

COMMITTEE ON LEGISLATIVE RESEARCH
OVERSIGHT DIVISION

FISCAL NOTE

L.R. No.: 0705S.01I
 Bill No.: SB 120
 Subject: Department of Natural Resources; State Departments
 Type: Original
 Date: January 30, 2025

Bill Summary: This proposal modifies provisions relating to the expenditure of moneys in certain funds by the Department of Natural Resources.

FISCAL SUMMARY

ESTIMATED NET EFFECT ON GENERAL REVENUE FUND			
FUND AFFECTED	FY 2026	FY 2027	FY 2028
General Revenue	\$0 to (\$1,076,200)	(\$3,164,774 to \$4,240,974)	(\$3,164,774 to \$4,240,974)
Total Estimated Net Effect on General Revenue	\$0 to (\$1,076,200)	(\$3,164,774 to \$4,240,974)	(\$3,164,774 to \$4,240,974)

ESTIMATED NET EFFECT ON OTHER STATE FUNDS			
FUND AFFECTED	FY 2026	FY 2027	FY 2028
Air Pollution Fee Fund Subaccount (0594)	\$0	Could exceed \$3,164,774	Could exceed \$3,164,774
Missouri Air Emission Reduction Fund (0267)	\$0 to \$1,076,200	\$0 to \$1,076,200	\$0 to \$1,076,200
Total Estimated Net Effect on <u>Other</u> State Funds	\$0 to \$1,076,200	\$3,164,774 to Could exceed \$4,240,974	\$3,164,774 to Could exceed \$4,240,974

Numbers within parentheses: () indicate costs or losses.

ESTIMATED NET EFFECT ON FEDERAL FUNDS			
FUND AFFECTED	FY 2026	FY 2027	FY 2028
Total Estimated Net Effect on <u>All</u> Federal Funds	\$0	\$0	\$0

ESTIMATED NET EFFECT ON FULL TIME EQUIVALENT (FTE)			
FUND AFFECTED	FY 2026	FY 2027	FY 2028
Total Estimated Net Effect on FTE	0 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 2026	FY 2027	FY 2028
Local Government	\$0	\$0	\$0

FISCAL ANALYSIS

ASSUMPTION

§§640.220 & 643.350 – Department of Natural Resources Funds

Officials from the **Department of Natural Resources (DNR)** assume the bill text at §640.220.2 adds new language that would prevent unexpended funds from the Natural Resources Protection Fund to be reverted to the General Revenue Fund of the state beginning July 1, 2026. Currently, any unexpended funds in the subaccounts of the Natural Resources Protection Fund are reverted to General Revenue by the amount that exceed the preceding biennium's collections. This provision for reverting unexpended funds from the Natural Resources Protection Fund into the General Revenue Fund has not been triggered in the last ten (10) years for any of the air pollution control program subaccounts. However, it is unknown what impact the bill language may have in future years. In the event the bill language would prevent funds in the Air Pollution Control Program subaccounts of the Natural Resources Protection Fund from reverting to the General Revenue Fund in the future, it would not impact total state revenue, but it would result in a decrease in General Revenue and an increase in funding for the Air Pollution Control Program of the Natural Resources Protection Fund. Therefore, the fiscal impact to the department as a result of this provision in the bill is \$0 to unknown in the Air Pollution Permit Fee Fund Subaccount (Fund 0594).

The bill text at §640.220.3 adds new language that would redirect five percent of the sales and use tax derived from the electric power sector (NAICS code 221122) from the state's General Revenue Fund to the Air Pollution Permit Fees Subaccount of the Natural Resources Protection Fund. During the five-year period from 2020 - 2024, the average annual value equal to five percent of these sales and use taxes is \$3,164,774. While this language would not affect total state revenue, it is expected that each year starting in FY 2027, department funding for the Air Pollution Control Program would increase by this amount, and the state's General Revenue Fund would decrease by this amount as a result of the bill. This amount will vary each year and may increase over time depending on the actual sales and use tax collected from the electric power sector (NAICS code 221122).

The bill text at §643.350.4 removes existing statutory language. The removal of the language would prevent unexpended funds from the Missouri Air Emission Reduction Fund for the Gateway Vehicle Inspection Program (GVIP) to be reverted to the General Revenue Fund of the state beginning July 1, 2026. Currently, these unexpended funds are reverted to General Revenue if in the immediate previous fiscal year, the state's net General Revenue did not increase by two percent or more. Due to the condition in the current statute for reverting funds from GVIP to General Revenue (General Revenue does not increase by two percent or more from the previous year), the GVIP funds are not reverted to General Revenue every year. Since 2010, this condition has been met six times, where GVIP funds were reverted to General Revenue, most recently in 2020 and 2021. The average funding amount reverted from GVIP to General Revenue during these two years was \$1,076,200.

