COMMITTEE ON LEGISLATIVE RESEARCH
OVERSIGHT DIVISION

FISCAL NOTE

L.R. No.: 0752S.02C
Bill No.: SCS for SB Nos. 153 & 97
Subject: Taxation and Revenue - Income; Taxation and Revenue - General; Taxation and Revenue - Sales and Use; Cities, Towns and Villages; Counties
Type: Original
Date: February 26, 2021

Bill Summary: This proposal would modify several provisions relating to taxation.

FISCAL SUMMARY

ESTIMATED NET EFFECT ON GENERAL REVENUE FUND				
FUND AFFECTED	FY 2022	FY 2023	FY 2024	Fully Implemented (FY 2028)
General Revenue*/**	($51,018,100) to ($57,018,100)	Less than $17,881,168 to $23,881,168	Could exceed ($54,681,132)	Could exceed ($156,814,250)
Total Estimated Net Effect on General Revenue	**($51,018,100) to ($57,018,100)**	**Less than $17,881,168 to $23,881,168**	**Could exceed ($54,681,132)**	**Could exceed ($156,814,250)**

*Oversight notes the numbers above also reflect a potential timing difference as a result of changes to Section 144.080, of $42.4 million to $48.4 million from (negative) FY 2022 shifted to (positive) FY 2023.

Oversight notes, at the end of any fiscal year, should the Cash Operating Expense Fund exceed two and one-half percent (2.5%) of the net general revenue collections for the previous fiscal year, the excess balance shall be transferred to GR. In addition, in any fiscal year that actual revenues are less than the revenue estimates upon which state appropriations were based, or in which there was a budget need due to a natural disaster, the Governor may, subject to appropriation, transfer moneys to GR in such amount(s) necessary to make up all or part of the deficit between the actual revenues and the revenues estimates. Since future (outside the scope of this fiscal note) net general revenues cannot be determined, and since future natural disaster(s) cannot be predicted, Oversight **does not show the transfer of funds in the Cash Operating Expense Fund to GR.

Numbers within parentheses: () indicate costs or losses.

ESTIMATED NET EFFECT ON OTHER STATE FUNDS				
FUND AFFECTED	FY 2022	FY 2023	FY 2024	Fully Implemented (FY 2028)
Cash Operating Expense Fund**	$0	Less than $39,668,060 to $60,603,981	Less than $80,768,943 to $123,396,997	Less than $89,935,816 to $137,401,940
School District Trust Fund (0688)*	($14,100,000) to ($16,100,000)	Less than $27,322,687 to $36,301,327	Less than $26,922,981 to $41,132,333	Less than $29,978,606 to $45,800,647
Conservation Commission Fund (0609)*	($1,800,000) to ($2,000,000)	Less than $3,452,836 to $4,525,166	Less than $3,365,373 to $5,141,542	Less than $3,747,326 to $5,725,081
Parks and Soils State Sales Tax Fund(s) (0613 & 0614)*	($1,400,000) to ($1,600,000)	Less than $2,722,269 to $3,620,133	Less than $2,692,298 to $4,113,233	Less than $2,997,861 to $4,580,065
Total Estimated Net Effect on Other State Funds	**($17,300,000) to ($19,700,000)**	**Less than $73,165,852 to $105,050,607**	**Less than $113,749,595 to $173,784,105**	**Less than $126,659,609 to $193,507,733**

*Oversight notes the numbers above include a potential timing difference/cash flow difference as a result of changes to Section 144.080 from (negative) Fiscal Year 2022 shifted to (positive) Fiscal Year 2023.

Oversight notes, at the end of any fiscal year, should the Cash Operating Expense Fund exceed two and one-half percent (2.5%) of the net general revenue collections for the previous fiscal year, the excess balance shall be transferred to GR. In addition, in any fiscal year that actual revenues are less than the revenue estimates upon which state appropriations were based on, or in which there was a budget need due to a natural disaster, the Governor may, subject to appropriation, transfer moneys to GR in such amount(s) necessary to make up all or part of the deficit between the actual revenues and the revenues estimates. Since future (outside the scope of this fiscal note) net general revenues cannot be determined, and since future natural disaster(s) cannot be predicted, Oversight **does not show the transfer of funds in the Cash Operating Expense Fund to GR.

ESTIMATED NET EFFECT ON FEDERAL FUNDS				
FUND AFFECTED	FY 2022	FY 2023	FY 2024	Fully Implemented (FY 2028)
Total Estimated Net Effect on All Federal Funds	**$0**	**$0**	**$0**	**$0**

ESTIMATED NET EFFECT ON FULL TIME EQUIVALENT (FTE)				
FUND AFFECTED	FY 2022	FY 2023	FY 2024	Fully Implemented (FY 2028)
General Revenue – DOR	37 FTE	37 FTE	37 FTE	37 FTE
Total Estimated Net Effect on FTE	**37 FTE**	**37 FTE**	**37 FTE**	**37 FTE**

☒ Estimated Net Effect (expenditures or reduced revenues) expected to exceed $250,000 in any of the three fiscal years after implementation of the act or at full implementation of the act.

☒ Estimated Net Effect (savings or increased revenues) expected to exceed $250,000 in any of the three fiscal years after implementation of the act or at full implementation of the act.

ESTIMATED NET EFFECT ON LOCAL FUNDS				
FUND AFFECTED	FY 2022	FY 2023	FY 2024	Fully Implemented (FY 2028)
Local Political Subdivisions	($55,500,000) to ($63,500,000)	Less than $59,207,043 to $78,041,627	Less than $7,717,895 to $29,778,413	Less than $12,461,859 to $37,026,136
Local Government	**($55,500,000) to ($63,500,000)**	**Less than $59,207,043 to $78,041,627**	**Less than $7,717,895 to $29,778,413**	**Less than $12,461,859 to $37,026,136**

FISCAL ANALYSIS

ASSUMPTION

Section 32.087 – Local Sales Tax Rates

Officials from the **Office of Administration – Budget & Planning Division (B&P)** state this section would place a limit on the sales tax rate of local jurisdictions. For sales taxes authorized by a city, town, or village, the local sales tax rate shall not exceed 4.5%. For sales taxes authorized by a county, the sales tax rate shall not exceed 3.25%. For all other local jurisdictions, the total combined rate of sales taxes shall not exceed 3.25%. The total combined rate for such jurisdictions shall not include any sales taxes levied at the county or city level. Therefore, for taxing jurisdictions where there are multiple special district taxes (such as police, ambulance, TDDs, CIDs, etc.) the combined rate for all of the special districts within the jurisdiction must remain below 3.25%.

B&P notes, based on data published by the Missouri Department of Revenue, no counties or cities within Missouri have a sales tax rate greater than the threshold(s) established in Subdivision 3 of this section. However, B&P was unable to determine if there were any overlapping special districts with a total combined sales tax rate in excess of 3.25%. Therefore, B&P estimates that this could have a minimal negative impact on some local special taxing districts if there are jurisdictions with combined special taxing rates higher than the limit allowed.

In addition, if such districts are required to reduce their tax levy in order to stay below the 3.25% limit, this may have a minimal negative impact on Total State Revenue (TSR) and General Revenue (GR) if the reduction subsequently reduces the 1% DOR cost of collections fee.

Officials from the **Missouri Department of Revenue (DOR)** stat this section would limit the combined sales tax rate in local political subdivisions. This section provides a method for determining which sales/use tax will be kept if the limit is exceeded. DOR assumes this will not have a fiscal impact.

Officials from the **City of Springfield (Springfield)** do not anticipate an immediate negative fiscal impact as a result of this section, as Springfield's sales tax rate is lower than the cap set forth. However, this section could result in a negative fiscal impact in the future should Springfield need to raise the sales tax rate.

