

COMMITTEE ON LEGISLATIVE RESEARCH
OVERSIGHT DIVISION

FISCAL NOTE

L.R. No.: 0896S.02C
 Bill No.: SCS for SB 161
 Subject: Taxation and Revenue - Sales and Use
 Type: Original
 Date: April 3, 2023

Bill Summary: This proposal exempts the sale of food from sales tax.

FISCAL SUMMARY

ESTIMATED NET EFFECT ON GENERAL REVENUE FUND			
FUND AFFECTED	FY 2024	FY 2025	FY 2026
General Revenue *	(\$9,316,518)	(\$12,422,024)	(\$12,422,024)
Total Estimated Net Effect on General Revenue	(\$9,316,518)	(\$12,422,024)	(\$12,422,024)

*The fiscal impact to the state's General Revenue fund results from the Department of Revenue no longer collecting any sales tax on food and retaining one percent before distribution.

ESTIMATED NET EFFECT ON OTHER STATE FUNDS			
FUND AFFECTED	FY 2024	FY 2025	FY 2026
School District Trust Fund (0688)	(\$115,680,842)	(\$154,241,122)	(\$154,241,122)
Parks and Soils State Sales Tax Fund(S) (0613 & 0614)	(\$11,568,084)	(\$15,424,112)	(\$15,424,112)
Conservation Commission Fund (0609)	(\$14,460,105)	(\$19,280,140)	(\$19,280,140)
Total Estimated Net Effect on <u>Other</u> State Funds	(\$141,709,031)	(\$188,945,374)	(\$188,945,374)

Numbers within parentheses: () indicate costs or losses.

ESTIMATED NET EFFECT ON FEDERAL FUNDS			
FUND AFFECTED	FY 2024	FY 2025	FY 2026
Total Estimated Net Effect on <u>All</u> Federal Funds	\$0	\$0	\$0

ESTIMATED NET EFFECT ON FULL TIME EQUIVALENT (FTE)			
FUND AFFECTED	FY 2024	FY 2025	FY 2026
Total Estimated Net Effect on FTE	0	0	0

- 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 2024	FY 2025	FY 2026
Local Government*	(\$987,455,100)	(\$1,316,606,800)	(\$1,316,606,800)

* **Oversight** notes the local fiscal impact is based on actual food tax collected; which may be inflated due to differing filing frequencies and local rate changes. Based on a blended sales tax rate for local political subdivisions of just over 4%, this estimate appears to be high.

FISCAL ANALYSIS

ASSUMPTION

Section 144.014 Food Sales Tax Exemption

Officials from the **Office of Administration - Budget and Planning (B&P)** note this proposal would exempt food from state and local sales tax beginning August 28, 2023. B&P notes that currently the state tax rate on non-prepared food is 1.225%; with 1% going to the School District Trust Fund, 0.125% going to Conservation, and 0.1% going to the Parks, Soil and Water Funds.

In FY22, there were \$15,424,112,225 in taxable food sales within Missouri. B&P estimates that approximately \$154,241,122 in food related sales taxes was distributed to the School District Trust Fund, \$19,280,140 to Conservation, and \$15,424,112 to the Parks, Soil and Water Funds.

Based on information from DOR, during FY22 \$1,316,606,800 in local sales tax money was collected from the retail sale of food. The following table shows the amounts collected by district type.

Table 1: Local Sales Tax
Collection on Food in
FY22

District	Sales Tax
City	\$676,144,528
City - TIF	\$14,806,188
County	\$503,601,896
District	\$122,054,187
Total	\$1,316,606,800

B&P notes that “districts” include CIDs, TIDs, ambulance districts, emergency service districts, fire protection districts, hospital districts, PIDs, library districts, jail districts, TDDs, and zoological districts.

B&P also notes that while this proposal would become effective August 28, 2023, sales tax distributions are one month behind collections. Therefore, B&P estimates that this provision may reduce TSR by \$151,025,549 in FY24. Once fully implemented, this proposal could reduce TSR by \$201,367,399 annually beginning in FY25. This proposal could also reduce local sales tax collections by \$1,316,606,800 once fully implemented.

B&P further notes that DOR is granted a 1% collection fee on sales taxes distributed to local jurisdictions, except CIDs, TDDs, and Port districts. Therefore, this proposal could reduce general revenue by \$9,316,518 in FY24. Once fully implemented, in FY25, this proposal may

reduce general revenue by \$12,422,024 annually. Table 2 shows the estimated impact by state and local fund.

