

COMMITTEE ON LEGISLATIVE RESEARCH
OVERSIGHT DIVISION

FISCAL NOTE

L.R. No.: 3566H.06C
Bill No.: HCS for SS No. 2 for SCS for SB 745
Subject: Utilities; Taxation and Revenue - Sales and Use
Type: Original
Date: April 29, 2022

Bill Summary: This proposal modifies provisions relating to utilities.

FISCAL SUMMARY

ESTIMATED NET EFFECT ON GENERAL REVENUE FUND			
FUND AFFECTED	FY 2023	FY 2024	FY 2025
General Revenue Fund*	Could exceed (\$21,622,572 to \$23,744,092)	Could exceed (\$13,017,921 to \$15,139,441)	Could exceed (\$13,017,921 to \$15,139,441)
Total Estimated Net Effect on General Revenue	Could exceed (\$21,622,572 to \$23,744,092)	Could exceed (\$13,017,921 to \$15,139,441)	Could exceed (\$13,017,921 to \$15,139,441)

*The Department of Natural Resources – Division of Energy is required to oversee the distributed energy resources study (estimated to cost \$300,000), which is to be paid for through funds available from federal and state grants. DNR states two potential, but uncertain funding possibilities exist. DNR-DE has federal funds associated with a previous grant in a revolving loan fund that can potentially be repurposed for use to pay the contractor. Also, funds available from the Infrastructure Investment and Jobs Act (IIJA) could be used. If the federal funding sources are not available, the study may need to be paid for by state General Revenue.

Numbers within parentheses: () indicate costs or losses.

ESTIMATED NET EFFECT ON OTHER STATE FUNDS			
FUND AFFECTED	FY 2023	FY 2024	FY 2025
Various State Funds	\$0 to (Unknown)	\$0 to (Unknown)	\$0 to (Unknown)
Missouri Disaster Fund (0663)*	\$0	\$0	\$0
Conservation Commission Fund	(could exceed \$879,550 to \$957,530)	(could exceed \$542,413 to \$620,393)	(could exceed \$542,413 to \$620,393)
Park and Soils State Tax Fund	(could exceed \$703,641 to \$766,025)	(could exceed \$433,931 to \$496,315)	(could exceed \$433,931 to \$496,315)
School District Trust Fund	(Could exceed \$7,036,403 to \$7,660,243)	(Could exceed \$4,339,307 to \$4,963,147)	(Could exceed \$4,339,307 to \$4,963,147)
Public Service Commission Fund	\$0 to (\$450,000)	\$0 to (\$450,000)	\$0 to (\$450,000)
Total Estimated Net Effect on <u>Other</u> State Funds	(Could exceed \$9,069,594 to \$9,833,798)	(Could exceed \$5,765,651 to \$6,529,855)	(Could exceed \$5,765,651 to \$6,529,855)

*Transfer-in and expenses net to zero.

ESTIMATED NET EFFECT ON FEDERAL FUNDS			
FUND AFFECTED	FY 2023	FY 2024	FY 2025
Federal Funds*	(\$300,000)	\$0	\$0
Total Estimated Net Effect on <u>All</u> Federal Funds	(\$300,000)	\$0	\$0

*The Department of Natural Resources – Division of Energy is required to oversee the distributed energy resources study (estimated to cost \$300,000), which is to be paid for through funds available from federal and state grants. DNR states two potential, but uncertain funding possibilities exist. DNR-DE has federal funds associated with a previous grant in a revolving loan fund that can potentially be repurposed for use to pay the contractor. Also, funds available from the Infrastructure Investment and Jobs Act (IIJA) could be used. Oversight will assume federal funding will be available.

ESTIMATED NET EFFECT ON FULL TIME EQUIVALENT (FTE)			
FUND AFFECTED	FY 2023	FY 2024	FY 2025
General Revenue	10 FTE	0 FTE	0 FTE
Total Estimated Net Effect on FTE	10 FTE	0 FTE	0 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 2023	FY 2024	FY 2025
Local Government	(Could exceed \$28,356,704 to \$30,870,780)	(Could exceed \$17,487,407 to \$20,001,483)	(Could exceed \$17,487,407 to \$20,001,483)

FISCAL ANALYSIS

ASSUMPTION

In response to a similar proposal (Perfected SS for SCS for SB 756 – LR 3774-10P), officials from the **Office of Administration - Facilities Management, Design and Construction (FMDC)** stated this bill contains a number of provisions that FMDC assumes have the potential to impact utility costs for FMDC and other state and local government entities. However, FMDC is unable to determine the amount of such impact as it depends on a number of factors including the actions of utility companies and decisions of the Public Service Commission. Therefore, the impact of this bill is unknown.

Oversight assumes this proposal modifies accounting practices of electrical, gas, sewer and water corporations. Oversight assumes this proposal could possibly increase utility cost for the Office of Administration as well as other state agencies and local governments. Since it is unknown how much of a rate increase will be authorized (if any), Oversight will reflect a range from \$0 (no utility will increase rates) to an unknown cost to the state and local political subdivisions for higher utility costs, however, Oversight assumes the potential increase in utility cost (if any) would be less than \$250,000 to the state in a given fiscal year.

In response to a previous version, officials from the **Department of Commerce and Insurance** assumed no fiscal impact to the department. However, should the extent of the work be more than anticipated, the department would request additional appropriation and/or FTE through the budget process.

In response to a previous version, officials from the **Missouri Department of Conservation**, the **Missouri Department of Transportation**, the cities: **Kansas City, O’Fallon, Springfield and Claycomo**, and the utilities: **Metropolitan St. Louis Sewer District, South River Drainage District, St. Charles County Pwsd, Wayne County Pwsd, Hancock Street Light District** each assumed the proposal will have no fiscal impact on their respective organizations.

In response to a previous version, officials from the **Missouri Department of Conservation** and the **St. Louis-Jefferson Swmd** each assumed the proposal will have no fiscal impact on their organizations. **Oversight** does not have any information to the contrary.

Oversight notes that the above mentioned agencies have stated the proposal would not have a direct fiscal impact on their organization. Oversight does not have any information to the contrary. Therefore, Oversight will reflect a zero impact on the fiscal note for these agencies.