Oversight notes, based on the 2021 Sales/Use Tax Rate Tables published by the Missouri Department of Revenue, there are no cities or counties that have a sales tax rate that exceeds the thresholds put forth in this proposed legislation. Oversight was also unable to confirm whether there are or are not any "other taxing jurisdictions" whose boundaries overlap resulting in a combined sales tax rate that exceeds the threshold put forth in this proposed legislation.

Oversight notes one percent (1%) of the total local sales tax(es) collected by the Missouri Department of Revenue may be retained for the cost of collection, and deposited into GR. Should any "other taxing jurisdictions" total combined sales tax rate exceed the threshold put forth, Oversight assumes the rate(s) must be reduced. Oversight assumes this could cause a reduction to the total amount(s) retained by the Missouri Department of Revenue. Oversight notes the Missouri Department of Revenue does not collect sales tax for all "other taxing jurisdictions." Should "other taxing jurisdictions" be required to reduce the applicable sales tax rate, and should such sales tax collection occur internally, there would be no impact to GR.

Oversight assumes this section would go into effect January 1, 2022; six months into Fiscal Year 2022.

For purposes of this fiscal note, **Oversight** will report a revenue reduction to GR equal to $0 (no "other political subdivisions" total combined sales tax rate(s) exceed the threshold put forth or collection occurs internally) to a negative Unknown ("other political subdivisions" total combined sales tax rate(s) exceed the threshold put forth and the Missouri Department of Revenue collects the sales tax).

Oversight will report a revenue reduction to Local Political Subdivisions equal to $0 (no "other political subdivisions" total combined sales tax rate(s) exceed the threshold put forth) to a negative Unknown ("other political subdivisions" total combined sales tax rate(s) exceed the threshold put forth and must be reduced).

Section 32.310 – DOR Sales and Use Tax Map

Officials from **B&P** state this section adds use tax information to the Missouri Department of Revenue's mapping system. This section further requires local jurisdictions to provide use tax information by January 1, 2022. In the event local jurisdictions do not supply sales or use tax data to the Missouri Department of Revenue then the Missouri Department of Revenue will use the last known information. This section requires the Missouri Department of Revenue to implement the use tax map by August 28, 2022.

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

Officials from **DOR** state this section adds "use tax" to DOR's mapping feature which currently states the sales tax rate of a given political subdivision. This section further requires all political subdivisions to submit their use tax information to DOR by January 1, 2022 and for DOR to have the updated website working by August 28, 2022. DOR assumes this will not have a fiscal impact as use tax is already included in the map where it has been provided by the political subdivision.

Oversight notes this section requires that use tax information be added to the Missouri Department of Revenue's mapping system. Political subdivisions are required to provide their respective use tax information to the Missouri Department of Revenue by January 1, 2022. Should a political subdivision fail to provide their respective sales and/or use tax information to the Missouri Department of Revenue, the Missouri Department of Revenue shall use the last known sales or use tax rate for such political subdivisions.

The Missouri Department of Revenue must update their mapping system to include the use tax information by August 28, 2022.

Should the boundaries of a political subdivision required to submit data under this section be changed, the political subdivision must forward a copy of the ordinance adding or detaching territory from the political subdivision by registered or certified mail within ten days of the adoption of such ordinance.

Oversight notes Section 144.060.2 of this proposed legislation states a purchaser shall be relieved from additional tax, interest, additions, or penalties for failure to collect and remit the proper amount of tax owed on purchases subject to sales tax if the purchaser's seller or certified service provider relied on erroneous tax rate, boundary, and/or taxing jurisdiction assignment data provide by the Director of the Department of Revenue.

Oversight is unable to determine whether using the last known sales tax or use tax rate for political subdivisions, as instructed under this section, should a political subdivision fail to submit such information to the Missouri Department of Revenue, would be considered erroneous should the last known sales tax or use tax rate be incorrect.

Section 33.575 – Cash Operating Expense Fund

Oversight notes this section creates the Cash Operating Expense Fund in the State Treasury. The funds of the Cash Operating Expense Fund shall be derived from the state general revenue portion of use tax revenues collected under Section(s) 144.605.3(e) and 144.752, which is assumed to be from out-of-state/online retailers and marketplace facilitators that sell tangible personal property for delivery into the State of Missouri.

Oversight notes the general revenue portion of Missouri's Use Tax(es) totals three percent (3%) of the purchase price paid or charged.

This proposed legislation excludes the use tax revenues designated for the School District Trust Fund under Section 144.701, the Conservation Commission Fund under Article IV, Section 43(a) of the Missouri Constitution, and the Parks and Soils State Sales Tax Fund(s) under Article IV, Section 47(a) of the Missouri Constitution from being deposited into the Cash Operating Expense Fund. The aforementioned funds would retain their respective portion(s) of use tax revenues collected under Section(s) 144.605.3(e) and 144.752.

Subject to appropriation, any funds appropriated to the Governor's Office for: 1) expenses related to emergency duties performed by the Missouri National Guard, 2) matching funds for federal grants and for emergency assistance provided for under Section 44.032, and 3) for expenses of any state agency responding during a declared emergency at the direction of the Governor may be transferred to the Cash Operating Expense Fund.

Furthermore, additional funds may be appropriated to the Cash Operating Expense Fund by the General Assembly.

This section states, in any fiscal year that actual revenues are less than the revenue estimates upon which state appropriations were based on, or in which there was a budget need due to a natural disaster, the Governor may, subject to appropriation, transfer moneys to GR in such amount(s) necessary to make up all or part of the deficit between the actual revenues and the revenues estimates.

At the end of any fiscal year, should the Cash Operating Expense Fund exceed two and one-half percent (2.5%) of the net general revenue collections for the previous fiscal year, the excess balance shall be transferred to GR. "Net General Revenue" is defined as all revenue deposited into the General Revenue Fund, less refunds or revenues originally deposited into the General Revenue Fund but designated by law for a specific distribution or transfer to another state fund.

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 GR.

Section B contains an emergency clause for this provision. Therefore, for the purpose of this fiscal note B&P will assumes that this section would become effective July 1, 2021.

Deposits into the fund will come from:

- The state general revenue portion of the use taxes collected on behalf of the state under Paragraph 144.605(3)(e) and Section 144.752, except for revenues from Section 144.701 as well as Article IV, Section 43(a), and Article IV 47(a) of the Missouri constitution;
- Subject to appropriation, funds appropriated to the Governor's Office for emergency duties that were unexpended at the end of the fiscal year; and
- Funds appropriated by the General Assembly.

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 section would only divert the 3% sales taxes that would have otherwise been deposited into 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 the 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 to GR.

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

Officials from **DOR** state this section creates the Cash Operating Expense Fund. The fund is to receive all of the state general revenue portion of the out-of-state sellers use tax created in this proposal. DOR will indicate the fiscal impact to this fund in the discussion of the revenue received later in this response under Section 144.605.

Section 143.011 – Individual Income Tax Rates

Oversight notes this section would, in addition to the rate reductions permitted under current law (SB 509 – 2014), reduce the top Individual Income Tax rate applicable for Tax Year 2023, by five-hundredths of one percent (0.05%).

In addition, in the calendar year following the calendar year in which the final reduction under Subsection 2 of this section (SB 509 – 2014) occurs, the top Individual Income Tax rate shall be reduced by one-tenth of one percent (0.1%).

The rate reduction of 0.1% shall only occur if the amount of net general revenue collected in the previous fiscal year exceeds the highest amount of net general revenue collected in any of the three (3) fiscal years prior to such fiscal year by at least $150 million.

