

COMMITTEE ON LEGISLATIVE RESEARCH
OVERSIGHT DIVISION

FISCAL NOTE

L.R. No.: 1250S.01I
Bill No.: SB 287
Subject: Taxation and Revenue - General; Taxation and Revenue - Sales and Use; Cities,
Towns and Villages; Counties
Type: Original
Date: February 9, 2021

Bill Summary: This proposal modifies provisions relating to use taxes.

FISCAL SUMMARY

ESTIMATED NET EFFECT ON GENERAL REVENUE FUND				
FUND AFFECTED	FY 2022	FY 2023	FY 2024	Fully Implemented (FY 2025)
General Revenue	(\$8,618,100)	(\$2,630,199)	(\$2,652,355)	(\$2,674,739)
Total Estimated Net Effect on General Revenue	(\$8,618,100)	(\$2,630,199)	(\$2,652,355)	(\$2,674,739)

Numbers within parentheses: () indicate costs or losses.

ESTIMATED NET EFFECT ON OTHER STATE FUNDS				
FUND AFFECTED	FY 2022	FY 2023	FY 2024	Fully Implemented (FY 2025)
Cash Operating Expense Fund	\$0	Less than \$39,668,060 to \$60,603,981	Less than \$80,768,943 to \$123,396,997	Less than \$83,270,389 to \$127,218,651
School District Trust Fund (0688)	\$0	Less than \$13,222,687 to \$20,201,327	Less than \$26,922,981 to \$41,132,333	Less than \$27,756,797 to \$42,406,217
Conservation Commission Fund (0609)	\$0	Less than \$1,652,836 to \$2,525,166	Less than \$3,365,373 to \$5,141,542	Less than \$3,469,600 to \$5,300,777
Parks and Soils State Sales Tax Fund(s) (0613 & 0614)	\$0	Less than \$1,322,269 to \$2,020,133	Less than \$2,692,298 to \$4,113,233	Less than \$2,775,680 to \$4,240,622
Total Estimated Net Effect on <u>Other</u> State Funds	\$0	Less than \$55,865,852 to \$85,350,607	Less than \$113,749,595 to \$173,784,105	Less than \$117,272,466 to \$179,166,267

ESTIMATED NET EFFECT ON FEDERAL FUNDS				
FUND AFFECTED	FY 2022	FY 2023	FY 2024	Fully Implemented (FY 2025)
Total Estimated Net Effect on <u>All</u> Federal Funds	\$0	\$0	\$0	\$0

ESTIMATED NET EFFECT ON FULL TIME EQUIVALENT (FTE)				
FUND AFFECTED	FY 2022	FY 2023	FY 2024	Fully Implemented (FY 2025)
General Revenue – DOR	37 FTE	37 FTE	37 FTE	37 FTE
Total Estimated Net Effect on FTE	37 FTE	37 FTE	37 FTE	37 FTE

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

ESTIMATED NET EFFECT ON LOCAL FUNDS				
FUND AFFECTED	FY 2022	FY 2023	FY 2024	Fully Implemented (FY 2025)
Local Political Subdivisions	\$0	Less than \$20,528,688 to \$31,363,272	Less than \$41,798,878 to \$63,859,396	Less than \$43,093,405 to \$65,837,146
Local Government	\$0	Less than \$20,528,688 to \$31,363,272	Less than \$41,798,878 to \$63,859,396	Less than \$43,093,405 to \$65,837,146

FISCAL ANALYSIS

ASSUMPTION

Section 32.310 – DOR Sales and Use Tax Map

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

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

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

Oversight notes Section 144.637.5 of this proposed legislation states no vendor shall be liable for reliance upon erroneous data provided by the Director of Revenue on tax rates, boundaries, or taxing jurisdiction assignments.

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

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

Officials from the **Missouri Department of Revenue (DOR)** state this section adds “use tax” to the DOR’s mapping feature which currently states the sales tax rate of a given political subdivision. This section further requires all political subdivisions to submit their use tax information to DOR by January 1, 2022 and for DOR to have the updated website working by

August 28, 2022. DOR assumes this will not have a fiscal impact as use tax is already included in the map where it has been provided by the political subdivision.