SEQ CHAPTER \h \r 1 SEQ CHAPTER \h \r 1
Section 44.032 – Flood Prevention

Officials from the **Department of Public Safety - State Emergency Management Agency (SEMA)** assumed there will be a fiscal impact in regard to §44.032 that could require a substantial amount of General Revenue. While there have been ongoing discussions regarding obligation of funds for the “Missouri Disaster Fund”, there is currently no General Revenue obligated to the fund.

SEMA states that Missouri just received a new Major Presidential Disaster Declaration, FEMA-4636-DR-MO, for severe storms and tornadoes that occurred on December 10, 2021. The declaration is for seven counties and has eight applicants. Seven of the eight applicants are Rural Electric Coops (RECs). FEMA has estimated the disaster damages for DR 4636 at \$27.3 million. All of the \$27.3 million in estimated damages belong to the RECs with the exception of \$63,000, which is road and debris damage in Reynolds County.

SEMA states the HCS would allow the RECs, per statute, to receive state general revenue funds from SEMA for damages incurred due to storm events during response/recovery efforts. If the storm event became a federally declared disaster, it is possible that SEMA could receive reimbursement from FEMA at a 75% federal cost share with the state paying the 25% non-federal cost share. If the storm event did not meet the criteria to be a federally declared event, the state would have to pay the full 100% out of state general revenue with no avenue for reimbursement.

Oversight assumes, based on SEMA’s response, that General Revenue funds will be used to cover expenses under §44.032. Oversight will reflect a \$0 to (Unknown, Greater than \$250,000) impact to General Revenue and will assume that expenses to the Missouri Disaster Fund will equal the amount transferred in from General Revenue and net to zero. Oversight notes as of February 2022, the balance in the Missouri Disaster Fund is \$638,477.

In response to a similar proposal from this year (HCS for HB 2328), officials from the **Department of Commerce and Insurance**, the **Department of Economic Development**, the **Department of Natural Resources**, the **Missouri Department of Conservation**, the **Missouri Department of Transportation**, the **Office of Administration**, the **Hughesville Water/Wastewater**, the **Little Blue Valley Sewer District**, the **Metropolitan St. Louis Sewer District**, the **South River Drainage District**, the **Wayne County PWS #2**, and the **Hancock Street Light District** each assumed the proposal will have no fiscal impact on their respective organizations.

Oversight only reflects the responses received from state agencies and political subdivisions; however, other electric companies and cooperatives and utilities were requested to respond to this proposed legislation but did not. A general listing of political subdivisions included in the Missouri Legislative Information System (MOLIS) database is available upon request.

Sections 144.010 and 144.011 - Utility Exemption for Transient Guests

Officials the **Department of Revenue (DOR)** state this proposal modifies the definition of “sale at retail” found in section 144.010, and adds a sales tax exemption to section to 144.011,

regarding the purchases of utilities by transient guest accommodations. The utilities exempt include electricity, electrical current, water and gas used to heat or cool a guest's accommodations. Utilities purchased by hotels, motels, and transient accommodation establishments are currently subject to sales tax, but this proposal would make these utilities an exemption.

DOR notes this proposal allows this exemption for the sleeping rooms, meeting and banquet rooms as well as customer space rented by guests. It should be noted this applies to hotels, motels, bed-and-breakfasts as they are classified as transient. It is unclear if this exemption would be allowed to short-term rentals, such as VRBO or Airbnb. If these types of properties are allowed the exemption, the calculated estimate would be expected to be higher.

DOR found research that indicates the average utility cost for a hotel room is \$2,196 per room per year. The Department was unable to determine the current number of sleeping rooms or conference/banquet rooms in the state but DOR was able to find information on the number of sleeping rooms (113,371) in the 12 largest cities in the state.

City	# Hotel Rooms
St. Louis	40,000
Springfield	6,395
Columbia	3,600
Jefferson City	1,270
Lake of the Ozarks	1,304
Joplin	1,497
St. Joseph	827
Cape Girardeau	801
Kirksville	415
Warrensburg	412
Kansas City	34,000
Branson	22,850
	113,371

Using these 113,731 rooms DOR was able to calculate the estimated total utility costs per year of \$248,962,716.

The current state sales tax rate is 4.225% and is distributed with 3% to General Revenue, 1% to the School District Trust fund, 0.125% to the Conservation Commission and the 0.1% to the Park, Soil & Water fund. When calculating the local impact, DOR uses a 4.03% weighted average. This proposal is expected to result in a loss of both the state and local sales tax on hotel utilities.

DOR notes this proposal has an effective date of August 28, 2022, and therefore DOR estimates only a 10 month impact in FY 2023 from the exemption. DOR calculated the following loss per fiscal year.

Fund	Tax Rate	FY 2023 (10 month)	FY 2024 +
GR	0.03	(\$6,224,068)	(\$7,468,881)
Education	0.01	(\$2,074,689)	(\$2,489,627)
Conservation	0.00125	(\$259,336)	(\$311,203)
DNR	0.001	(\$207,469)	(\$248,963)
Local	0.0403	(\$8,360,998)	(\$10,033,197)

This proposal also adds language that allows any person who would be exempt from paying the sales tax on hotel utilities starting August 28, 2022, to request a refund of the utilities they paid prior to that date. Prior to April 30, 2021, hotels were able to request a refund of their utility tax but based on a decision in a recent lawsuit, they became subject to the tax. Therefore, if passed DOR notes this would only allow a refund back to May 1, 2021.

Therefore, these qualifying establishments could seek a refund from May 1, 2021 to August 28, 2022 (15 months). This refund is projected to be a loss to the following funds:

Fund	Tax Rate	FY 2023 (refunds)
GR	0.03	(\$9,336,101)
Education	0.01	(\$3,112,034)
Conservation	0.00125	(\$389,004)
DNR	0.001	(\$311,204)
Local	0.0403	(\$12,541,496)

While this proposal does not limit when a person could apply for the refund, for the simplicity of the fiscal note DOR shows all the refund impact in FY 2023.

