

COMMITTEE ON LEGISLATIVE RESEARCH  
OVERSIGHT DIVISION

**FISCAL NOTE**

L.R. No.: 0991H.02C  
 Bill No.: HCS for SB 226  
 Subject: Taxation and Revenue - General; Taxation and Revenue - Sales and Use;  
 Revenue, Department of; Business and Commerce  
 Type: Original  
 Date: April 26, 2021

Bill Summary: This proposal modifies provisions relating to sales tax.

**FISCAL SUMMARY**

<b>ESTIMATED NET EFFECT ON GENERAL REVENUE FUND</b>			
FUND AFFECTED	FY 2022	FY 2023	FY 2024
General Revenue*	(\$8,664,714) to (\$10,782,752)	(\$10,397,657) to (\$12,939,657)	\$0
<b>Total Estimated Net Effect on General Revenue</b>	<b>(\$8,491,420) to (\$10,567,097)</b>	<b>(\$10,397,657) to (\$12,939,657)</b>	<b>\$0</b>

<b>ESTIMATED NET EFFECT ON OTHER STATE FUNDS</b>			
FUND AFFECTED	FY 2022	FY 2023	FY 2024
School District Trust Fund (0688)*	(\$2,888,238) to (\$3,594,251)	(\$3,465,886) to (\$4,313,101)	\$0
Park, Soil, and Water Trust Fund (0613 and 0614)* **	\$0 or (\$288,824) to (\$359,425)	\$0 or (\$346,589) to (\$431,310)	\$0
Conservation Trust Fund (0609)* **	\$0 or (\$361,030) to (\$449,281)	\$0 or (\$433,236) to (\$539,138)	\$0
<b>*Total Estimated Net Effect on <u>Other</u> State Funds</b>	<b>(\$2,888,238) to (\$4,402,957)</b>	<b>(\$3,465,886) to (\$5,283,549)</b>	<b>\$0</b>

Numbers within parentheses: () indicate costs or losses.

\*Oversight notes the estimates provided are based on 2019 (pre-COVID) sales. Therefore, the actual fiscal impact for §144.142 may vary substantially.

Also, \*\*Oversight is unsure if “state sales or use tax” as described in §144.142.1 would include Conservation and DNR sales tax amounts. Therefore, Oversight has ranged the impact to those two funds as “\$0 or..”

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

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

- 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.

<b>ESTIMATED NET EFFECT ON LOCAL FUNDS</b>			
<b>FUND AFFECTED</b>	<b>FY 2022</b>	<b>FY 2023</b>	<b>FY 2024</b>
<b>Local Government</b>	<b>\$0</b>	<b>\$0</b>	<b>\$0</b>

## FISCAL ANALYSIS

### ASSUMPTION

#### **Section 144.080**

In response to the previous version of this proposal, officials **Department of Revenue (DOR)** assumed these provisions of the proposal would have no direct impact on general and total state revenues.

Officials from the **Office of Administration – Budget & Planning (B&P)** assume these provisions of the proposal will have a minimal cash flow and TSR impact in the first two fiscal years. This proposal will not impact TSR beyond these two fiscal years.

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

This proposal would change the filing thresholds for sales tax. The following table shows the current DOR regulation versus this proposal.

Filing Frequency	Current Regulation	Proposal
Monthly	Collections $\geq$ \$500 per month	Collections $>$ \$500 per month
Quarterly	Collections $<$ \$500 per month Collections $\geq$ \$100 in a quarter	Collections $<$ \$500 per month Collections $\geq$ \$200 in a quarter
Annual	Collections $<$ \$100 in a quarter	Collections $<$ \$200 in a quarter

This proposal would allow filers who collect between \$100 and \$200 in a calendar quarter to file on an annual basis rather than the quarterly basis that is currently required by DOR regulation.

B&P is unable to determine how many sales tax filers would be impacted by this proposal; however, B&P notes that quarterly sales tax collections are approximately 14% of total sales tax collections. However, B&P is unable to determine of that 14%, how many businesses have collections between \$100 and \$200 in a quarter.

**Oversight** notes B&P assumes this proposed legislation will have a minimal negative fiscal impact in Fiscal Year 2022 and a minimal positive fiscal impact in Fiscal Year 2023. Oversight notes the fiscal impacts are a result of the change in when the State will recognize the sales tax revenues from sales tax remittances from entities that have quarterly collections of \$100 to \$200.