Officials from **B&P** state this section would reduce the top Individual Income Tax rate of tax by 0.05% in Tax Year 2023.

This section would also reduce the top tax rate by 0.1% beginning with the tax year following the last rate reduction authorized under Subsection 143.011.2. The rate reduction authorized under subsection 143.011.5 shall only occur once the amount of net general revenue collected in the previous year exceeds the highest amount of net general revenue collected in any of the three (3) prior fiscal years by $150 million.

Based on current revenue forecasts and average revenue growth, B&P estimates that revenues in Fiscal Year 2021, Fiscal Year 2024, and Fiscal Year 2025 will reach the SB 509 (2014) growth trigger requirement for reductions to the top rate of tax. Therefore, the top rate of tax will be reduced by 0.1% in Tax Year 2022, 2025, and 2026 under SB 509 (2014).

For the purpose of this fiscal note, B&P will assume that the additional reduction under Section 143.011.5 will occur for Tax Year 2027. B&P acknowledges, however, that the rate reduction may not be triggered until a later fiscal year. Table 1 shows the current versus proposed future top tax rates.

Table 1: Current vs. Proposed Tax Rates

Tax Year	Current Law	Proposed Reduction	Proposed Tax Rate
2021	5.40%		5.40%
2022	5.30%		5.30%
2023	5.30%	0.05%	5.25%
2024	5.30%		5.25%
2025	5.20%		5.15%
2026	5.10%		5.05%
2027	5.10%	0.10%	4.95%

Using 2018 tax year data, the most current complete year available, and accounting for the changes in individual income tax law created by SB 509 (2014) and HB 2540 (2018), B&P estimates that this section will reduce TSR and GR by $52,115,792 in Tax Year 2023. Table 2 shows the estimated impacts by tax year.

Table 2: Rate Reduction
by Calendar Year

Tax Year	GR Impact
2023	($52,115,792)
2024	($51,908,613)
2025	($51,546,056)
2026	($51,331,957)
2027	($154,070,961)

However, because this proposal would take effect January 1, 2023 individuals will adjust their withholdings and declarations during Fiscal Year 2023. Therefore, B&P estimates that this proposal will reduce TSR and GR by $21,888,633 in Fiscal Year 2023. Once fully implemented this proposal will reduce TSR and GR by $154,070,961 annually. Table 3 shows the estimated impacts per fiscal year.

Table 3: Rate Reduction by Fiscal Year

Fiscal Year	GR Impact
2023	($21,888,633)
2024	($52,028,777)
2025	($51,756,339)
2026	($51,456,134)
2027	($94,482,338)
2028	($154,070,961)

Officials from **DOR** state, currently, SB 509 (2014) allows for five (5) reductions of the Individual Income Tax rate. DOR notes that under current law, two (2) of the reductions have occurred (Tax Year 2018 & Tax Year 2019) and the third (3rd) is forecasted to occur in Tax Year 2022 which will set the rate at 5.3%.

Starting with Calendar Year 2023, this section would make another one-time reduction of five-hundredths of one percent (0.05%) to the Individual Income Tax rate immediately.

Then in the calendar year following the final reduction under SB 509 this section would allow for another one-tenth of one percent reduction (0.1%) if the SB 509 trigger ($150 million) is met. Therefore, this second reduction in the rate of tax shall only occur if the amount of net general revenue collected in the previous fiscal year exceeds the highest amount of net general revenue collected in any of the three fiscal years prior to such fiscal year by at least one hundred fifty million dollars ($150,000,000).

DOR used its internal Income Tax Model that contains confidential taxpayer data to create the fiscal impact. DOR notes that the Individual Income Tax filing deadline that was scheduled for April 15, 2020 was moved to July 15, 2020. This move in the filing deadline is estimated to prevent the rate reduction triggers for the next three (3) fiscal years and would not allow this section's second (2nd) reduction requirements to be implemented until, at least, Tax Year 2027. DOR believes that the tax rates, as proposed, would be as follows:

Tax Year	Current Income Tax Rate under SB 509	Proposed Income Tax Rate
2018	5.9%	5.9%
2019	5.4%	5.4%
2020	5.4%	5.4%
2021	5.4%	5.4%
2022	5.3%	5.3%
2023	5.3%	5.25%
2024	5.3%	5.25%
2025	5.2%	5.15%
2026	5.1%	5.05%
2027	5.1%	4.95%
2028	5.1%	4.95%

DOR uses a 42% in the first year and 58% in the second year split when converting from tax (calendar) year to fiscal year. The loss to GR per fiscal year is estimated to be:

Fiscal Year	Amount
2022	$0
2023	($21,814,991)
2024	($51,853,850)
2025	($51,573,933)
2026	($51,263,078)
2027	($94,128,352)
2028	($153,978,346)

Officials from the **University of Missouri's Economic & Policy Analysis Research Center (EPARC)** stated, if enacted, this proposed legislation would reduce the top individual income tax rate by five on hundredths of one percent (0.05%) in Tax Year 2023.

In the next tax year following the final reduction in the top Individual Income Tax rate per SB 509 (2014), the top Individual Income Tax Rate will be reduced by one tenth of one percent (0.1%).

EPARC estimates the following reduction(s) to GR as a result of the Individual Income Tax rate reduction(s):

Fiscal Year	Reduction To GR
2024	($51,163,000)
2025	($51,038,000)
2026	($155,043,000)
2027	($155,043,000)

Oversight notes that it **does not currently have the resources and/or access to state tax data** to produce an independent revenue estimate and is unable to verify the revenue estimates provided by B&P and DOR.

For purposes of this fiscal note, Oversight will report the fiscal impact, as a result of the individual income tax change(s), as reported by B&P.

<u>Section 144.049 – Back-to-School Sales Tax Holiday</u>

Oversight notes this section eliminates the imposition of local sales tax on qualifying items during the Back-to-School Sales Tax Holiday. Currently, qualifying Back-to-School Sales Tax Holiday items are only exempt from state sales tax and local sales tax within local political subdivisions that have **not** opted out of the sales tax holiday. This section repeals the provision in current law that permits local political subdivisions to opt out of the Back-to-School Sales Tax Holiday.

Officials from **B&P** state this section would no longer allow local municipalities to opt out of the school tax holiday. This will <u>reduce</u> revenues in all localities that currently opt out of the sales tax holiday.

Local sales tax collections for qualifying items during the tax holiday were $677,464 in Fiscal Year 2018, $432,274 in Fiscal Year 2019, and $287,295 in Fiscal Year 2020.

B&P notes that the sales tax holiday occurs in August, after the start of Fiscal Year 2024. Using a three-year (3) average of local collections, B&P estimates that this section could <u>reduce</u> funds to localities that had previously opted-out of the sales tax holiday by $465,677 ($677,464 + $432,274 + $287,295 / 3) beginning in Fiscal Year 2024.

Officials from **DOR** state this section would eliminate the ability of a local political subdivision to opt out of participating in the Back to School sales tax holiday, which occurs in August annually. DOR collected $677,463.79 in Tax Year 2018, $432,273.52 in Tax Year 2019, and $287,294.97 in Tax Year 2020 from jurisdictions that currently opt out of this holiday. This will be a <u>decrease</u> in revenue to the local jurisdictions that currently opt out.

This section has an effective date of January 1, 2023. Thus, this section would begin in Fiscal Year 2024 as the first holiday that would occur after January 1, 2023 would be in August 2023 (Fiscal Year 2024). Due to economic disruptions that occurred in Tax Year 2020, DOR will use a three year average to estimate the future fiscal impact ($465,677).