As noted previously, the projected impact is expected to exceed the estimated amounts due to the limited number of hotel rooms DOR used in the calculations. Additionally, if short-term rentals are allowed to receive the exemption, DOR would expect an even greater loss of revenue. The impact is projected:

Estimated Impact by Fund

	FY 2023*		FY 2024 +	
General Revenue	could exceed	(\$15,560,169)	could exceed	(\$7,468,881)
Education (SDTF)	could exceed	(\$5,186,723)	could exceed	(\$2,489,627)
Conservation	could exceed	(\$648,340)	could exceed	(\$311,203)
DNR	could exceed	(\$518,673)	could exceed	(\$248,963)
Total State Loss	could exceed	(\$21,913,905)	could exceed	(\$10,518,674)
Local Sales Tax Loss	could exceed	(\$20,902,494)	could exceed	(\$10,033,197)

*Assumes all refund claims are received during FY23.

DOR notes this refund will be claimed on the existing sales tax refund form. DOR notes that they would need 1 FTE for every 1,100 refund claims received a year. Due to the expected volume of refund requests estimated, DOR would start with hiring 10 FTE and add additional FTE as the number of refund claims increases.

Oversight assumes refunds would be processed in FY 2023 – therefore, DOR would not require the additional FTE beyond FY23. Oversight will show the abovementioned (10) FTE for purposes of this fiscal note for FY23 only. If multiple bills pass which require additional staffing and duties at substantial costs, DOR could request funding through the appropriation process.

In response to a similar proposal from this year (SB 945), officials from the **Office of Administration - Budget and Planning (B&P)** noted this proposal would exempt the utilities for transient accommodation establishments from state and local sales tax. Utilities include electricity, electrical current, water, and gas. Qualifying uses include all guest accommodations, including sleeping rooms, meeting and banquet rooms, and any other space rented by guests and are included in the charges made for accommodations.

B&P notes that the last use “included in the charges made for accommodations” could include any service offered by establishments. Including pools, restaurants, bars, lobby/congregation areas etc. as long as the cost of the item is included in the price paid by a guest.

B&P further notes that this exemption would apply to hotels, motels, bed-and-breakfasts, as well as other accommodations classified as transient. It is unclear if this would also apply to Airbnb or other short-term rentals.

Based on research, B&P determined that the average utility cost for a hotel is \$2,196 per room per year. B&P was unable to determine the total number of hotel rooms in Missouri. However based on additional research, B&P found that there are more than 113,371 hotel rooms located in 12 largest areas of the state. Table 1 lists the number of hotel rooms for portions of Missouri.

Table 1: Hotel Rooms
by City

St. Louis	40,000
Kansas City	34,000
Branson	22,850
Springfield	6,395
Columbia	3,600
Jefferson City	1,270
Lake of the Ozarks	1,304
Joplin	1,497
St. Joseph	827
Cape Girardeau	801
Kirksville	415
Warrensburg	412
	113,371

B&P further notes that this number does not include banquet and conference rooms, nor other services areas that would be exempted under this proposal.

Based on the information above, B&P estimates that this proposal could exempt at least \$248,962,716 (113,371 hotel rooms x \$2,196 avg. utility cost) from state and local sales tax. B&P notes that the state sales tax rate is 4.225% and the population weighted local sales tax rate for 2021 was 4.03%. Therefore, B&P estimates that this proposal could reduce TSR by an amount that could exceed \$10,518,675 annually.

In addition, this proposal would allow qualifying establishments to request a refund for any sales taxes paid prior to August 28, 2022. B&P notes that businesses were notified that this sales tax was due beginning April 30, 2021. Therefore, there could be up to 15 months (April 30, 2021 through August 28, 2022) of refunds allowable under this proposal. For the purpose of this fiscal note, B&P will reflect all refund claims as occurring in FY23. However, it is possible that refund claims could occur over multiple fiscal years. Therefore, B&P estimates that qualifying establishments could request more than \$13,148,343 in refunds.

B&P further notes that the exemption would begin August 28, 2022. Therefore, FY23 will see a reduction for 10 months, in addition to the refund claims for the prior ten years. Based on the information above, B&P estimates that this proposal could reduce GR by an amount that could exceed \$15,560,170 and TSR by an amount that could exceed \$21,913,905 in FY23. In addition, this proposal could reduce local revenues by an amount that could exceed \$20,902,495 in FY23. Once refund claims have been paid, this proposal could reduce GR by an amount that could exceed \$7,468,881 and TSR by an amount that could exceed \$10,518,674. This proposal could

also reduce local revenues by an amount that could exceed \$10,033,197 once refund claims have been paid. Table 2 shows the estimated impact by fund.

Table 2: Estimated Impact by Fund

	FY 2023*	FY 2024 +
General Revenue	could exceed (\$15,560,170)	could exceed (\$7,468,881)
Education (SDTF)	could exceed (\$5,186,723)	could exceed (\$2,489,627)
Conservation	could exceed (\$648,340)	could exceed (\$311,203)
DNR	could exceed (\$518,672)	could exceed (\$248,963)
Total State Loss	could exceed (\$21,913,905)	could exceed (\$10,518,674)
Local Sales Tax Loss	could exceed (\$20,902,495)	could exceed (\$10,033,197)

*Assumes all refund claims are received during FY23.

In response to a similar proposal from this year (SB 945), officials from the **City of Kansas City** and the **City of Springfield** assumed this proposal would have a negative fiscal impact on their respective cities of an indeterminate amount.

Oversight notes the above local political subdivisions stated this proposal would have a negative fiscal impact on their local subdivisions of an indeterminate amount. Therefore, Oversight will note B&P and DOR’s estimates for local political subdivisions for this section of the fiscal note.

In response to a similar proposal from this year (SB 945), officials from the **City of Kirksville** noted if passed, this proposal will reduce sales tax revenues for the City by approximately \$10,000-\$15,000 annually. Currently, hotels, motels, and transient lodging facilities have the benefit of exempting long-term rentals from sales tax assessment, even though those guests utilize utility services. For that usage, no sales tax would be levied if SB 945 were to pass. In addition, there are several areas in those facilities that are not related to accommodation charges, such as business offices, laundry facilities, kitchens, and plant facilities. Utility usage in those areas would not be subject to any sales tax levy, but are directly related to the benefit of the hotel.