Table 2: Estimated Grocery Tax Loss by Fund

	FY 2024	FY 2025+
<u>State Fund</u>		
GR (1% fee)	(\$9,316,518)	(\$12,422,024)
Education	(\$115,680,842)	(\$154,241,122)
Conservation	(\$14,460,105)	(\$19,280,140)
DNR	(\$11,568,084)	(\$15,424,112)
Total State Loss	(\$151,025,549)	(\$201,367,399)
<u>Local Funds</u>		
Cities	(\$507,108,396)	(\$676,144,528)
Cities - TIF	(\$11,104,641)	(\$14,806,188)
Counties	(\$377,701,422)	(\$503,601,896)
CIDs	(\$28,436,951)	(\$37,915,935)
TDDs	(\$27,349,920)	(\$36,466,560)
Ambulance		
Districts	(\$18,515,053)	(\$24,686,738)
Fire Districts	(\$7,199,826)	(\$9,599,769)
Emergency		
Districts	(\$4,503,971)	(\$6,005,294)
Other Districts	(\$5,534,919)	(\$7,379,892)
Total Local Loss	(\$987,455,100)	(\$1,316,606,800)

Officials from the **Department of Revenue (DOR)** note in Section 144.020 items that are sold are subject to state and local sales and use tax. The state sales tax is 4.225%. That sales tax is broken down as:

General Revenue	3.000%
School District	1.000%
Conservation Commission	0.125%
Parks, Soil & Water Funds	0.100%

In 1997, Section 144.014 was adopted and it exempted the collection of the 3% general revenue sales tax while leaving the remaining 1.225% sales tax in place. This proposal would exempt food from the remaining 1.225% state and the 4.07% local sales and use taxes.

This proposal would become effective on August 28, 2023. It should be noted that sales tax is distributed one month behind the collection. Therefore DOR will show the loss as 9 months due to the delayed distribution.

The Department notes that in FY 22 food reported \$15,424,112,225 in taxable sales. Therefore the School District Trust Fund received \$154,241,122, the Conservation Commission Fund received \$19,280,140 and the Parks and Soil & Water Funds received \$15,424,112 in state sales tax.

Additionally, numerous other local districts received sales tax from food. For fiscal note purposes, the Department uses a local sales tax rate of 4.07% based on the local weighted average to calculate sales tax.

The Department notes the estimated local sales tax collected by type of district.

District	Sales Tax
City	\$676,144,528
City - TIF	\$14,806,188
County	\$503,601,896
District	\$122,054,187
Total	\$1,316,606,799

The Department is allowed to retain a 1% collection fee off some of the local sales and use tax collected. Community Improvement Districts (CID), Transportation Development Districts (TDD) and Port Authority Districts do not have the 1% retained even those most other districts do. For those districts in which DOR collects the 1% fee the assumed loss to general revenue is \$9,316,518 in FY 2024 and \$12,422,024 in FY 2025 and beyond.

The expected loss to the state funds and locals is estimated:

State Fund	FY24	FY25+
	High	High
GR (1% fee)	(\$9,316,518)	(\$12,422,024)
School District	(\$115,680,842)	(\$154,241,122)
Conservation	(\$14,460,105)	(\$19,280,140)
DNR	(\$11,568,084)	(\$15,424,112)
Total State Loss	(\$151,025,549)	(\$201,367,399)
Local Funds		
City	(\$507,108,396)	(\$676,144,528)
City - TIF	(\$11,104,641)	(\$14,806,188)
County	(\$377,701,422)	(\$503,601,896)
CID	(\$28,436,951)	(\$37,915,935)
TDD	(\$27,349,920)	(\$36,466,560)
Ambulance	(\$18,515,054)	(\$24,686,738)
Fire	(\$7,199,827)	(\$9,599,769)
Emergency	(\$4,503,971)	(\$6,005,294)
Other	(\$5,534,919)	(\$7,379,892)
Total Local Loss	(\$987,455,100)	(\$1,316,606,800)

The Department will need to modify forms, website and computer programs. These changes are estimated at \$7,163.

Oversight assumes the **Department of Revenue** is provided with core funding to handle a certain amount of activity each year. Oversight assumes the DOR could absorb the computer and form upgrade costs related to this proposal. If multiple bills pass which require additional staffing and duties at substantial costs, DOR could request funding through the appropriation process. Officials from the DOR assume the proposal will have no material fiscal impact on their organization.

Oversight notes this proposal will become effective August 28, 2023. Oversight notes that sales tax is distributed one month behind the collection. Therefore, Oversight will show the fiscal impact for FY 2024 for nine months. Oversight notes the estimate for the impact to locals appears to be higher than expected.

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

Oversight notes the Parks and Soil, and Water Sales Tax Funds are derived from the one-tenth of one percent sales and use tax pursuant to Article IV Section 47 (a) thus DNR's sales taxes are constitutional mandates. Oversight notes the proposed exemption of "food" from sales tax would decrease the amount of sales tax revenue to the Parks and Soil, and Water Sales Tax Funds. Therefore, Oversight will note B&P and DOR's estimates for DNR's funds on the fiscal note.

Officials from the **Missouri Department of Conservation** assume this proposal would have an unknown fiscal impact. 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. The Department defers to the Department of Revenue as it is responsible for tax collection and 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 of the Missouri Constitution, thus MDC's sales taxes are constitutional mandates. Oversight notes the proposed exemption of "food" from sales tax would decrease the amount of sales tax revenue to the Conservation Sales Tax Fund. Therefore, Oversight will reflect the B&P's and DOR's fiscal impact estimates for MDC's funds.