It is unknown in which future years that General Revenue will not increase by two percent or more, and thus trigger the GVIP funds to be reverted to General Revenue based on the current statutory text, but with this bill language, the funds would not be reverted to General Revenue in any year starting July 1, 2026, even if this condition is met. Therefore, the department is estimating a range in fiscal impact from \$0 - \$1,076,200 each year starting in fiscal year 2027 as a result of this provision in the bill. The fiscal impact range does not impact total state revenue, but any positive amount would increase department revenue and decrease General Revenue by the amount that is not reverted.

Summary of Fiscal Impact:

§640.220.2 - \$0 to unknown increase to Air Pollution Permit Fee Fund Subaccount (Fund 0594) and corresponding decrease of \$0 to unknown to General Revenue.

§640.220.3 - The annual impact is estimated at approximately \$3,164,774 decrease in General Revenue and a corresponding increase of approximately \$3,164,774 to the Air Pollution Permit Fee Fund Subaccount (Fund 0594). Amount is based on a 5-year average of the annual sales and use taxes collected from the power sector.

§643.350.4 – \$0 - \$1,076,200 each year starting in fiscal year 2027 to the Missouri Air Emission Reduction Fund (Fund 0267).

Oversight does not have information to the contrary and therefore, Oversight will reflect the estimates as provided by DNR.

Oversight notes there was a balance of \$5,001,539 in the Air Pollution Permit Fee Fund Subaccount (0594) as of December 31, 2024.

Oversight notes there was a balance of \$1,793,683 in the Missouri Air Emission Reduction Fund (0267) as of December 31, 2024.

Officials from the **Department of Revenue (DOR)** assume currently the Department of Natural Resources (DNR) receives funding that is placed in subaccounts. These subaccounts are set up to periodically revert any remaining revenue to General Revenue. Section 640.220.2 of this proposal would starting, January 1, 2026, allow the subaccounts to keep their revenue and not be subject to the sweep of funds. DOR defers to the DNR for the impact on the subaccounts.

Section 640.220.3 starting July 1, 2026, and each year thereafter would require that the Commissioner of the Office of Administration determine the amount of General Revenue received from the state sales and use tax for electric power distribution from companies registered under the NAIC code 221122. A portion of this funding is to be transferred to the air pollution permit fee subaccount annually.

The NAIC code 221122 are the companies that engage in either (1) operating electric power distribution systems or (2) operate as electric power brokers or agents that arrange the sale of electricity. DOR notes that as of August 28, 2024, electricity distribution is exempt from sales and use tax. However, this bill requires that companies registered with the NAIC code 221122 have their tax subject to this proposal.

Given that electricity distribution became exempt from sales tax in August 2024, DOR does not have enough information to determine how much of the funds listed under NAIC code are for electric distribution and how much are from other things these companies do. The NAIC code 221122 may have sales tax from other NAIC codes listed in it, as companies only use one code to register with DOR for sales tax. DOR cannot predict how many companies previously registered under NAIC code 221122 would change their registered NAIC code to account for other work they do. Nor can DOR account for the number of locations that the companies own that exclusively do electric power generation and can be removed from their locations list for sales tax reporting. Therefore, DOR is unable to predict how much may actually be transferred per this proposal.

DOR records show that several companies are registered using the NAIC code of 221122. In FY 2023 they submitted taxable sales equal to \$2,141,142,420 and in FY 2024 they submitted taxable sales equal to \$1,927,699,489. DOR assumes some of this funding may be available to transfer.

In an effort to more accurately reflect the estimated local impact, B&P and DOR have moved from a population weighted average local sales tax rate to a location weighted average local sales tax rate. This change was made to reflect where sales actually occur, rather than exclusively where people live. The rate for FY 2025 is 4.46%. Therefore, DOR assumes that NAIC code could have up to \$85,975,397 available for transfer.

DOR assumes this proposal would require DOR to still deposit the sales tax money they receive into General Revenue per current procedures and then the Commissioner of Administration would move it. Therefore, this will not fiscally impact DOR.

Officials from the **Office of Administration - Budget and Planning (B&P)** assume the following regarding this proposal:

Section 640.220 – Power Distribution Sales Tax Transfer

Beginning FY 2027, this section would require OA to determine how much General Revenue (GR) sales tax was collected in the prior calendar year from NAICS code 221122 (electric power distribution). The Treasurer shall then transfer 5% of the amount collected to the Air Pollution Permit Fees fund. Monies in the fund will no longer revert to GR at the end of the biennium and monies shall only be used to operate the air pollution control program.