In response to the previous version of this proposed legislation, officials from the **City of Kansas City (Kansas City)** anticipated this section would result in a negative fiscal impact of an indeterminate amount.

Officials from **Springfield** state this section could result in a negative fiscal impact of approximately $75,000 annually.

Oversight will report a <u>reduction</u> to local political subdivisions equal to the amount(s) reported by B&P and DOR.

<u>Section 144.054 – Manufacturing Sales Tax Exemption</u>

Oversight notes this section would expand the manufacturing sales tax exemption to include local sales tax. Currently, the manufacturing sales tax exemption is only applicable to state sales tax.

Officials from **B&P** state this section would expand the manufacturing sales tax exemption to include local sales tax. In Fiscal Year 2020, the most recent year data is available; there were $853,312,101 in taxable sales, with estimated local sales tax collections of $36,052,436.

Therefore, B&P estimates that this section will <u>reduce</u> local sales tax collections by $16,767,583 ($33,535,166 / 2) during Fiscal Year 2023. Once fully implemented in Fiscal Year 2024, and annually thereafter, this section will <u>reduce</u> local sales tax collections by $33,535,166.

Officials from **DOR** state, currently, there is a state sales and use tax manufacturing exemption. Local political subdivisions are currently allowed to collect their portion of the sales and use tax. This section would end the local's ability to continue to collect the tax.

DOR tracked an estimated $854,639,269.76 in taxable sales that came from manufacturing in Fiscal Year 2020. Taking the total taxable sales by the population weighted average local sales tax rate for Missouri (3.93%) would cause an estimated revenue reduction to the local political subdivisions of $33,587,323.

This section has an effective date of January 1, 2023. This provision would result in six (6) months of reduced revenue to local political subdivisions in Fiscal Year 2023 of $16,793,662.

In response to the previous version of this proposed legislation, officials from the **Kansas City** anticipated this section would result in a negative fiscal impact of an indeterminate amount.

Officials from **Springfield** state this section could result in a negative fiscal impact of approximately $2.2 million annually.

Oversight will report the reduction to local political subdivisions as reported by DOR.

Section 144.060 – Purchaser Responsibility to Pay Sales Tax

Oversight notes this section relieves a purchaser from additional tax, interest, additions, or penalties should such purchaser fail to collect and remit the proper amount of tax owed provided a purchaser's seller or Certified Service Provider relied on erroneous data provided by the Missouri Department of Revenue on tax rates, boundaries, and/or taxing jurisdiction assignments or in the taxability matrix created under Section 144.638 or in a database created under Section 144.637.

Oversight notes Section 32.10 requires that use tax information be added to the Missouri Department of Revenue's mapping system. Political subdivisions are required to provide their respective use tax information to the Missouri Department of Revenue by January 1, 2022. Should a political subdivision fail to provide their respective sales and/or use tax information to the Missouri Department of Revenue, the Missouri Department of Revenue shall use the last known sales or use tax rate for such political subdivisions.

Oversight is unable to determine whether using the last known sales tax or use tax rate for political subdivisions, as instructed under Section 32.310, should a political subdivision fail to submit such information to the Missouri Department of Revenue, would be considered erroneous should the last known sales tax or use tax rate be incorrect.

Section 144.080 – Seller Responsibility to Pay Sales Tax

Oversight notes this section states, beginning January 1, 2022, where the total amount of tax imposed on a seller is greater than $250 for either the first or second month of a calendar quarter, such seller shall file and pay sales tax for such months to the Director of Revenue on or before the last day of the succeeding month.

Officials from **B&P** state this section would change the monthly sales tax due date from the 20th of every month to the last working day beginning January 1, 2022.

B&P notes in months where there is a quarterly sales tax due date, the monthly due date is already the last working day. B&P further notes that this section will impact all state and local entities that receive a monthly sales tax distribution.

Currently, the monthly due date is the 20th of any given month except July, October, January, and April. In those months the monthly sales tax due date is the last working day of the month. In addition, all local distributions for sales tax are completed on the last working day of the month. This means that many local taxing entities do not receive collections from the monthly sales tax due date during July, October, January, and April. Rather, many localities end up receiving two (2) distributions worth of monthly sales tax collections the following month (August, November, February, and May).

By moving all monthly sales tax due dates to the last working day of the month, localities will receive monthly sales tax collections every month (rather than $0 in some months and two (2) payments in other months).

Therefore, some revenues that would have been deposited into GR from June 20th through June 30th will instead be deposited into the following fiscal year. However, this cash flow impact will only be evident during the first year of implementation.

Using data provided by the Missouri Department of Revenue, B&P estimates that, on average, $6.1 million in monthly sales tax deposits into GR are made daily throughout the month. Assuming there are 7-8 working days between the current due date (the 20th) and the last day of the month, B&P estimates that approximately $42.4 million to $48.4 million in GR could be shifted from the first month to the second month. B&P further notes this proposal could shift $42.4 million to $48.4 million from GR into the next fiscal year. The following table shows B&P's estimated GR cash flow impact by month during the first year of implementation.

Month	Fiscal Year	Due Date Changed by Proposal	Cash Flow Impact
Jan. 2022	2022	No	$0
Feb. 2022	2022	Yes	($42.4M to $48.4M)
Mar. 2022	2022	Yes	$42.4M to $48.4M (from Feb.) ($42.4M to $48.4M) (into April) Net $0
Apr. 2022	2022	No	$42.4M to $48.4M
May 2022	2022	Yes	($42.4M to $48.4M)
June 2022	2022	Yes	$42.4M to $48.4M (from May) ($42.4M to $48.4M) (into July) Net $0
July 2022	2023	No	$42.4M to $48.4M (from June)
Aug. 2022	2023	Yes	($42.4M to $48.4M)
Sept. 2022	2023	Yes	$42.4M to $48.4M (from Aug.) ($42.4M to $48.4M) (into Oct.) Net $0
Oct. 2022	2023	No	$42.4M to $48.4M
Nov. 2022	2023	Yes	($42.4M to $48.4M)
Dec. 2022	2023	Yes	$42.4M to $48.4M (from Nov.) ($42.4M to $48.4M) (into Jan.) Net $0
Jan. 2023	2023	No	$42.4M to $48.4M

B&P estimates that this section could <u>reduce</u> TSR by $59.7M to $68.2M and GR by $42.4M to $48.4M in Fiscal Year 2022. This proposal would then increase TSR and GR by a corresponding amount in Fiscal Year 2023.

Beginning in Fiscal Year 2024, there will no longer be an impact to TSR and GR.

In addition, this section will decrease local distributions by $55.5M to $63.5M in Fiscal Year 2022 and increase distributions by $55.5M to $63.5M in Fiscal Year 2023. The following table shows the estimated impact to state and local funds.