In response to a similar proposal from this year (SB 945), officials from the **Missouri Department of Conservation** assumed the proposal will have an unknown fiscal impact but greater than \$250,000. 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 decrease 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. The Department assumes the Department of Revenue would be better able to estimate the anticipated fiscal impact that would result from this proposal.

Oversight notes that 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; thus, MDC's sales taxes are constitutional mandates. Therefore, Oversight will reflect the B&P's and DOR's estimates of impact on the fiscal note.

In response to a similar proposal from this year (SB 945), officials from the **Department of Natural Resources** deferred to the **Department of Revenue** for the potential fiscal impact of this proposal.

In response to a similar proposal from this year (SB 945), officials from the **Missouri Department of Transportation** and the **Department of Elementary and Secondary Education** each assumed the proposal will have no fiscal impact on their organizations. **Oversight** does not have any information to the contrary. Therefore, Oversight will reflect a zero impact in the fiscal note for this section for these agencies.

Oversight only reflects the responses received from state agencies and political subdivisions; however, other cities and county officials were requested to respond to this proposed legislation but did not. A general listing of political subdivisions included in Oversight's database is available upon request.

§144.030 - Solar Photovoltaic Energy System Exemption

Officials from the **Department of Revenue (DOR)** note this creates a new state and local sales and use tax exemption for companies that purchase a solar photovoltaic energy system and the supplies need to support it. This is expected to go into effect August 28, 2022.

This exemption would be available to a company who purchases a utility scale project that generates at least 20 megawatts (MW). The O'Fallon Renewable Energy Center completed in 2014 is a 5.7 megawatts utility scale project. Ameren is constructing a 65 megawatt utility scale project. At this time the Department is not aware of any additional large scale projects that may qualify.

Additionally this would allow the state and local sales tax exemption to apply to residential solar systems, community solar systems and utility scale solar systems.

The state sales tax is 4.225% and is distributed as shown below. For fiscal note purposes, DOR uses a 4.03% weighted average for the local sales tax rate.

General Revenue is	3.000%	
School District Trust Fund is	1.000%	(Section 144.701)
Conservation Commission Fund is	0.125%	(Article IV, Section 43(a))
Parks, Soil & Water Funds	0.100%	(Article IV, Section 47(a))
Local	4.030%	

Based on data published by the Solar Energy Industries Association (SEIA), Missouri has 361.6MW of current solar capacity and they project another 937MW coming online in the next

five years. Based on data published by the U.S. Energy Information Administration (EIA), current utility scale solar energy generation in Missouri is 120MW. Based on this information, the Department estimates that 33.2% (120MW / 361.6MW) of all solar energy generation in Missouri comes from a utility scale solar generation system.

For the purpose of this fiscal note, the Department will assume that the projected 5-year capacity increase will be equal each year, for a total yearly increase in solar generation capacity of 187.4MW. The Department will further assume that the 33.2% utility project proportion will remain constant over the next five years. Under these assumptions, each year's utility scale projects will add 62.2MW and residential systems will add 125.2MW in solar production capacity.

Based on additional data published by SEIA, the average cost for a utility scale solar project was \$0.82 to \$1.36 per watt, with a one MW solar farm costing between \$820,000 and \$1,360,000. Therefore, this provision could exempt \$51,004,000 (62.2MW average yearly capacity increase x \$820,000 per 1MW cost) to \$84,592,000 (62.2MW average yearly capacity increase x \$1,360,000 per 1MW cost) in taxable sales.

Based on data published by the Solar Review the average cost for a residential solar system is \$2.33 to \$2.84 per watt. However, that cost includes items (such as profit and marketing) that would not be exempt under this provision. Using additional data provided by Solar Review, it was determined that approximately 45.9% of the per watt cost is directly related to equipment used in a residential solar system. Therefore, the qualifying per watt cost for a residential system is \$1.07 to \$1.30. Therefore, this provision could exempt \$133,964,000 (125,200,000 watts average yearly capacity increase x \$1.07 per watt cost) to \$162,760,000 (125,200,000 watts average yearly capacity increase x \$1.30 per watt cost) in taxable sales.

The Department notes that solar energy systems (including utility scale) can generally be completed in less than a year. Therefore, the Department will reflect a full year's impact starting with FY23. Based on the data found, the Department estimates that this provision could reduce general revenue by \$5,549,040 to \$7,420,560 annually and this could reduce local sales tax revenues by \$7,454,210 to \$9,968,286 annually.

Table 1: Estimated Revenue Impact per Qualifying Solar Project

<u>State Funds</u>	Low	High
General Revenue	(\$5,549,040)	(\$7,420,560)
Education (SDTF)	(\$1,849,680)	(\$2,473,520)
Conservation	(\$231,210)	(\$309,190)
DNR	(\$184,968)	(\$247,352)
Total State Revenue Loss	(\$7,814,898)	(\$10,450,622)
<u>Local Funds</u>		
Local Sales Tax	(\$7,454,210)	(\$9,968,286)

This proposal would require the Department to modify its Exemption Certificate (Form 149), website and computer system. These changes are estimated to cost \$3,596.

Additionally, DOR would need FTE if the number of refund claims generated from this exemption exceed 1,500 refund requests. It would take 1 Associate Customer Service Representative for every 1,500 refund requests.

Oversight assumes the Department of Revenue is provided with core funding to handle a certain amount of activity each year. Oversight assumes DOR could absorb the costs for computer upgrades related to this proposal. Given the small number of potential qualifiers for this exemption, Oversight assumes DOR can absorb the administrative impact of this proposal.

Officials from the **Office of Administration - Budget and Planning (B&P)** note this provision would grant a sales tax exemption for the purchase of the supplies and equipment for solar energy production. B&P notes that this provision would apply to residential solar systems, community solar systems and utility scale solar systems. Qualifying utility scale projects must generate more than 20 megawatts (MW).