Officials from **Department of Natural Resources (DNR)** assume Section 144.080 of the proposed legislation changes the aggregate amount levied and imposed upon a seller by section 144.020 in excess of five hundred dollars from two hundred fifty dollars on a monthly basis; adds a new section to state the aggregate amount levied and imposed upon a seller by section 144.020 is less than five hundred dollars per calendar month, but is at least two hundred dollars

in a calendar quarter during the previous calendar year, shall file a return and pay such aggregate amount on a quarterly basis; and changes where the aggregate amount levied and imposed upon a seller by section 144.020 is less than two hundred dollars per calendar quarter during the previous calendar year, the seller shall file a return and pay such aggregate amount on an annual basis.

The Department's Parks and Soils Sales Tax Funds are derived from one-tenth of one percent sales and use tax pursuant to Article IV Section 47(a) of the Missouri Constitution.

Officials from the **Missouri Department of Conservation (MDC)** assume 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 change in timing of the sales and use tax collected could have an effect on the Conservation Sales Tax funds.

**Oversight** notes this proposed legislation does not change the aggregate amount of sales tax remitted to the State. Rather, this proposed legislation changes when businesses will remit the sales tax. While this could impact when the money is received (timing difference/cash flow), it will not impact total amount received. Also, as noted above, this proposal would not have a material impact on the timing of sales tax remittances. Therefore, for purposes of this fiscal note, Oversight will not show a material direct fiscal impact to the DNR and MDC as a result of this proposed legislation.

### **Section 144.142:**

Officials from the **Office of Administration – Budget & Planning (B&P)** assume this part of the proposal would allow business to retain 100% of the sales and use taxes collected from August 28, 2021 through June 30, 2023 for tickets and concessions at movie theaters and music venues, or venues operating as music venues. This proposal would only allow for the retention of state sales and use taxes, not local taxes.

B&P notes that this would apply to movie theaters, concert venues, and performing arts theaters. Table 1 shows the estimated qualifying industries by NAICS code.

Based on 2019 taxable sales (Table 1.), B&P estimates that this provision could exempt sales tax on \$346,588,578 to \$431,310,089 from the remittance of sales taxes. Therefore, B&P estimates that this provision could reduce TSR by \$12,202,806 to \$15,185,709 and GR by \$8,664,714 to \$10,782,752 in FY22. This proposal may reduce TSR by \$14,643,368 to \$18,222,852 and GR by \$10,397,657 to \$12,939,303 in FY23. This proposal will not impact TSR beyond FY23. Table 2 shows the estimated impact by fund.

**Table 1: Qualifying Businesses**

Industry	NAICS	2019 Taxable Sales - Low Estimate	2019 Taxable Sales - High Estimate
Movie Theater	512131	\$222,876,355	\$222,876,355
Theater Companies	711110	n/a	\$68,391,030
Drive-in Theater	512132	\$0	\$0
Concert Venues	711310	\$123,712,223	\$123,712,223
DANCE COMPANIES*	711120	n/a	\$0
MUSICAL GROUPS AND ARTISTS*	711130	n/a	\$13,674,390
OTHER PERFORMING ARTS COMPANIES*	711190	n/a	\$2,656,092
<b>Total Taxable Sales</b>		<b>\$346,588,578</b>	<b>\$431,310,089</b>

\*Not all sales would become exempt. Only sales where the companies and artists also operated the concert/theater venue would qualify.

**Table 2: Sales Tax Retention by Fiscal Year**

Fund	2022		2023	
	Low Estimate	High Estimate	Low Estimate	High Estimate
GR	(\$8,664,714)	(\$10,782,752)	(\$10,397,657)	(\$12,939,303)
Education	(\$2,888,238)	(\$3,594,251)	(\$3,465,886)	(\$4,313,101)
Conservation	(\$361,030)	(\$449,281)	(\$433,236)	(\$539,138)
DNR	(\$288,824)	(\$359,425)	(\$346,589)	(\$431,310)
TSR	(\$12,202,806)	(\$15,185,709)	(\$14,643,368)	(\$18,222,852)

Officials from the **Department of Revenue (DOR)** assume:

Due to the complex nature of this proposal, the Department's legal counsel is still reviewing this proposal and will update this fiscal note if needed.

Beginning on August 28, 2021 (FY 2022) and ending June 30, 2023 (FY 2023), this proposal would allow certain taxpayers currently required to remit state and local sales tax to retain those state sales tax amounts. The local sales tax would still need to be remitted to the state for distribution to the local political subdivisions.

Specifically, this proposal allows for the retention of all sales or use tax otherwise owed by any retailer in this state that sells tickets for admission for the viewing of movies, films, and live concerts.

This provision would allow the retention of the state sales tax. The Current GR Sales and Use tax rate is 4.225%

General Revenue is 3%  
School District Trust Fund is 1% (Section 144.701)  
Conservation Commission Fund is .125% (Article IV, Section 43(a))  
Parks, Soil & Water Funds .1% (Article IV, Section 47(a))

The Department notes the constitutionally created Conservation Commission Fund and the Parks, Soil & Water Fund must be collected and distributed to them. Therefore the Department will show these organizations remitting to these funds.