Month	Due Date Changed by Proposal	Education	MDC	DNR	Local Taxes
Jan. 2022	No	$0	$0	$0	$0
Feb. 2022	Yes	($14.1M to $16.1M)	($1.8M to $2.0M)	($1.4M to $1.6M)	($55.5M to $63.5M)
Mar. 2022	Yes	Net $0	Net $0	Net $0	Net $0
Apr. 2022	No	$14.1M to $16.1M	$1.8M to $2.0M	$1.4M to $1.6M	$55.5M to $63.5M
May 2022	Yes	($14.1M to $16.1M)	($1.8M to $2.0M)	($1.4M to $1.6M)	($55.5M to $63.5M)
June 2022	Yes	Net $0	Net $0	Net $0	Net $0
July 2022	No	$14.1M to $16.1M	$1.8M to $2.0M	$1.4M to $1.6M	$55.5M to $63.5M
Aug. 2022	Yes	($14.1M to $16.1M)	($1.8M to $2.0M)	($1.4M to $1.6M)	($55.5M to $63.5M)
Sept. 2022	Yes	Net $0	Net $0	Net $0	Net $0
Oct. 2022	No	$14.1M to $16.1M	$1.8M to $2.0M	$1.4M to $1.6M	$55.5M to $63.5M
Nov. 2022	Yes	($14.1M to $16.1M)	($1.8M to $2.0M)	($1.4M to $1.6M)	($55.5M to $63.5M)
Dec. 2022	Yes	Net $0	Net $0	Net $0	Net $0
Jan. 2023	No	$14.1M to $16.1M	$1.8M to $2.0M	$1.4M to $1.6M	$55.5M to $63.5M

Officials from **DOR** state this section moves the due date for sales tax returns that are filed on a monthly basis from the twentieth (20th) day of the succeeding month to the last day of the succeeding month. This will align this deadline with the quarterly and annual filing deadlines which are on the last day of the month and simplify the deadlines for taxpayers with multiple businesses.

DOR does not anticipate a fiscal impact. DOR does recognize there may be a timing adjustment for distribution of funds the first month after implementation. Changing the due date to the last day of the month would mean that funds DOR normally receives on or around the 20th, would not be received until the end of the month and therefore, posted in the succeeding month. DOR notes it is also possible businesses continue to file around the 20th as they have always done, so the possibility exists that no adjustment may happen.

For purposes of this fiscal note, **Oversight** will report the fiscal impact of this section as estimated by B&P.

Section 144.140 – Monetary Allowance for Certified Service Providers

Oversight notes this section requires the Missouri Department of Revenue to provide a monetary allowance to Certified Service Providers from the sales taxes collected and remitted by such Certified Service Providers. No Certified Service Provider shall receive both the two percent (2%) timely filing discount, which is permitted under current law, and the monetary allowance created under this section.

Section 144.526 – Show-Me Green Sales Tax Holiday

Oversight notes this section would eliminate the imposition of local sales and use tax on qualifying items during the Show-Me Green Sales Tax Holiday. Currently, qualifying Show-Me Green Sales Tax Holiday items are only exempt from state sales tax unless local political subdivision(s) wish to participate in the holiday. This section repeals the provision in current law that permits local political subdivisions to opt out of the Show-Me Green Sales Tax Holiday.

Officials from **B&P** state this section would no longer allow local municipalities to opt out of the Show Me Green sales Tax Holiday. This will reduce revenues in all localities that currently opt-out of this sales tax holiday.

Local sales tax collections for qualifying items during the tax holiday were $19,844 in Fiscal Year 2018, $21,439 in Fiscal Year 2019, and $42,667 in Fiscal Year 2020.

B&P notes that the sales tax holiday occurs in April, before the end of Fiscal Year 2023. Using a three (3) year average of local collections, B&P estimates that this section could reduce funds to localities that had previously opted-out of the sales tax holiday by $27,983 ($19,844 + $21,439 + $42,667 / 3) beginning in Fiscal Year 2023.

Officials from **DOR** state this section would eliminate the ability of a local political subdivision to opt out of participating in the Show Me Green Sales Tax Holiday, which occurs in April annually. In Tax Year 2018, DOR collected $19,843.65, in Tax Year 2019, DOR collected $21,439.46 and in Tax Year 2020, DOR collected $42,666.70 from local jurisdictions that currently opt out of this holiday. This section will decrease revenue to the local jurisdictions that currently opt out.

This section has an effective date of January 1, 2023. This section would begin in Fiscal Year 2023 as the holiday occurs in April 2023 (Fiscal Year 2023). Due to economic disruptions that occurred in Tax Year 2020, DOR will use a three (3) year average to estimate the future fiscal impact ($27,983).

In response to the previous version of this proposed legislation, officials from the **Kansas City** anticipated this section would result in a negative fiscal impact of an indeterminate amount.

Officials from **Springfield** state this section could result in a negative fiscal impact of approximately $1,800 annually.

For purposes of this fiscal note, Oversight will report a reduction to local political subdivisions equal to the amount(s) estimated by B&P and DOR.

Section 144.605 & 144.752 – Online Use Tax

Oversight notes this section adds the definition of "Certified Service Provider" for purposes of Missouri's use tax laws.

Oversight notes this section changes the definition of "engages in business activities within this state." The definition now reads that engaging in business activities within this state include selling tangible personal property for delivery into this state provided the seller's gross receipts from such delivery into this state exceed one hundred thousand dollars ($100,000) in the previous or current calendar year.

Oversight assumes this will require retailers that do not have a physical presence in Missouri to collect and remit use tax on purchases delivered into Missouri provided the revenue from such deliveries exceed $100,000 in a calendar year.

Officials from **B&P** state **Section 144.605** requires retailers that do not have a physical presence within Missouri to collect and remit sales tax on purchases delivered into Missouri beginning January 1, 2022. Only retailers with gross revenue greater than $100,000 from deliveries into Missouri would be required to collect Missouri sales tax.

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 $10,000 threshold for certain vendor activity. Based on information provided by the Missouri Department of Revenue, 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, 2023, market place facilitators must register with the Missouri Department of Revenue 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 internet advertisers, travel agencies, and third party financial institutions from the definition of marketplace facilitators. This exclusion will not impact the estimates provided in this analysis.

B&P & DOR – Online Use Tax Collection Summary

OA-Budget and Planning (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 (3) 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 requirements of $100,000 in in-state sales or 200 in-state transactions.

B&P and DOR estimate that, in Calendar Year 2023, Missouri could gain up to $111.7 million to $170.7 million in TSR. By calendar Year 2028, B&P and DOR estimate that TSR could increase by $128.3 million to $195.9 million. Table 1 shows the estimated impact by calendar year.

Table 1: Collections by Calendar Year

Revenue Estimates	2023		2024		2025	
	Low	High	Low	High	Low	High
COEF	**$79,336,120**	**$121,207,962**	**$82,201,766**	**$125,586,032**	**$84,339,012**	**$128,851,269**
Education (SDTF)	$26,445,373	$40,402,654	$27,400,589	$41,862,011	$28,113,004	$42,950,423
Conservation	$3,305,672	$5,050,332	$3,425,074	$5,232,751	$3,514,126	$5,368,803
Parks, Soil, Water	$2,644,537	$4,040,265	$2,740,059	$4,186,201	$2,811,300	$4,295,042
TSR	**$111,731,702**	**$170,701,213**	**$115,767,487**	**$176,866,995**	**$118,777,442**	**$181,465,537**
Local	$41,057,375	$62,726,544	$42,540,380	$64,992,247	$43,646,430	$66,682,045

Table 1: Collections by Calendar Year (cont.)

Revenue Estimates	2026		2027		2028	
	Low	High	Low	High	Low	High
COEF	**$86,531,827**	**$132,201,401**	**$88,781,654**	**$135,638,638**	**$91,089,977**	**$139,165,242**
Education (SDTF)	$28,843,942	$44,067,134	$29,593,885	$45,212,879	$30,363,326	$46,388,414
Conservation	$3,605,493	$5,508,392	$3,699,236	$5,651,610	$3,795,416	$5,798,552
Parks, Soil, Water	$2,884,394	$4,406,713	$2,959,388	$4,521,288	$3,036,333	$4,638,841
TSR	**$121,865,656**	**$186,183,640**	**$125,034,163**	**$191,024,415**	**$128,285,051**	**$195,991,049**
Local	$44,781,237	$68,415,778	$45,945,549	$70,194,589	$47,140,134	$72,019,648

B&P and DOR estimate that in Fiscal Year 2023, TSR could increase by $55.9 million to $85.4 million. By Fiscal Year 2028, B&P and DOR estimate that TSR could increase by $126.7 million to $193.5 million. Table 2 shows the estimated impact by fiscal year.