Based on data published by the Solar Energy Industries Association (SEIA), Missouri has 361.6MW¹ of current solar capacity and they project another 937MW coming online in the next five years. Based on data published by the U.S. Energy Information Administration (EIA), current utility scale solar energy generation in Missouri is 120MW². Based on the above information, B&P estimates that 33.2% (120MW / 361.6MW) of all solar energy generation in Missouri comes from a utility scale solar generation system.

¹ <https://www.seia.org/state-solar-policy/missouri-solar>

²

<https://www.eia.gov/electricity/data/browser/#/topic/0?agg=1,0,2&fuel=004&geo=000002&sec=o3k&linechart=EL.EC.GEN.SUN-MO-99.A&columnchart=ELEC.GEN.SUN-MO-99.A&map=ELEC.GEN.SUN-MO-99.A&freq=A&ctype=linechart<ype=pin&rtype=s&maptype=0&rse=0&pin=>

For the purpose of this fiscal note, B&P will assume that the projected 5-year capacity increase will be equal each year, for a total yearly increase in solar generation capacity of 187.4MW. B&P will further assumes that the 33.2% utility project proportion will remain constant over the next five years. Under these assumptions, B&P estimates that each year utility scale projects will add 62.2MW and residential systems will add 125.2MW in solar production capacity.

Based on additional data published by SEIA, the average cost for a utility scale solar project was \$0.82 to \$1.36 per watt, with a one MW solar farm costing between \$820,000 and \$1,360,000. Therefore, B&P estimates that this provision could exempt \$51,004,000 (62.2MW average yearly capacity increase x \$820,000 per 1MW cost) to \$84,592,000 (62.2MW average yearly capacity increase x \$1,360,000 per 1MW cost) in taxable sales.

Based on data published by the Solar Review the average cost for a residential solar system is \$2.33 to \$2.84 per watt³. However, B&P notes that that cost includes items (such as profit and marketing) that would not be exempt under this provision. Using additional data provided by Solar Review, B&P determined that approximately 45.9% of the per watt cost is directly related to equipment used in a residential solar system. Therefore, B&P estimates that the qualifying per watt cost for a residential system is \$1.07 to \$1.30. Therefore, B&P estimates that this provision could exempt \$133,964,000 (125,200,000 watts average yearly capacity increase x \$1.07 per watt cost) to \$162,760,000 (125,200,000 watts average yearly capacity increase x \$1.30 per watt cost) in taxable sales.

B&P notes that solar energy systems (including utility scale) can be completed in less than a year. Therefore, B&P will reflect a full year’s impact starting with FY23. Based on the numbers above, B&P estimates that this provision could reduce GR by \$5,549,040 to \$7,420,560 and TSR by \$7,814,898 to \$10,450,622 annually. Using the population weighted local sales tax rate for 2021 of 4.03%, B&P further estimates that this provision could reduce local sales tax revenues by \$7,454,210 to \$9,968,286 annually.

Table 1: Estimated Revenue Impact per Qualifying Solar Project

<u>State Funds</u>	Low	High
General Revenue	(\$5,549,040)	(\$7,420,560)
Education (SDTF)	(\$1,849,680)	(\$2,473,520)
Conservation	(\$231,210)	(\$309,190)
DNR	(\$184,968)	(\$247,352)
Total State Revenue Loss	(\$7,814,898)	(\$10,450,622)
<u>Local Funds</u>		
Local Sales Tax	(\$7,454,210)	(\$9,968,286)

³ <https://www.solarreviews.com/solar-panel-cost/missouri>

Oversight will reflect BAP and DOR's estimated fiscal impact for this provision.

Officials from the **City of Kansas City** assume this legislation may have a negative fiscal impact on Kansas City due to lost sales tax revenue.

Oversight notes the above local political subdivision stated this proposal might have a negative fiscal impact on their respective city of an indeterminate amount. Therefore, Oversight will note B&P and DOR's estimates for all local political subdivisions on the fiscal note.

Officials from the **Department of Natural Resources** defer to the **Department of Revenue** for the potential fiscal impact of this proposal.

Oversight notes that the Conservation and Park, Soil, and Water Sales Tax funds are derived from one-eighth of one percent sales and use tax pursuant to Article IV Section 43 (a) and from one-tenth of one percent sales and use tax pursuant to Article IV Section 47 (a) of the Missouri Constitution thus MDC's and DNR's sales taxes are constitutional mandates. Therefore, Oversight will reflect the B&P's estimates of impact on the fiscal note.

Officials from the **Missouri Department of Transportation** assume the proposal will have no fiscal impact on their organization. **Oversight** does not have any information to the contrary. Therefore, Oversight will reflect a zero impact in the fiscal note for MoDOT.

Officials from the **City of O'Fallon** assume the proposal will have no fiscal impact on their city. **Oversight** notes that a reduction in tax revenue collected will decrease the amount of revenue distributed to local subdivisions. Therefore, Oversight will note B&P and DOR's estimates for all local political subdivisions on the fiscal note.

Oversight only reflects the responses received from state agencies and political subdivisions; however, other local taxing entities were requested to respond to this proposed legislation but did not. A listing of political subdivisions included in the Missouri Legislative Information System (MOLIS) database is available upon request.

Subsection 386.885.5 – Distributed Energy Resource Study

Officials from the **Department of Natural Resources – Division of Energy (DNR-DE)** state that this legislation requires the DNR-DE to oversee the distributed energy resources study to be selected and conducted by an independent and objective expert with input from the members of the task force. The cost of said study shall be paid for through funds available from federal and state grants applied for by the division of energy. The division of energy shall establish procedures for the submission and non-public disclosure of confidential and propriety information.

DNR-DE anticipates being able to identify contractors with experience in conducting distributed energy resource studies. The work will require specialized knowledge of applicable Missouri statutes, electric utility generation, transmission and distribution systems and related costs,

distributed energy generation systems and grid integration, wholesale energy market operation and pricing. The language in the bill does not define “distributed energy resources.” The term may be defined broadly, but since this legislation focuses on net metering, DNR-DE assumes that the study contemplated in the legislation will be limited to distributed generation. DNR-DE anticipates the study will require the contractor to meet with the task force, retail electric suppliers and other stakeholders to discuss and finalize the work plan, conduct cost/benefit analyses, and other work as required to fulfill the contract requirements. Based on the revisions, DNR-DE officials do not anticipate the study will be granular, instead focusing on the practical and economic benefits, challenges, and drawbacks of increased distributed energy generation in the state without the requirement of determining specific rates for each retail electric provider.