Officials from the **Department of Social Services** and the **Department of Health and Senior Services** 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.

Officials from the **City of Kansas City** assume this proposal has a substantial negative impact of an indeterminate amount.

The **City of Springfield** anticipates a significant negative fiscal impact of an undetermined amount.

Officials from the **City of Columbia** assume Section 144.14 would entirely exempt the City of Columbia's portion of the 2% sales tax levied on any food items sold within the City's jurisdiction. This proposal would decrease sales tax revenue in FY 2024, FY 2025, and FY 2026 by \$6.109 million, \$6.231 million, and \$6.356 million, respectively, which would be around a 10% reduction of the total sales tax collection.

The estimation is based on the FY 2022 City of Columbia's total sales tax collections of around \$8 million from the major retail food stores and assuming that [82% of the sales are considered of food products](#), except for [Walmart and Target](#) which are 56% and 20%, respectively. It is further assumed that the total sales would [grow by 2% annually](#), which is consistent with the population growth of the City of Columbia.

Oversight notes the proposed exemption of “food” from local sales tax would decrease the amount of sales tax revenue received by local political subdivisions. Therefore, Oversight will note B&P and DOR’s estimates for all local political subdivisions on the fiscal note.

In response to a previous version (SB 161), officials from the **St Louis Budget Division** assume a this proposal would result in an estimated loss of \$17.1 million based on fiscal year ending June 30, 2022 sales tax collections.

Oversight notes officials from B&P and DOR both assume this proposal will have a negative fiscal impact on both state and local revenues. Oversight does not have any information to the contrary. Therefore, Oversight will reflect DOR’s and B&P’s estimated impact in the fiscal note.

Oversight only reflects the responses received from state agencies and political subdivisions; however, other cities and counties 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.

<u>FISCAL IMPACT – State Government</u>	FY 2024 (9 Mo.)	FY 2025	FY 2026
GENERAL REVENUE FUND			
<u>Revenue Reduction</u> - §144.014 – Reduction in DOR 1% Collection Fee	<u>(\$9,316,518)</u>	<u>(\$12,422,024)</u>	<u>(\$12,422,024)</u>
ESTIMATED NET EFFECT ON GENERAL REVENUE FUND	<u>(\$9,316,518)</u>	<u>(\$12,422,024)</u>	<u>(\$12,422,024)</u>
SCHOOL DISTRICT TRUST FUND			
<u>Revenue Reduction</u> - §144.014 – Sales Tax Exemption of Food	<u>(\$115,680,842)</u>	<u>(\$154,241,122)</u>	<u>(\$154,241,122)</u>
ESTIMATED NET EFFECT ON SCHOOL DISTRICT TRUST FUND	<u>(\$115,680,842)</u>	<u>(\$154,241,122)</u>	<u>(\$154,241,122)</u>
PARKS AND SOILS STATE SALES TAX FUNDS			

Revenue Reduction - §144.014 – Sales Tax Exemption of Food	<u>(\$11,568,084)</u>	<u>(\$15,424,112)</u>	<u>(\$15,424,112)</u>
ESTIMATED NET EFFECT ON PARKS AND SOILS STATE SALES TAX FUNDS	<u>(\$11,568,084)</u>	<u>(\$15,424,112)</u>	<u>(\$15,424,112)</u>
CONSERVATION COMMISSION FUND			
Revenue Reduction - §144.014 – Sales Tax Exemption of Food	<u>(\$14,460,105)</u>	<u>(\$19,280,140)</u>	<u>(\$19,280,140)</u>
ESTIMATED NET EFFECT ON CONSERVATION COMMISSION FUND	<u>(\$14,460,105)</u>	<u>(\$19,280,140)</u>	<u>(\$19,280,140)</u>

<u>FISCAL IMPACT – Local Government</u>	FY 2024 (9 Mo.)	FY 2025	FY 2026
LOCAL POLITICAL SUBDIVISIONS			
Revenue Reduction - §144.014 – Sales Tax Exemption of Food	<u>(\$987,455,100)</u>	<u>(\$1,316,606,800)</u>	<u>(\$1,316,606,800)</u>
ESTIMATED NET EFFECT ON THE LOCAL POLITICAL SUBDIVISIONS	<u>(\$987,455,100)</u>	<u>(\$1,316,606,800)</u>	<u>(\$1,316,606,800)</u>

FISCAL IMPACT – Small Business

Small businesses that buy or sell food could be impacted by this proposal.

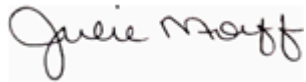
FISCAL DESCRIPTION

The proposed legislation exempts the sale of food from sales tax.

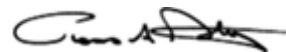
This legislation is not federally mandated, would not duplicate any other program and would not require additional capital improvements or rental space.

SOURCES OF INFORMATION

Department of Revenue
Office of Administration - Budget and Planning
Department of Natural Resources
Missouri Department of Conservation
City of Kansas City
City of Springfield
St Louis Budget Division
City of Kansas City
City of Springfield
City of Columbia



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