023	Fully Implemented (FY 2024)
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**LOCAL  
POLITICAL  
SUBDIVISIONS**

<u>Revenue Gain - Section 144.605 &amp; 144.752 - Online Use Tax Collection - p. 8, 12 &amp; 13</u>	<u>\$0</u>	Less than \$19,584,915 to <u>\$29,921,398</u>	Less than \$40,136,837 to <u>\$61,320,168</u>	Less than \$41,888,482 to <u>\$63,996,293</u>
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**ESTIMATED NET  
EFFECT ON  
POLITICAL  
SUBDIVISIONS**

<u>\$0</u>	<u>Less than \$19,584,915 to \$29,921,398</u>	<u>Less than \$40,136,837 to \$61,320,168</u>	<u>Less than \$41,888,482 to \$63,996,293</u>
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## 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(s) 144.605 & 144.752)

## FISCAL DESCRIPTION

### **USE TAX MAPPING**

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. Political subdivisions collecting a use tax shall send such data to the Department of Revenue by January 1, 2021, and the Department shall implement the mapping feature using the use tax data by August 28, 2021. (Section 32.310)

### **CASH OPERATING EXPENSE FUND**

This act establishes the "Cash Operating Expense Fund", which shall consist of the state portion of use tax revenues collected under the provisions of this act; any funds appropriated to the Office of the Governor for expenses related to emergency duties performed by the National Guard, matching funds for federal grants and emergency assistance, and expenses of any state agency responding during a declared emergency, as described in the act, that are unexpended at the end of a fiscal year; and moneys appropriated by the General Assembly.

Subject to appropriation, the Governor may transfer moneys from the fund into the General Revenue Fund in any fiscal year in which actual revenues are less than the revenue estimates upon which appropriations were based or in which there is a budget need due to a natural disaster, as proclaimed by the Governor to be an emergency.

When the balance in the fund at the close of any fiscal year exceeds 2.5% of net General Revenue collections for the previous year, such excess shall be divided evenly between the State Road Fund and the Debt Retirement Fund, which is created by the act for the retirement of debt related to bonds issued by or on behalf of the state, as described in the act. (Section 33.575)

### **ECONOMIC NEXUS**

This act modifies the definition of "engaging in business activities within this state" to include vendors that 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. (Section 144.605)

FISCAL DESCRIPTION (continued)

**TAXING JURISDICTION DATABASE**

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)

**LOCAL USE TAX BALLOT LANGUAGE**

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, and by repealing ballot language specific to St. Louis County and its municipalities. (Section 144.757)

This act provides that the portion of the local use tax imposed by St. Louis County shall be distributed to the cities, towns, villages, and unincorporated areas of the county on the ratio of the population that each such city, town, village, and unincorporated area bears to the total population of the county. (Section 144.759)

**MARKETPLACE FACILITATORS**

Beginning January 1, 2022, marketplace facilitators, as defined in the act, that engage in business activities within the state shall register with the Department to collect and remit use tax on sales delivered 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 use tax collected under this act as determined by the Department. Marketplace facilitators properly collecting and remitting use tax in a timely manner shall be eligible for any discount provided for under current law.

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

FISCAL DESCRIPTION (continued)

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. (Section 144.752)

**EFFECTIVE DATE**

Provisions of this act relating to economic nexus, marketplace facilitators, and the distribution of local use tax revenue in St. Louis County shall become effective January 1, 2022.

Provisions of this act establishing the Cash Operating Expense Fund contain an emergency clause and shall become effective upon passage and approval.

All other provisions of this act shall become effective August 28, 2020.

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 Natural Resources  
Missouri Department of Revenue  
Joint Committee on Administrative Rules  
Missouri Department of Conservation  
Missouri Department of Transportation  
Missouri Secretary of State's Office  
Missouri State Treasurer's Office  
City of Kansas City  
City of Springfield



Julie Morff  
Director  
February 17, 2020



Ross Strobe  
Assistant Director  
February 17, 2020