DNR-DE may not have adequate “...funds available from federal and state grants applied for by the division of energy” to cover this cost in the short term as the grants already applied for by DNR-DE have all funds assigned to other activities. To DNR-DE’s knowledge, there is not any certainty as to the availability of any sufficient federal or state grants that can be readily applied for and awarded in time to pay for this initiative based upon the time constraints contained in the proposal. If no funding opportunities arise, DE would require General Revenue amounting to \$300,000 to fulfill the requirements of this section.

Two potential, but uncertain funding possibilities exist. DNR-DE has federal funds associated with a previous grant in a revolving loan fund that can potentially be repurposed for use to pay the contractor. DNR-DE would be required to submit a request to the U.S. Department of Energy (DOE) requesting the repurposing of funds. DOE accepts such requests in either January or June, but may be willing to accept such a request outside of those months. Presuming DOE is agreeable to repurposing the funds, the contractor would be required to comply with American Recovery and Reinvestment Act of 2009 (ARRA) flow-down requirements, which are attached to those funds. DNR-DE anticipate initiating a formal request to DOE for allowance to repurpose up to \$300,000, although DOE’s approval of such a repurposing request is not guaranteed.

Additionally, it is possible that funding from the Infrastructure Investment and Jobs Act (IIJA) could be used. As the bill is currently written, DNR-DE’s understanding is that State Energy Program (SEP) funds from the IIJA can be used for any allowable activity under SEP (10 CFR 420). However, usage of such funds for the purpose described in this bill could detract from the ability of DNR-DE to pursue additional opportunities presented by the IIJA, and the exact amount of funding to be received from the IIJA is not certain at this time.

Oversight will reflect this cost to federal funds and note the possibility that if federal funding is not available, state General Revenue may be needed.

DNR-DE anticipated they will engage stakeholders as part of the study process. However, based on the direction that “House Research and Senate Research shall provide necessary clerical, research, fiscal, and legal services to the task force,” DNR-DE anticipates that House Research and Senate Research rather than DNR-DE will have primary responsibility for drafting the study RFP, study contracts, and task force report. DNR-DE will require 1 FTE Research/Data Analyst

to coordinate with House Research and Senate Research, provide technical assistance, and to prepare material for review by the task force. This would be a temporary position that would terminate at the end of the project period.

As Section 385.885 expires on December 31, 2023, **Oversight** will assume DNR will not require hiring a new FTE for the time period this FTE may be needed. Therefore, Oversight will assume DNR will be able to implement the provisions of this proposal with existing resources.

Officials from the **Missouri State Senate (SEN)** anticipate a negative fiscal impact to the joint contingent appropriation to reimburse 5 members for travel to task force meetings. In summary, it will cost approximately \$639.45.

Oversight assumes the SEN is provided with core funding to handle a certain amount of activity each year. Oversight assumes the SEN could absorb the costs related to this proposal. If multiple bills pass which require additional staffing and duties at substantial costs, SEN could request funding through the appropriation process.

Section 386.890 - Net Metering

Officials from the **Department of Commerce and Insurance - Public Service Commission (PSC)** state that this legislation may require a rulemaking by the PSC in order to implement the provisions. Rulemakings generally result in an estimated cost of up to approximately \$4,700.

The PSC is funded by an assessment on Commission-regulated public utilities pursuant to Section 386.370 RSMo, and not by any state general appropriations. Depending on the cumulative effect of all PSC-impacting legislation passed in the current session and the associated increased costs associated with that legislation to the PSC, the PSC may need to request an increase in appropriation authority and/or FTE allocation as appropriate through the budget process.

Oversight notes that the PSC has stated their agency should be able to absorb the cost associated with this proposal (depending on cumulative effect of all PSC-impacting legislation passed). Oversight does not have any information to the contrary. Therefore, Oversight will reflect a zero impact on the fiscal note for the PSC for this section.

In response to a similar proposal from this year (SCS for SB 763), officials from the **Missouri Department of Conservation**, the **Missouri Department of Transportation**, the **Missouri House of Representatives** and the **Office of Administration** each assumed this proposal will have no fiscal impact on their respective organizations.

Oversight notes that the above mentioned agencies have stated the proposal would not have a direct fiscal impact on their organization. Oversight does not have any information to the contrary. Therefore, Oversight will reflect a zero impact on the fiscal note for those agencies.

Section 393.1072 – Solar Energy Production Property Tax

In response to a similar proposal from this year (HB 1997), officials from the **Office of the Governor** stated this bill adds to the governor's current load of appointment duties. Individually, additional requirements should not fiscally impact the Office of the Governor. However, the cumulative impact of additional appointment duties across all enacted legislation may require additional resources for the Office of the Governor.

In response to a similar proposal from this year (HB 1997), officials from the **Missouri State Senate** anticipated a negative fiscal impact to reimburse 15 members of the task force on Fair, Nondiscriminatory Local Taxation Concerning Solar Energy Systems for travel expenses. It will cost approximately \$1,940.40 per meeting.

Oversight assumes the above agencies can absorb the cost of the Task Force meetings within the current appropriation levels and will not reflect a fiscal impact for this section. If multiple bills pass which require additional staffing and duties at substantial costs, the agencies could request funding through the appropriation process.

In response to a similar proposal, officials from the **Missouri House of Representatives** assumed the proposal would have no fiscal impact on their organization. **Oversight** does not have any information to the contrary. Therefore, Oversight will reflect a zero impact in the fiscal note for this agency for this section.

In response to a similar proposal from this year (HB 1997), officials from the **State Tax Commission** assumed the proposal will have no fiscal impact on their organization. **Oversight** does not have any information to the contrary. Therefore, Oversight will reflect a zero impact in the fiscal note for this agency for this section.

Section 393.1400

Officials from the **Department of Commerce and Insurance – Public Service Commission (PSC)** state this section of the proposal will create an estimated three additional cases per year before the commission. Although it is not clear if additional staff will be needed, the costs of staff time in comparable cases is approximately \$150,000. This proposal would therefore cost up to approximately \$450,000 annually.