Section 33.575 – Cash Operating Expense Fund

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

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

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

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

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

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

At the end of any fiscal year, should the Cash Operating Expense Fund exceed two and one-half percent (2.5%) of the net general revenue collections for the previous fiscal year, the excess balance shall be transferred, subject to appropriation, as follows: fifty percent (50%) shall be transferred to the State Road Fund for the purpose of funding the Governor’s transportation cost-sharing program, and fifty percent (50%) shall be transferred to the Debt Retirement Fund for purposes of retiring state debt. This section creates the Debt Retirement Fund.

“Net General Revenue” is defined as all revenue deposited into the General Revenue Fund less refunds and revenues originally deposited into the General Revenue fund but designated by law for a specific distribution or transfer to another state fund.

Officials from **B&P** state this section creates the “Cash Operating Expense Fund” (COEF). The State Treasurer will be the custodian of the fund, and funds remaining at the biennium shall not revert to the credit of the general revenue fund. Section B contains an emergency clause for this provision. Therefore, for the purpose of this fiscal note, B&P will assume this section would become effective July 1, 2021.

Deposits into the fund will come from:

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

B&P notes that Section 144.701 contains the 1% sales tax dedicated to the School District Trust Fund. Article IV, Section 43(a) contains the 0.125% sales tax dedicated to Conservation. Article IV, Section 47(a) contains the 0.1% sales tax dedicated to the Parks, Soil and Water funds. Therefore, this proposal would only divert the 3% sales taxes that would have otherwise been deposited into GR.

In any fiscal year where actual revenues are less than the revenue estimates used in the budgeting process, or when there is a budget need due to a natural disaster, the Governor may, subject to appropriation, transfer from the COEF to GR.

If, at the end of any fiscal year, the balance in the fund exceeds two and one-half percent (2.5%) of the net general revenue for the previous fiscal year, the excess amount shall be transferred, subject to appropriation, as follows:

- Fifty percent (50%) shall be transferred to the state road fund to cover transportation cost-share programs; and
- Fifty percent (50%) shall be transferred to the newly created debt retirement fund.

This section creates the “Debt Retirement Fund” where monies in the fund shall be used for the retirement of debt related to bonds issued on or behalf of the state and for which the Office of Administration is required to file annual continuing disclosure reports.

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

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

Additionally, this creates the Debt Retirement Fund which will receive money from the Cash Operating Expense Fund. DOR assumes no additional fiscal impact from the creation of another fund.

Officials from the **Missouri Department of Transportation (MoDOT)** notes Article IV, Section 30(b) and (d) of the Missouri Constitution would require the moneys deposited into the State Road Fund to be spend on projects of the State Highway System.

Section 144.140 – Monetary Allowance for Certified Service Providers

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

Officials from **B&P** state this section would grant a monetary allowance to Certified Service Providers (CSPs).

Sections 144.605 & 144.752 – Online Use Tax

Oversight notes Section 144.605 adds the definition of “Certified Service Provider” for purposes of Missouri’s use tax laws.

Oversight notes Section 144.605 changes the definition of “engages in business activities within this state.” The definition now reads that engaging in business activities within this state include selling tangible personal property for delivery into this state provided the seller’s gross receipts from such delivery into this state exceed one hundred thousand dollars (\$100,000) in the previous or current calendar year.

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

Officials from **B&P** state this section requires retailers that do not have a physical presence within Missouri to collect and remit use tax on purchases delivered into Missouri beginning January 1, 2023. Only retailers with gross revenue greater than \$100,000 from deliveries into Missouri would be required to collect Missouri use tax.

B&P notes that this proposal would delete the existing language in **Section 144.605 Paragraphs (e) and (f)**, replacing that language with the online use tax vendor language.

Paragraph (e) contains a \$10,000 threshold for certain vendor activity. Based on information provided by the Missouri Department of Revenue, no sales tax money has been collected under the current provision. Therefore, B&P estimates that this provision will not impact TSR or the calculation under Article X, Section 18(e).

B&P states **Section 144.752** defines market place facilitators and states that a facilitator counts as one seller. Starting January 1, 2023 market place facilitators must register with the Missouri Department of Revenue and begin remitting use tax on behalf of individual marketplace sellers. B&P notes that this provision would apply to retailers such as Amazon's market place, ETSY, EBAY, etc.

Subsection 144.752.4 grants eligible marketplace facilitators a two percent (2%) timely filing discount. This section explicitly excludes internet advertisers, travel agencies, and third party financial institutions from the definition of marketplace facilitators. This exclusion will not impact the estimates provided in this analysis.