Table 2: Collections by Fiscal Year

Revenue Estimates	FY 2023		FY 2024		FY 2025	
	Low	High	Low	High	Low	High
COEF	**$39,668,060**	**$60,603,981**	**$80,768,943**	**$123,396,997**	**$83,270,389**	**$127,218,651**
Education (SDTF)	$13,222,687	$20,201,327	$26,922,981	$41,132,333	$27,756,797	$42,406,217
Conservation	$1,652,836	$2,525,166	$3,365,373	$5,141,542	$3,469,600	$5,300,777
Parks, Soil, Water	$1,322,269	$2,020,133	$2,692,298	$4,113,233	$2,775,680	$4,240,622
TSR	**$55,865,851**	**$85,350,607**	**$113,749,595**	**$173,784,104**	**$117,272,465**	**$179,166,266**
Local	$20,528,688	$31,363,272	$41,798,877.50	$63,859,395.50	$43,093,405	$65,837,146

Table 2: Collections by Fiscal Year (cont.)

Revenue Estimates	FY 2026		FY 2027		FY 2028	
	Low	High	Low	High	Low	High
COEF	**$85,435,420**	**$130,526,335**	**$87,656,740.50**	**$133,920,020**	**$89,935,816**	**$137,401,940**
Education (SDTF)	$28,478,473	$43,508,779	$29,218,914	$44,640,007	$29,978,606	$45,800,647
Conservation	$3,559,810	$5,438,598	$3,652,365	$5,580,001	$3,747,326	$5,725,081
Parks, Soil, Water	$2,847,847	$4,350,878	$2,921,891	$4,464,001	$2,997,861	$4,580,065
TSR	**$120,321,549**	**$183,824,589**	**$123,449,910**	**$188,604,028**	**$126,659,608**	**$193,507,732**
Local	$44,213,834	$67,548,912	$45,363,393	$69,305,184	$46,542,842	$71,107,119

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 further notes that the COVID-19 pandemic has changed current consumer behavior. It is unknown yet if and how much of these consumer behavior changes will remain permanent. While these estimates account for some of the behavior changes seen to date, a more permanent shift could alter actual revenues.

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.

DOR's Sales/Use Tax Division anticipates the need for three (3) Associate Customer Service Representatives ($24,360 annual salary/FTE) to process additional sales/use tax returns, one (1) Associate Customer Service Representative to respond to additional correspondence, two (2) Associate Customer Service Representatives to process additional registration applications and perform location maintenance, one (1) Associate Customer Service Representative to process additional refund requests under Section 144.190.

DOR states 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-compliant tax base. DOR will need to add twenty-five (25) Associate Auditors. DOR believes the need for twenty-five total Associate 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 implementation of this proposed bill. DOR notes the Associate Auditors would be located as follows:

- Dallas – 7 ($48,309.36 per FTE)
- New York – 5 ($62,409.84 per FTE)
- Chicago – 5 ($52,275.12 per FTE)
- St. Louis – 4 ($44,784.48 per FTE)
- Kansas City – 2 ($44,784.48 per FTE)
- Springfield -2 ($44,784.48 per FTE)
- Central Office in Jefferson City – 1 ($44,784.48 per FTE)

DOR also anticipates it will need two (2) additional auditors in training (44,784 annual salary/FTE) to perform discovery work needed to identify potential audit leads from non-registered businesses. These auditors would be located in Dallas and Kansas City.

For purposes of this fiscal note, Oversight will include DOR's administrative impact(s) being paid from GR.

Oversight conducted independent analysis in relation to the impact(s) to state revenues should legislation be passed that would require out-of-state/online retailers and marketplace facilitators to collect and remit Missouri use tax. Oversight's analysis supports B&P's and DOR's estimated impact(s).

Oversight notes, the overall impact of requiring out-of-state/online retailers and marketplace facilitators to remit use tax is **largely dependent** on the percentage of collections from out-of-state/online retailers and marketplace facilitators that Missouri is currently receiving versus the percentage that is not currently collected from such entities. Currently, the **actual** participation in sales/use tax remittance by out-of-state/online retailers and/or marketplace facilitators cannot be identified. If Missouri is currently collecting sales/use tax(es) from out-of-state/online retailers and marketplace facilitators at a rate higher than estimated, the impact(s) reported above could prove to be lower.

Oversight notes many sources suggest Missouri and Florida are the only two (2) states that impose a sales tax that haven't begun requiring remote sellers to collect and remit applicable tax(es) after the U.S. Supreme Court's 2018 *Wayfair* decision. Oversight notes that, should many of these remote sellers have begun remitting the applicable taxes to Missouri on their own accord, anticipating the requirement will occur at some point, the impact(s) reported above could prove to be lower.

Oversight notes, at some point, revenues generated through online retail sales could simply **replace** (net $0) revenues currently generated from Missouri's brick and mortar operations. For example, if there is a continuous increase in the percent of total retail sales that are online retail sales, eventually, it would suggest that one hundred percent (100%) of all retail sales are that of online retail sales. This does not indicate that state revenues would increase significantly. Rather, the source of the tax would simply change from brick and mortar operations to online retailers.

Oversight is unable to determine at what point an increase in the percent of total retail sales that are online retail sales becomes a transition of tax revenues from brick and mortar sales to online retail sales.

Oversight further notes, though, that if legislation is not passed that requires out-of-state/online retailers and/or marketplace facilitators to remit applicable Missouri tax(es), that state revenues could decrease should a continuous transition of retail sales from brick and mortar sales to online retail sales occur; a loss of revenues currently collected.

Officials from the **Missouri Department of Conservation (MDC)** state this proposed legislation will have an unknown fiscal impact, but greater than $250,000.

MDC further states 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 would increase revenue to the Conservation Sales Tax Fun(s). However, MDC states 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 Missouri Department of Revenue would be better able to estimate the anticipated fiscal impact that would result from this proposed legislation.

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

Officials from the **Missouri Department of Natural Resources (DNR)** state DNR's Parks and Soils Sales Tax Fund(s) 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 [and use] tax collected could increase the revenue to the Parks and Soils Sales Tax Fund(s). DNR assumes any increase in revenue to the Parks and Soils Sales Tax Fund(s) would be used for the purposes established under Article IV, Section 47(a) of the Missouri Constitution.

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

Oversight notes DNR's Parks and Soils State Sales Tax Fund(s) (0613 & 0614) receive one-tenth of one percent of the revenues generated from state sales and use tax. For purposes of this fiscal note, Oversight will report the impact to the Parks and Soils State Sales Tax Fund(s), as reported by B&P and DOR.

In response to the previous version of this proposed legislation, officials from **Kansas City** anticipated the provisions of these sections would result in a positive fiscal impact of an indeterminate amount.

Officials from **Springfield** state this section could result in a positive fiscal impact of an unknown amount.

For purposes of this fiscal note, **Oversight** will report the fiscal impact(s) of Section(s) 144.605 and 144.752 as reported by B&P and DOR, including DOR's administrative impact(s).

Section 144.608 – DOR Consulting

Oversight notes this section permits DOR to consult, contract and work jointly with the streamlined sales and use tax agreement's governing body or with Certified Service Providers to more efficiently secure the payment of and accounting for taxes collected and remitted by retailers and vendors.

Officials from **B&P** state this section would allow the Missouri Department of Revenue to consult, contract, and work with the Streamlined Sales and Use Tax Agreement's (SSUTA) governing board and independently with CSPs.