Oversight assumes PSC may be able to absorb the costs related to this proposal. Therefore, Oversight will range the fiscal impact to the PSC as \$0 to \$450,000 to the Public Service Commission Fund.

Section 442.404 - Rooftop Solar Panels or Solar Collectors

In response to a similar proposal from this year (SB 820), officials from the **State Tax Commission**, the **Department of Commerce and Insurance** and the **Department of Natural Resources** each assumed the proposal will have no fiscal impact on their respective organizations. **Oversight** does not have any information to the contrary. Therefore, Oversight will reflect a zero impact in the fiscal note for these agencies for this section.

In response to a similar proposal from this year (SB 820), officials from the **City of Kansas City** and the **City of Springfield** each assumed the proposal will have no fiscal impact on their respective organizations. **Oversight** does not have any information to the contrary. Therefore, Oversight will reflect a zero impact in the fiscal note for these agencies for this section.

In response to similar legislation from 2021, SB 249, officials at the cities of **Ballwin, Corder, Hale, O'Fallon** and **St. Louis** each assumed the proposal will have no fiscal impact on their cities. **Oversight** does not have any information to the contrary. Therefore, Oversight will reflect a zero impact in the fiscal note for these cities for this section.

Section 610.021 – Sunshine Law Provisions

Oversight assumes Senate Amendment 2 allows certain records of municipally owned utilities to be closed under the sunshine law.

In response to a similar proposal from this year (SB 827), officials from the **Department of Commerce and Insurance**, the **South River Drainage District**, the **St. Louis-Jefferson SWMD Solid Waste District**, the **Wayne County Pwsd** and the **Hancock Street Light District** each assumed the proposal will have no fiscal impact on their respective organizations.

In response to a similar proposal from last year (SB 214), officials from the **Butler County Pwsd #2**, the **Class County Pwsd #2**, the **Clarence/Cannon Wholesale Water District**, the **Corder Water/Waste Water District**, the **East Butler County Sewer District**, the **Lexington Water/Wastewater District**, the **Little Blue Valley Sewer District**, the **Macon County Pwsd #1**, the **Platte County Pwsd #6**, the **Schell City Water Department**, the **South River Drainage District**, the **City of Springfield**, the **St. Charles County Pwsd #2**, the **Ste. Genevieve County Pwsd #1** and the **Stone County Pwsd #1** each assumed the proposal would have no fiscal impact on their respective organizations.

Oversight notes that the above mentioned agencies have each stated the proposal 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 on the fiscal note for this section.

Bill as a whole:

Officials from the **Department of Economic Development**, the **Missouri Department of Transportation**, the **State Tax Commission** and **Claycomo** each assume the proposal will have no fiscal impact on their respective organizations. **Oversight** does not have any information to the contrary. Therefore, Oversight will reflect a zero impact in the fiscal note for these agencies.

Rule Promulgation

In response to a previous version, officials from the **Joint Committee on Administrative Rules** assume this proposal is not anticipated to cause a fiscal impact beyond its current appropriation.

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. 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 its 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.

<u>FISCAL IMPACT – State Government</u>	FY 2023 (10 Mo.)	FY 2024	FY 2025
GENERAL REVENUE FUND			
<u>Cost</u> - Office of Administration Potential increase in utility costs (p.3)	\$0 to (Unknown)	\$0 to (Unknown)	\$0 to (Unknown)
<u>Costs</u> – DOR §144.011 (p.5-11)			
Salaries	\$219,400	\$0	\$0
Fringe Benefits	\$196,851	\$0	\$0
Equipment and Expense	\$97,112	\$0	\$0
<u>Total Costs</u> – DOR	<u>\$513,363</u>	<u>\$0</u>	<u>\$0</u>
FTE Changes – DOR	10 FTE	0 FTE	0 FTE
<u>Revenue Reduction</u> - §144.011 (p.5-11) Sales tax exemption and refunds 011	(Could exceed \$15,560,169)	(Could exceed \$7,468,881)	(Could exceed \$7,468,881)
<u>Revenue Loss</u> - §144.030 (p.11-15) Solar Energy Project Sales Tax Exemption	(\$5,549,040- \$7,420,560)	(\$5,549,040- \$7,420,560)	(\$5,549,040- \$7,420,560)
<u>Transfer Out</u> – to Missouri Disaster Fund to now potentially cover rural electric cooperatives (p. 4-5) (§44.032)	\$0 to (Unknown, <u>Greater than</u> \$250,000)	\$0 to (Unknown, <u>Greater than</u> \$250,000)	\$0 to (Unknown, <u>Greater than</u> \$250,000)
ESTIMATED NET EFFECT TO THE GENERAL REVENUE FUND	<u>Could exceed</u> <u>(\$21,622,572</u> <u>to</u> <u>\$23,744,092)</u>	<u>Could exceed</u> <u>(\$13,017,921</u> <u>to</u> <u>\$15,139,441)</u>	<u>Could exceed</u> <u>(\$13,017,921</u> <u>to</u> <u>\$15,139,441)</u>
Estimated Net FTE Change to the General Revenue Fund	10 FTE	0 FTE	0 FTE
MISSOURI DISASTER FUND (0663)			
<u>Transfer In</u> – from General Revenue (§44.032) (p. 4-5)	\$0 to Unknown, Greater than \$250,000	\$0 to Unknown, Greater than \$250,000	\$0 to Unknown, Greater than \$250,000