B&P notes that in FY 2024, taxable sales attributable to NAICS 221122 were \$2,065,473,101. This would indicate that about \$61,964,193 ($\$2,065,473,101 \times 3\%$) in GR sales tax was collected. Therefore, B&P estimates that approximately \$3,098,210 ($\$61,964,193 \times 5\%$) could be transferred from GR to the Air Pollution Permit Fee fund annually, starting with FY 2027.

Section 643.350.4 - Inspection fee — contractor to remit portion, deposit in Missouri Air Emission Reduction Fund, use of, balance not to lapse — moneys may be deposited into General Revenue Fund, when — supplementation of funds.

DNR reported that six redirections of funds have occurred since FY 2010, averaging \$1,012,490. None have occurred since FY 2021; however, DNR reported that the Missouri Air Emission Reduction Fund (0267) would likely become insolvent in the fiscal year following another redirection at this level.

Officials from the **Office of the State Treasurer (STO)** assume the task of transferring General Revenue sales and use taxes should fall to the Department of Revenue.

Oversight will not show a fiscal impact for STO.

<u>FISCAL IMPACT – State Government</u>	FY 2026 (10 Mo.)	FY 2027	FY 2028
GENERAL REVENUE FUND			
<u>Loss</u> – unexpended balance in the subaccounts of the Natural Resources Protection Fund that exceeds the preceding biennium’s collection no longer reverting to General Revenue (§640.220.2)	\$0	\$0 to (Unknown)	\$0 to (Unknown)
<u>Loss</u> – redirect of 5% of the sales and use tax derived from the electric power sector (§640.220.3)	\$0	(\$3,164,774)	(\$3,164,774)
<u>Loss</u> - GVIP funds no longer being reverted to General Revenue (§640.350.4)	\$0 to (\$1,076,200)	\$0 to (\$1,076,200)	\$0 to (\$1,076,200)
ESTIMATED NET EFFECT ON THE GENERAL REVENUE FUND	\$0 to (\$1,076,200)	(\$3,164,774 to \$4,240,974)	(\$3,164,774 to \$4,240,974)

<u>FISCAL IMPACT – State Government</u>	FY 2026 (10 Mo.)	FY 2027	FY 2028
AIR POLLUTION PERMIT FEE FUND SUBACCOUNT (0594)			
<u>Revenue</u> – DNR - unexpended balance in the subaccounts of the Natural Resources Protection Fund that exceeds to preceding biennium’s collection no longer reverting to General Revenue	\$0	\$0 to Unknown	\$0 to Unknown
<u>Revenue</u> – DNR - redirect of 5% of the sales and use tax derived from the electric power sector (§640.220.3)	\$0	\$3,164,774	\$3,164,774
ESTIMATED NET EFFECT ON THE AIR POLLUTION PERMIT FEE FUND SUBACCOUNT (0594)	\$0	Could exceed \$3,164,774	Could exceed \$3,164,774
MISSOURI AIR EMISSION REDUCTION FUND (0267)			
<u>Revenue</u> – DNR – GVIP funds no longer being reverted to General Revenue (§640.350.4)	\$0 to \$1,076,200	\$0 to \$1,076,200	\$0 to \$1,076,200
ESTIMATED NET EFFECT ON THE MISSOURI AIR EMISSION REDUCTION FUND (0267)	\$0 to \$1,076,200	\$0 to \$1,076,200	\$0 to \$1,076,200

<u>FISCAL IMPACT – Local Government</u>	FY 2026 (10 Mo.)	FY 2027	FY 2028
	\$0	\$0	\$0

FISCAL IMPACT – Small Business

No direct fiscal impact to small businesses would be expected as a result of this proposal.

FISCAL DESCRIPTION

Under the act, before June 30, 2026, any unexpended balance in the subaccounts of the Natural Resources Protection Fund exceeding the preceding biennium's collections shall revert to the General Revenue Fund at the end of each biennium.

Beginning July 1, 2026, any unexpended balance in the subaccounts of the Fund that exceeds the preceding biennium's collections shall not revert to the General Revenue Fund.

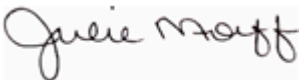
Beginning July 1, 2026, and annually on July 1 of each succeeding year, the Commissioner of Administration shall use taxable sales reports to estimate the amount of state General Revenue sales and use tax derived from electric power distribution in the immediately preceding calendar year and shall report such amount to the State Treasurer. The State Treasurer shall transfer certain amounts from the General Revenue sales as described in the act.

The act repeals certain provisions relating to the transfer of funds from the Missouri Air Emission Reduction Fund.

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 Natural Resources
Office of the State Treasurer
Office of Administration
Department of Revenue
Office of Administration - Budget and Planning



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January 30, 2025



Jessica Harris
Assistant Director
January 30, 2025