Section 144.637 – DOR Tax Database

Oversight notes this section requires the Missouri Department of Revenue to create and maintain a database that describes boundary changes for all taxing jurisdictions with the effective date of such changes.

Officials from **DOR** state this section requires that the Director of Revenue 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 tax.

This 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 that this 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 we have yet to get any definitive fiscal response. DOR will continue to research and update when needed.

For purposes of this fiscal note, Oversight will include DOR's anticipated administrative costs as it relates to this section. Oversight notes the cost will be included in DOR's equipment and expense cost(s) for Fiscal Year 2022

Section 144.638 – DOR Taxability Matrix

Oversight notes this section would require the Missouri Department of Revenue to complete and maintain a taxability matrix to be used by retail sellers when determining the appropriate tax to collect and remit.

Officials from **DOR** state this section would require a totally new program that would require the Department to contract with a vendor. DOR believes the fiscal impact for this would be **significantly greater than $5 million**. This legislation requires DOR to have a specific code for every single product and taxing district, and to update when new products hit the market. This will result in an unknown, but potentially significant administrative impact. For the purposes of this fiscal note, DOR will estimate a need for three (3) Associate Customer Service Representatives ($24,360 per FTE). If the administrative impact is more significant than anticipated, additional FTE will be requested through the appropriations process.

For purposes of this fiscal note, **Oversight** will include DOR's anticipated administrative costs as it relates to this section. Oversight notes the cost of "significantly greater than $5 million" will be included in DOR's equipment and expense cost(s) for Fiscal Year 2022.

Section 144.710 – Monetary Allowance for Use Tax Remittance

Oversight notes this sections would require the Missouri Department of Revenue to provide a monetary allowance for the timely remittance of Missouri Use Tax to Certified Service Providers from the use taxes collected and remitted by such Certified Service Providers. No Certified Service Provider shall receive both the two percent (2%) timely filing discount, which is permitted under current law, and the monetary allowance created under this section.

Officials from **B&P** state this section replaces the use tax timely filing discount with the sales tax timely filing discount. B&P notes that under current law, both discounts are the same rate and have the same requirement terms. Therefore, B&P estimates that this section will not impact TSR or the calculation under Article X, Section 18(e).

Section 144.757 – Local Use Tax

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

Officials from **DOR** state this section modifies the ballot language that must be used when submitting a sales and use tax issue to the voters to be approved. DOR assumes no fiscal impact from changing the wording of the ballot language.

Section 144.759 – Local Use Tax Distribution

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 section would change how some local use tax funds are distributed. DOR does not anticipate any administrative impact from this change.

Sections 144.1000 – 144.1015 – Simplified Sales and Use Tax Administration Act

Oversight notes this proposed legislation eliminates Section(s) 144.1000 – 144.1015; the Simplified Sales and Use Tax Administration Act.

Legislation as a Whole –

In response to the previous version of this proposed legislation, officials from the **City of Hale** assumed this proposed legislation will have an impact on their respective city.

Officials from the **University of Central Missouri** estimates a minimal fiscal impact.

Officials from the **Missouri Attorney General's Office (AGO)** assume any additional litigation costs arising from this proposed legislation can be absorbed with existing personnel and resources. However, the AGO may seek additional appropriations should the increase in litigation become significant.

Officials from the **Office of the Secretary of State (SOS)** note many bills considered by the General Assembly include provisions allowing or requiring agencies to submit rules and regulations to implement the act. 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 SOS for administrative rules is less than $5,000. SOS recognizes that this is a small amount and does not expect that additional funding would be required to meet these costs. However, 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 SOS can sustain with SOS's core budget. Therefore, 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 proposed legislation. If multiple bills pass which require the printing and distribution of regulations at substantial costs, the SOS could request funding through the appropriations process.

Officials from the **Joint Committee on Administrative Rules** assume this proposal is not anticipated to cause a fiscal impact beyond its current appropriation.

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

Officials from the **Missouri Department of Economic Development**, the **Missouri Department of Transportation**, the **Office of Administration**, the **Missouri State Auditor's Office**, the **City of Claycomo**, the **City of Corder**, the **Missouri State University**, the **Northwest Missouri State University**, and the **State Technical College of Missouri** do not anticipate this proposed legislation will have an impact on their organizations. Oversight does not have any information to the contrary. Therefore, for purposes of this fiscal note, Oversight will not show a fiscal impact for these organizations.

FISCAL IMPACT – State Government	FY 2022 (10 Mo.)	FY 2023	FY 2024	Fully Implemented (FY 2028)
GENERAL REVENUE FUND				
Revenue Reduction - Section 32.087 – Reduction In DOR 1% Collection Fee - p. 4-5	$0	$0 to (Unknown)	$0 to (Unknown)	$0 to (Unknown)
Revenue Reduction - Section 143.011 – Income Tax Rate Reduction(s) – p. 8-12	$0	($21,888,633)	($52,028,777)	($154,070,961)
Revenue Change – Section 144.080 – Change In Sales Tax Due Date p. 14-17 **(timing)**	($42,400,000) to ($48,400,000)	$42,400,000 to $48,400,000	$0	$0
Cost – DOR – Section(s) 144.605, 144.752, 144.637, & 144.638 p. 18-25 & 25-26				
Personnel Services	($1,338,794)	($1,622,619)	($1,638,845)	($1,705,388)
Fringe Benefits	($819,993)	($989,414)	($994,890)	($1,017,348)
Equipment & Expense	($6,459,313)	($18,166)	($18,620)	($20,553)
Total Cost	($8,618,100)	($2,630,199)	($2,652,355)	($2,743,289)
FTE Change – DOR	37 FTE	37 FTE	37 FTE	37 FTE
ESTIMATED NET EFFECT ON GENERAL REVENUE FUND	**($51,018,100) to ($57,018,100)**	**Less than $17,881,168 to $23,881,168**	**Could exceed ($54,681,132)**	**Could exceed ($156,814,250)**

CASH OPERATING EXPENSE FUND				
Revenue Gain – Section(s) 166.05 & 144.752 – Online Use Tax – p. 18-25	$0	Less than $39,668,060 to $60,603,981	Less than $80,768,943 to $123,396,997	Less than $89,935,816 to $137,401,940
ESTIMATED NET EFFECT ON CASH OPERATING EXPENSE FUND	**$0**	**Less than $39,668,060 to $60,603,981**	**Less than $80,768,943 to $123,396,997**	**Less than $89,935,816 to $137,401,940**
SCHOOL DISTRICT TRUST FUND (0688)				
Revenue Change – Section 144.080 – Change In Sales Tax Due Date – p. 14-17 **(timing)**	($14,100,000) to ($16,100,000)	$14,100,000 to $16,100,000	$0	$0
Revenue Gain – Section(s) 144.605 & 144.752 – Online Use Tax – p. 18-25	$0	Less than $13,222,687 to $20,201,327	Less than $26,922,981 to $41,132,333	Less than $29,978,606 to $45,800,647
ESTIMATED NET EFFECT ON SCHOOL DISTRICT TRUST FUND	**($14,100,000) to ($16,100,000)**	**Less than $27,322,687 to $36,301,327**	**Less than $26,922,981 to $41,132,333**	**Less than $29,978,606 to $45,800,647**