<u>Cost – SEMA (§44.032) Disaster damages (p. 4-5)</u>	<u>\$0 to (Unknown, Greater than \$250,000)</u>	<u>\$0 to (Unknown, Greater than \$250,000)</u>	<u>\$0 to (Unknown, Greater than \$250,000)</u>
ESTIMATED NET EFFECT ON THE MISSOURI DISASTER FUND	<u>\$0</u>	<u>\$0</u>	<u>\$0</u>
CONSERVATION COMMISSION FUND (0609)			
<u>Revenue Loss - §144.030 – Solar Energy Project Sales Tax Exemption (p.11-15)</u>	<u>(\$231,210-\$309,190)</u>	<u>(\$231,210-\$309,190)</u>	<u>(\$231,210-\$309,190)</u>
<u>Revenue Reduction - §144.011 Sales tax exemption and refunds (p.5-11)</u>	<u>(could exceed \$648,340)</u>	<u>(could exceed \$311,203)</u>	<u>(could exceed \$311,203)</u>
ESTIMATED NET EFFECT ON CONSERVATION COMMISSION FUND	<u>(could exceed \$879,550 to \$957,530)</u>	<u>(could exceed \$542,413 to \$620,393)</u>	<u>(could exceed \$542,413 to \$620,393)</u>
PARKS AND SOILS STATE SALES TAX FUND(S) (0613 & 0614)			
<u>Revenue Loss - §144.030 – Solar Energy Project Sales Tax Exemption (p.11-15)</u>	<u>(\$184,968-\$247,352)</u>	<u>(\$184,968-\$247,352)</u>	<u>(\$184,968-\$247,352)</u>
<u>Revenue Reduction - §144.011 Sales tax exemption and refunds (p.5-11)</u>	<u>(could exceed \$518,673)</u>	<u>(could exceed \$248,963)</u>	<u>(could exceed \$248,963)</u>
ESTIMATED NET EFFECT ON PARKS AND SOILS STATE SALES TAX FUND(S)	<u>(could exceed \$703,641 to \$766,025)</u>	<u>(could exceed \$433,931 to \$496,315)</u>	<u>(could exceed \$433,931 to \$496,315)</u>
SCHOOL DISTRICT TRUST FUND (0688)			
<u>Revenue Loss - §144.030 – Solar Energy Project Sales Tax Exemption</u>	<u>(\$1,849,680-\$2,473,520)</u>	<u>(\$1,849,680-\$2,473,520)</u>	<u>(\$1,849,680-\$2,473,520)</u>

(p.11-15)			
Revenue Reduction - §144.011 Sales tax exemption and refunds (p.5-11)	<u>(Could exceed \$5,186,723)</u>	<u>(Could exceed \$2,489,627)</u>	<u>(Could exceed \$2,489,627)</u>
ESTIMATED NET EFFECT ON SCHOOL DISTRICT TRUST FUND	<u>(Could exceed \$7,036,403 to \$7,660,243)</u>	<u>(Could exceed \$4,339,307 to \$4,963,147)</u>	<u>(Could exceed \$4,339,307 to \$4,963,147)</u>
PUBLIC SERVICE COMMISSION FUND			
Cost – DCI-PSC §393.1400 (p. 18) Additional Case Load	<u>\$0 to (\$450,000)</u>	<u>\$0 to (\$450,000)</u>	<u>\$0 to (\$450,000)</u>
ESTIMATED NET EFFECT TO THE PUBLIC SERVICE COMMISSION FUND	<u>\$0 to (\$450,000)</u>	<u>\$0 to (\$450,000)</u>	<u>\$0 to (\$450,000)</u>
FEDERAL FUNDS			
Cost – DNR - Independent Contractor – to conduct distributed energy resource study §386.885.5 – (p. 15-16)	<u>(\$300,000)</u>	<u>\$0</u>	<u>\$0</u>

ESTIMATED NET EFFECT ON FEDERAL FUNDS	<u>(\$300,000)</u>	<u>\$0</u>	<u>\$0</u>
VARIOUS STATE FUNDS			
Cost - Various State Agencies Potential increase in utility costs (p. 3)	<u>\$0 to (Unknown)</u>	<u>\$0 to (Unknown)</u>	<u>\$0 to (Unknown)</u>
ESTIMATED NET EFFECT TO VARIOUS STATE FUNDS	<u>\$0 to (Unknown)</u>	<u>\$0 to (Unknown)</u>	<u>\$0 to (Unknown)</u>

<u>FISCAL IMPACT – Local Government</u>	FY 2023 (10 Mo.)	FY 2024	FY 2025
LOCAL POLITICAL SUBDIVISIONS			
<u>Cost - Local Governments</u> Potential increase in utility costs (p.3)	\$0 to (Unknown)	\$0 to (Unknown)	\$0 to (Unknown)
<u>Revenue Loss –Project exemption for solar systems (§144.030) (p.11-15)</u>	(\$7,454,210- \$9,968,286)	(\$7,454,210- \$9,968,286)	(\$7,454,210- \$9,968,286)
<u>Revenue Reduction - §144.011 Sales tax exemption and refunds (p.5-11)</u>	(Could exceed \$20,902,494)	(Could exceed \$10,033,197)	(Could exceed \$10,033,197)
ESTIMATED NET EFFECT TO LOCAL POLITICAL SUBDIVISIONS	(Could exceed \$28,356,704 to \$30,870,780)	(Could exceed \$17,487,407 to \$20,001,483)	(Could exceed \$17,487,407 to \$20,001,483)

FISCAL IMPACT – Small Business

Small businesses could have an increase in utility cost as a result of this proposal.

There could be a positive indirect fiscal impact to small businesses that sell/install solar panels or solar collectors as a result of this proposal.

This proposal may impact hotels, motels, or other transient accommodation establishments that include utility costs in the charge made for such accommodations.

FISCAL DESCRIPTION

This proposal modifies provisions relating to public utilities.

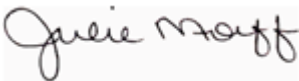
This legislation is not federally mandated, would not duplicate any other program and would not require additional capital improvements or rental space.

SOURCES OF INFORMATION

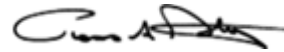
Department of Commerce and Insurance
 Missouri Department of Conservation
 Missouri Department of Transportation
 Office of Administration
 Office of the Secretary of State
 Joint Committee on Administrative Rules
 Kansas City

L.R. No. 3566H.06C
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City of O'Fallon
City of Springfield
City of Claycomo
St. Charles County Pwsd
Wayne County Pwsd
Metropolitan St. Louis Sewer District
South River Drainage District
St. Louis-Jefferson Swmd
Hancock Street Light District



Julie Morff
Director
April 29, 2022



Ross Strope
Assistant Director
April 29, 2022