B&P and DOR's Online Use Tax Summary

OA-Budget and Planning (B&P) and the Department of Revenue (DOR) worked together to estimate the potential revenue gains from the U.S. Supreme Court *Wayfair* decision, which overturned the *Quill* decision and held that states may charge a tax on purchases made from out-of-state sellers, even if the seller doesn't have a physical presence in the taxing state. In November 2017, the U.S. Government and Accountability Office (GAO) released state-by-state estimates for potential revenue gains if the 1992 *Quill* decision were overturned during the *Wayfair* case. In the report, the GAO estimated that Missouri could gain \$180 million to \$275 million in state and local sales taxes during 2017 from e-commerce sales tax revenue. B&P notes that there were three (3) limitations to the study which B&P and DOR attempted to address by further refining the GAO estimates.

At the time of the study, the GAO did not remove the sales of digital downloads from the state and local estimates due to data limitations and different tax treatments across states. B&P notes that digital downloads are currently exempt from sales tax under Missouri law. B&P and DOR were able to find limited studies on the e-commerce market share for such sales. The studies indicated that digital downloads account for approximately 14.1% of all e-commerce sales. B&P and DOR then reduced the original GAO estimates by that 14.1%.

The GAO provided a point-in-time estimate for potential state and local revenue gains during 2017. This estimate, though, does not account for anticipated growth in e-commerce sales. To address this, B&P and DOR adjusted the GAO estimate to incorporate e-commerce sales growth for tangible personal property from 2018 through 2022. Only growth for e-commerce sales of

tangible personal property were used, rather than growth in the full e-commerce market, in order to accurately reflect growth in the online sales tax base. B&P notes that using growth in the full e-commerce market would overestimate the sales tax base as services and digital download products are not currently taxable in Missouri.

At the time of the study, the GAO did not incorporate potential in-state sales or in-state transaction requirements that would limit the companies required to comply with e-commerce sales tax collections. Using data published by the U.S. Census Bureau and industry reports, B&P and DOR were able to estimate the percent of sales that would remain taxable if Missouri instituted an in-state sales threshold of \$100,000. If Missouri were to enact a \$100,000 in-state sales threshold, B&P and DOR estimate that approximately 86.7% of all e-commerce sales would remain taxable. B&P and DOR used this estimate to further adjust the GAO provided revenue estimate.

B&P and DOR were unable to estimate the impact from a potential in-state transaction requirement. B&P notes that the majority of states are currently enacting e-commerce sales tax requirements of \$100,000 in in-state sales or 200 in-state transactions.

B&P and DOR estimate that in Calendar Year 2023 Missouri could gain up to \$111.7 million to \$170.7 million in TSR. By Calendar Year 2025, B&P and DOR estimate that TSR could be increased by \$118.8 million to \$181.5 million. Table 1 shows the estimated impact by calendar year.

Table 1: Collections by Calendar Year

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

B&P and DOR estimate that in Fiscal Year 2023, TSR could increase by \$55.9 million to \$85.4 million. By Fiscal Year 2025, B&P and DOR estimate that TSR could increase by \$117.3 million to \$179.2 million. Table 2 shows the estimated impact by fiscal year.

Table 2: Collections by Fiscal Year

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

B&P notes that these estimates reflect the full potential revenue and do not include adjustments for implementation timing or business compliance. Therefore, the actual revenue collected in earlier years may be significantly lower than the estimated amount.

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

DOR assumes DOR would notify an estimated 200,000 sellers of their potential reporting requirements, estimated postage and printing costs for notifications to online sellers may be up to an estimated \$100,000.

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

DOR states DOR will need to increase the number of auditors; especially those in out-of-state offices, in order to address the potential of a greater non-compliant tax base. DOR will need to add twenty-five (25) Associate Auditors. DOR believes the need for twenty-five total Associate Auditors could increase over a period of time, as DOR generally performs three-year audits and there will be limited records to audit in the first several years following implementation of this proposed bill. DOR notes the Associate Auditors would be located as follows:

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

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

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

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

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

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

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

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

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

Officials from the **Missouri Department of Conservation (MDC)** assumes this section would have an unknown fiscal impact but greater than \$100,000.

MDC states the Conservation Sales Tax funds are derived from one-eighth of one percent sales and use tax pursuant to Article IV Section 43 (a) of the Missouri Constitution. Any change in sales and use tax collected would affect 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. MDC assumes the Missouri Department of Revenue would be better able to estimate the anticipated fiscal impact that would result from this proposal.