In order to calculate the impact of this proposal, the Department looked at the NAICS codes that are associated with these types of businesses. These include movie theaters (512131), drive-in theaters (512132) and performing arts facilities (711310). This version of the proposal clearly designates live theater performances and live concerts as receiving this benefit. These were already included in the estimates calculated. In tax year 2019, these NAICS codes had taxable sales in Missouri of \$415,087,944.04. Therefore, this would result in a loss to the state of the following amounts.

	FY 2022	FY 2023
General Revenue	(\$10,377,198)	(\$12,452,638)
School	(\$3,459,066)	(\$4,150,879)

The Department notes this exemption ends on June 30, 2023.

It should be noted that this tax is still required to be paid by the consumer and collected by the seller. However, the seller gets to retain it and the consumers do not benefit.

It should be noted that this tax is still required to be paid by the consumer and collected by the seller. However, the seller gets to retain it and the consumers do not benefit.

**Oversight** notes that DOR does anticipate administrative impact resulting in one time form and system update to comply with the statute; however DOR did not provide an estimate.

**Oversight** assumes a minimal amount of administrative costs for DOR; therefore, Oversight will reflect a zero additional cost for administrative expenses on the fiscal note.

**Oversight** notes the DOR and B&P both provided estimated impacts for certain taxpayers currently required to remit state sales and use taxes from venue and concession sales. This proposal allows for the taxpayer retain the tax amounts, even though the seller is required to collect the amount of tax due.

**Oversight** notes that Section 144.142. 2 specifically denotes that “the provision of this section shall not be construed to affect the collection, remittance, or distribution of any local sales tax. Therefore, Oversight assume the monies would still follow the usual statutory and constitutional distribution to general revenue fund, natural resource fund, conservation fund, and school district fund; however, it will not affect local political subdivisions as presented in table below:

**Oversight** notes that it follows B&P’s estimated range from low to high sales tax loss from venues that are now able to retain sales tax collected. The low estimate represents sellers who provide concession sales, but not ticket sales (due to the tickets being sold by third party sellers). As an example, Fox Theater would be able to keep all sales tax collected for sales of tickets sold by Fox Theater (the venue); however, Fox Theater would not retain the sales taxes for tickets sold by third party companies (i.e. Ticket Master, etc.). Conversely, the high range represents the assumption that venues would provide 100% of the concession and tickets sales at the place of the venue rather than third party vendors. Because B&P and DOR do not have granular sales tax information of all venue places in Missouri and its sales tax collection mechanisms; therefore, Oversight will use the ranged estimates provided by B&P for fiscal note purposes.

**Oversight** will note two possible results of this proposals on the fiscal note. One, where business is able to retain MDC and DNR funds. Second, where business is not able to retain monies which are usually distributed into the MDC and DNR funds (constitutionally mandated funds under article IV), and the only funds the business is able to keep is those usually distributed to the GR and School District Trust Fund.

Officials from the **Department of Natural Resources (DNR)** assume:

The Department’s Parks and Soils Sales Tax Funds are derived from one-tenth of one percent sales and use tax pursuant to Article IV Section 47(a) of the Missouri Constitution.

Allowing retention of sales tax by the seller of certain state sales taxes due on transactions relating to entertainment as defined in this proposal, could decrease the amount of funding available in the Parks and Soils Sales Tax Funds for long term operation of Missouri’s state parks and historic sites and assistance to agricultural landowners through volunteer programs.

The Department’s Parks and Soils Sales Tax Funds are derived from one-tenth of one percent sales and use tax pursuant to Article IV Section 47(a) of the Missouri Constitution. Therefore, the sales tax exemption could result in an unknown loss to the Parks and Soils Sales Tax Funds.

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

**Oversight** notes the officials from DNR defer to the DOR for the potential fiscal impact of this proposal.

Officials from the **Missouri Department of Conservation (MDC)** assume the proposal will have an Unknown negative 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.

**Oversight** has no way to test the estimates provided by B&P and DOR. Given the variance in the scope of this exemption, depending on venue ability in sales, Oversight will use the Oversight's estimated impact for MDC and DNR organization.

Officials from the **Missouri Department of Transportation, City of Claycomo, City of Corder, City of O'Fallon, and City of Springfield** each assume the proposal would not have a direct fiscal impact on their respective organization.

**Oversight** only reflects the responses that we have received from state agencies and political subdivisions; however, other cities, counties, schools and colleges were requested to respond to this proposed legislation but did not. A general listing of political subdivisions included in our database is available upon request.