CONSERVATION COMMISSION FUND (0609)				
Revenue Change – Section 144.080 – Change In Sales Tax Due Date – p. 14-17 **(timing)**	($1,800,000) to ($2,000,000)	$1,800,000 to $2,000,000	$0	$0
Revenue Gain – Section(s) 144.605 & 144.752 – Online Use Tax – p. 18-25	$0	Less than $1,652,836 to $2,525,166	Less than $3,365,373 to $5,141,542	Less than $3,747,326 to $5,725,081
ESTIMATED NET EFFECT ON CONSERVATION COMMISSION FUND	**($1,800,000) to ($2,000,000)**	**Less than $3,452,836 to $4,525,166**	**Less than $3,365,373 to $5,141,542**	**Less than $3,747,326 to $5,725,081**
PARKS AND SOILS STATE SALES TAX FUND(S) (0613 & 0614)				
Revenue Change – Section 144.080 – Change In Sales Tax Due Date p. 14-17 **(timing)**	($1,400,000) to ($1,600,000)	$1,400,000 to $1,600,000	$0	$0
Revenue Gain – Section(s) 144.605 & 144.752 – Online Use Tax – p. 18-25	$0	Less than $1,322,269 to $2,020,133	Less than $2,692,298 to $4,113,233	Less than $2,997,861 to $4,580,065

ESTIMATED NET EFFECT ON PARKS AND SOILS STATE SALES TAX FUND(S)	**($1,400,000) to ($1,600,000)**	**Less than $2,722,269 to $3,620,133**	**Less than $2,692,298 to $4,113,233**	**Less than $2,997,861 to $4,580,065**
FISCAL IMPACT – Local Government	FY 2022 (10 Mo.)	FY 2023	FY 2024	Fully Implemented (FY 2028)
LOCAL POLITICAL SUBDIVISIONS				
Revenue Reduction – Section 32.087 – Reduction In Sales Tax Rate - p. 4-5	$0	$0 to (Unknown)	$0 to (Unknown)	$0 to (Unknown)
Revenue Reduction – Section 144.049 – Back-To-School Sales Tax Holiday Sales Tax Exemption - p. 12	$0	$0	($465,677)	($465,677)
Revenue Reduction – Section 144.054 – Manufacturing Sales Tax Exemption – p. 13	$0	($16,793,662)	($33,587,323)	($33,587,323)
Revenue Change – Section 144.080 – Change In Sales Tax Due Date p. 14-17 **(timing)**	($55,500,000) to ($63,500,000)	$55,500,000 to $63,500,000	$0	$0

Revenue Reduction – Section 144.526 – Show-Me Green Sales Tax Holiday – p. 17-18	$0	($27,983)	($27,983)	($27,983)
Revenue Gain – Section(s) 144.605 & 144.752 – Online Use Tax – p. 18-25	$0	Less than $20,528,688 to $31,363,272	Less than $41,798,878 to $63,859,396	Less than $46,542,842 to $71,107,119
ESTIMATED NET EFFECT ON LOCAL POLITICAL SUBDIVISIONS	**($55,500,000) to ($63,500,000)**	**Less than $59,207,043 to $78,041,627**	**Less than $7,717,895 to $29,778,413**	**Less than $12,461,859 to $37,026,136**

FISCAL IMPACT – Small Business

The collection of use tax from out-of-state/online retailers and marketplace facilitators could even the playing field for local in-state small businesses; therefore, in-state small businesses could experience revenue growth. Out-of-state/online businesses and marketplace facilitators would be required to collect and remit the applicable tax(es) 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, 2022, and the Department shall implement the mapping feature using the use tax data by August 28, 2022.

If the boundaries of a political subdivision in which a sales or use tax has been imposed shall thereafter be changed or altered, the political subdivision shall forward such changes to the Department, as described in the act. (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 transferred to the General Revenue fund. (Section 33.575)

INDIVIDUAL INCOME TAX

For all tax years beginning on or after January 1, 2023, this act reduces the top rate of tax by 0.05%. Additionally, for all tax years beginning after the final incremental tax rate reduction in current law, this act reduces the top rate of tax by 0.1%, with an eventual top rate of tax of 4.95%. Such reduction shall only occur if the amount of net general revenue collected in the previous fiscal year exceeds the highest amount of net general revenue collected in any of the three fiscal years prior to such fiscal year by at least one hundred fifty million dollars. (Section 143.011)

USE TAX 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)

MARKETPLACE FACILITATORS

Beginning January 1, 2023, 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.

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.

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 2023 calendar year, two percent for sales made during the 2024 calendar year, one percent for sales made during the 2025 calendar year, and zero percent thereafter. (Section 144.752)

SALES TAX ADMINISTRATION

This act authorizes the Department of Revenue to consult, contract, and work jointly with the Streamlined Sales and Use Tax Agreement's Governing Board to allow sellers to use the Governing Board's certified service providers and central registration system services, or to consult, contract, and work with certified service providers independently. The Department may determine the method and amount of compensation to be provided to certified service providers. (Section 144.608)

The school and Show Me Green sales tax holidays are modified by repealing the ability for political subdivisions to opt out of the sales tax holidays, and by defining how the sales tax exemption applies to the purchase or return of certain items. (Sections 144.049 and 144.526)

This act relieves a purchaser from any penalties for failure to pay the proper amount of sales tax if the error was a result of erroneous information provided by the Director of Revenue. (Section 144.060)

Beginning January 1, 2022, for sellers collecting at least $250 in sales tax in the first or second month of a calendar quarter, such taxes shall be remitted on or before the last day of the succeeding month rather than on the twentieth day of the succeeding month. (Section 144.080)

The Director shall provide and maintain downloadable electronic databases at no cost to the user of the databases for taxing jurisdiction boundary changes, tax rates, and a taxability matrix detailing taxable property and services. Sellers and certified service providers (CSP) will be relieved from liability if they fail to properly collect tax based upon information provided by the Department. Certified service providers, sellers, and marketplace facilitators may utilize proprietary data, provided the Director certifies that such data meets the standards provided for under the act. (Sections 144.637 and 144.638)

Monetary allowances from taxes collected shall be provided to certain sellers and certified service providers for collecting and remitting state and local taxes, as described in the act. (Section 144.140)

LOCAL SALES AND USE TAXES

For all tax years beginning on or after January 1, 2023, this act places a limit on the total combined rate of local sales taxes by providing that the total combined rate of local sales taxes imposed by a taxing entity that is an incorporated city, town, or village shall not exceed 4.5%. The total combined rate of local sales taxes imposed by a county shall not exceed 3.25%. For all other taxing jurisdictions, the total combined rate of sales taxes in any given taxing jurisdiction shall not exceed 3.25%. Such limits shall not apply to transient guest taxes or convention and tourism taxes.

In any election in which more than one sales tax levy is approved by the voters, and the passage of such levies results in a combined rate of sales tax in excess of the limits provided under the act, only the sales tax levy receiving the most votes shall become effective. (Section 32.087)

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)

EFFECTIVE DATE

The provisions of this act relating to sales tax administration, use taxes, and the income tax rate reduction shall become effective January 1, 2023. Provisions of this act establishing the Cash Operating Expense Fund contain an emergency clause and shall become effective upon passage and approval. The remaining provisions shall become effective August 28, 2021.

TS:LR:OD

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

Missouri Attorney General's Office
Office of Administration – Budget & Planning Division
Missouri Department of Economic Development
Missouri Department of Natural Resources
Missouri Department of Revenue
Missouri Department of Conservation
Missouri Department of Transportation
Office of Administration
Missouri Secretary of State
State Auditor's Office
Joint Committee on Administrative Rules
City of Claycomo
City of Corder
City of Hale
City of Kansas City
City of Springfield
Missouri State University
Northwest Missouri State University
State Technical College of Missouri
University of Central Missouri
University of Missouri's Economic & Policy Analysis Research Center

Julie Morff
Director
February 26, 2021

Ross Strope
Assistant Director
February 26, 2021