Officials from the **Missouri Department of Natural Resources (DNR)** state DNR'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. Any increase in sales tax collected could increase revenue to the Parks and Soils Sales Tax Funds. The Department assumes any increase in revenue to the Parks and Soils Sales Tax fund would be used for the purposes established in Article IV Section 47(a) of the Missouri Constitution.

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

Officials from the **City of Kansas City (Kansas City)** anticipate a positive fiscal impact on Kansas City.

Officials from the **City of Springfield** anticipate a positive fiscal impact in an unknown amount from the ability to collect sales/use tax from out-of-state vendors.

For purposes of this fiscal note, Oversight will report the fiscal impact(s) of these section(s) as reported by B&P and DOR, including DOR's administrative cost(s).

Section 144.608 – DOR Consulting

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

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

Section 144.637 – DOR Tax Database

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

Officials from **DOR** state this section requires that the Director of Revenue provide and maintain a database that describes boundary changes for all taxing jurisdictions and the effective dates of such changes for the use of vendors collecting tax.

This section states that for the identification of counties and cities, codes corresponding to the rates shall be provided according to Federal Information Processing Standards. For the identification of all other jurisdictions, codes corresponding to the rates shall be in a format determined by the Director.

This section states that the electronic databases provided for in subsections 1, 2, 3, and 4 of this section shall be in downloadable format as determined by the director. The databases shall be provided at no cost to the user of the database, and no vendor shall be liable for reliance upon erroneous data provided by the director on tax rates, boundaries, or taxing jurisdiction assignments.

DOR anticipates that this section would require a totally new program that would require DOR to contract with a certified service provider. DOR believes the fiscal impact for this would be significantly greater than \$1 million. DOR has reached out to multiple CSP providers, though we have yet to get any definitive fiscal response. DOR will continue to research and update when needed.

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

Section 144.638 – DOR Taxability Matrix

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

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

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

Section 144.710 – Monetary Allowance for Use Tax Remittance

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

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

Section 144.757 – Local Use Tax

Officials from **B&P** state this section would alter the ballot language for certain local sales and use taxes which must be voter approved. The language removes the \$2,000 minimum threshold required before a purchaser must file a use tax return. B&P notes that, currently, Missouri residents are not required to file a use tax return until total purchases within a calendar year reaches \$2,000. However, once that minimum threshold has been reached, taxpayers are already required to pay use tax on the full amount of purchases, not just the amount over \$2,000. While use tax is legally due on all out-of-state purchases, B&P notes that it is not cost effective to audit taxpayers whose online purchases are lower than \$2,000. Therefore, this section will not impact TSR or the calculation under Article X, Section 18(e).

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

Section 144.759 - Distribution of Local Funds

Officials from **B&P** state this section would change how use taxes are distributed within St. Louis County. This section will not impact TSR or the calculation under Article X, Section 18(e).

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

Legislation as a Whole –

Officials from the **City of Hale** assume this proposed legislation will have an impact on the City of Hale.

Officials from the **Office of the Secretary of State (SOS)** note many bills considered by the General Assembly include provisions allowing or requiring agencies to submit rules and regulations to implement the act. SOS is provided with core funding to handle a certain amount of normal activity resulting from each year's legislative session. The fiscal impact for this fiscal note to SOS for administrative rules is less than \$5,000. SOS recognizes that this is a small amount and does not expect that additional funding would be required to meet these costs. However, SOS also recognizes that many such bills may be passed by the General Assembly in a given year and that collectively the costs may be in excess of what SOS can sustain with SOS's core budget. Therefore, SOS reserves the right to request funding for the cost of supporting administrative rules requirements should the need arise based on a review of the finally approved bills signed by the governor.

Oversight assumes the SOS could absorb the costs of printing and distributing regulations related to this proposed legislation. If multiple bills pass which require the printing and distribution of regulations at substantial costs, the SOS could request funding through the appropriations process.

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

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

Officials from the **Missouri State Treasurer’s Office**, the **City of Ballwin**, the **City of Corder**, the **City of Hughesville**, the **Kansas City Board of Election Commissioners**, the **Platte County Election Authority**, the **St. Louis County Election Authority**, and the **High Point R-III School District** do not anticipate this proposed legislation will have a fiscal impact on their organizations. Oversight does not have any information to the contrary. Therefore, for purposes of this fiscal note, Oversight will not report a fiscal impact for these organizations.