<u>FISCAL IMPACT – State Government</u>	FY 2022 (10 Mo.)	FY 2023	FY 2024
<b>GENERAL REVENUE FUND</b>			
<u>Forgone Revenue – 144.140 2. – sales tax revenue collection from entertainment venues p. 7</u>	(\$8,664,714) to <u>(\$10,782,752)</u>	(\$10,397,657) to <u>(\$12,939,303)</u>	<u>\$0</u>
<b>NET ESTIMATED EFFECT ON GENERAL REVENUE FUND</b>	<b>(\$8,664,714) to <u>(\$10,782,752)</u></b>	<b>(\$10,397,657) to <u>(\$12,939,303)</u></b>	<b><u>\$0</u></b>
<u>FISCAL IMPACT – State Government (continued)</u>	FY 2022 (10 Mo.)	FY 2023	FY 2024
<b>SCHOOL DISTRICT TRUST FUND (0688)</b>			
<u>Forgone Revenue – 144.140 2. – sales tax revenue collection from entertainment venues p. 7</u>	(\$2,888,238) to <u>(\$3,594,251)</u>	(\$3,465,886) to <u>(\$4,313,101)</u>	<u>\$0</u>
<b>NET ESTIMATED EFFECT ON SCHOOL DISTRICT TRUST FUND</b>	<b>(\$2,888,238) to <u>(\$3,594,251)</u></b>	<b>(\$3,465,886) to <u>(\$4,313,101)</u></b>	<b><u>\$0</u></b>

<b>PARK, SOIL, WATER TRUST FUNDS (0613, 0614)</b>			
<u>Forgone Revenue</u> – 144.140 2. – sales tax revenue collection from entertainment venues p. 7	\$0 or (\$288,824) to <u>(\$359,425)</u>	\$0 or (\$346,589) to <u>(\$431,310)</u>	<u>\$0</u>
<b>NET ESTIMATED EFFECT ON PARK, SOIL, WATER TRUST FUND</b>	<b>\$0 or (\$288,824) to <u>(\$359,425)</u></b>	<b>\$0 or (\$346,589) to <u>(\$431,310)</u></b>	<b><u>\$0</u></b>
<u>FISCAL IMPACT</u> – State Government (continued)	FY 2022 (10 Mo.)	FY 2023	FY 2024
<b>CONSERVATION COMMISSION TRUST FUND (0609)</b>			
<u>Forgone Revenue</u> – 144.140 2. – sales tax revenue collection from entertainment venues p. 7	\$0 or (\$361,030) to <u>(\$449,281)</u>	\$0 or (\$433,236) to <u>(\$539,138)</u>	<u>\$0</u>
<b>NET ESTIMATED EFFECT ON CONSERVATION</b>	<b>\$0 or (\$361,030) to <u>(\$449,281)</u></b>	<b>\$0 or (\$433,236) to <u>(\$539,138)</u></b>	<b><u>\$0</u></b>

<b>COMMISSION TRUST FUND</b>			

<u>FISCAL IMPACT – Local Government</u>	FY 2022 (10 Mo.)	FY 2023	FY 2024
	<b><u>\$0</u></b>	<b><u>\$0</u></b>	<b><u>\$0</u></b>

FISCAL IMPACT – Small Business

Some small businesses would be expected to comply with the new remittance schedule as a result of this proposal. Also, theaters and entertainment venues will get to retain the state sales taxes.

FISCAL DESCRIPTION

Current law provides statutory sales tax collection thresholds to determine the frequency at which sellers shall file and remit sales taxes collected, with such periods being quarter-monthly, monthly, quarterly, and annually. Current law also allows the Department of Revenue to increase, but not decrease, such thresholds through rule. This act modifies the statutory thresholds for the monthly, quarterly, and annual filing periods.

For monthly filing, the threshold is changed from at least \$250 in the first or second month of a calendar quarter to at least \$500 per calendar month for the prior year.

For quarterly filing, the threshold is changed from at least \$45 in a calendar quarter, but not subject to monthly filing to less than \$500 per calendar month, but at least \$200 in a calendar quarter.

For annual filing, the threshold is changed from less than \$45 per calendar quarter to less than \$200 per calendar quarter.

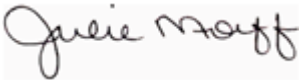
Additionally, this bill provides that, from August 28, 2021 to June 30, 2023, a retailer may retain the full amount of state sales or use tax on any sales of admission tickets to movies, films, concerts or other musical performances, and the concessions sold at those events.

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

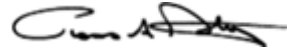
SOURCES OF INFORMATION

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Department of Revenue  
Office of Administration –Budget & Planning  
Missouri Department of Conservation  
Department of Natural Resource



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