<u>FISCAL IMPACT</u> – State Government	FY 2022 (10 Mo.)	FY 2023	FY 2024	Fully Implemented (FY 2025)
GENERAL REVENUE FUND				
<u>Cost – DOR – Section(s) 144.605, 144.752, 144.637 & 144.638</u>				
Personnel Services	(\$1,338,794)	(\$1,622,619)	(\$1,638,845)	(\$1,655,233)
Fringe Benefits	(\$819,993)	(\$989,414)	(\$994,890)	(\$1,000,421)
Equipment & Expense	(\$6,459,313)	(\$18,166)	(\$18,620)	(\$19,085)
Total Cost	(\$8,618,100)	(\$2,630,199)	(\$2,652,355)	(\$2,674,739)
FTE Change – DOR	37 FTE	37 FTE	37 FTE	37 FTE
ESTIMATED NET EFFECT ON GENERAL REVENUE FUND	(\$8,618,100)	(\$2,630,199)	(\$2,652,355)	(\$2,674,739)

CASH OPERATING EXPENSE FUND				
<u>Revenue Gain – Section(s) 144.605 & 144.752 – Online Use Tax</u>	\$0	<u>Less than \$39,668,060 to \$60,603,981</u>	<u>Less than \$80,768,943 to \$123,396,997</u>	<u>Less than \$83,270,389 to \$127,218,651</u>
ESTIMATE NET EFFECT ON CASH OPERATING EXPENSE FUND	\$0	<u>Less than \$39,668,060 to \$60,603,981</u>	<u>Less than \$80,768,943 to \$123,396,997</u>	<u>Less than \$83,270,389 to \$127,218,651</u>

SCHOOL DISTRICT TRUST FUND (0688)				
<u>Revenue Gain – Section(s) 144.605 & 144.752 – Online Use Tax</u>	\$0	<u>Less than \$13,222,687 to \$20,201,327</u>	<u>Less than \$26,922,981 to \$41,132,333</u>	<u>Less than \$27,756,797 to \$42,406,217</u>
ESTIMATED NET EFFECT ON SCHOOL DISTRICT TRUST FUND	\$0	<u>Less than \$13,222,687 to \$20,201,327</u>	<u>Less than \$26,922,981 to \$41,132,333</u>	<u>Less than \$27,756,797 to \$42,406,217</u>

CONSERVATION COMMISSION FUND (0609)				
<u>Revenue Gain</u> – Section(s) 144.605 & 144.752 – Online Use Tax	\$0	<u>Less than</u> \$1,652,836 to \$2,525,166	<u>Less than</u> \$3,365,373 to \$5,141,542	<u>Less than</u> \$3,469,600 to \$5,300,777
ESTIMATED NET EFFECT ON CONSERVATION COMMISSION FUND	\$0	<u>Less than</u> <u>\$1,652,836 to</u> <u>\$2,525,166</u>	<u>Less than</u> <u>\$3,365,373 to</u> <u>\$5,141,542</u>	<u>Less than</u> <u>\$3,469,600 to</u> <u>\$5,300,777</u>

PARKS AND SOILS STATE SALES TAX FUND(S) (0613 & 0614)				
<u>Revenue Gain</u> – Section(s) 144.605 & 144.752 – Online Use Tax	\$0	<u>Less than</u> \$1,322,269 to \$2,020,133	<u>Less than</u> \$2,692,298 to \$4,113,233	<u>Less than</u> \$2,775,680 to \$4,240,622
ESTIMATED NET EFFECT ON PARKS AND SOILS STATE SALES TAX FUND(S)	\$0	<u>Less than</u> <u>\$1,322,269 to</u> <u>\$2,020,133</u>	<u>Less than</u> <u>\$2,692,298 to</u> <u>\$4,113,233</u>	<u>Less than</u> <u>\$2,775,680 to</u> <u>\$4,240,622</u>

<u>FISCAL</u> <u>IMPACT – Local</u> <u>Government</u>	FY 2022 (10 Mo.)	FY 2023	FY 2024	Fully Implemented (FY 2025)
LOCAL POLITICAL SUBDIVISIONS				
<u>Revenue Gain –</u> Section(s) 144.605 & 144.752 – Online Use Tax	\$0	<u>Less than</u> <u>\$20,528,688 to</u> <u>\$31,363,272</u>	<u>Less than</u> <u>\$41,798,878 to</u> <u>\$63,859,396</u>	<u>Less than</u> <u>\$43,093,405 to</u> <u>\$65,837,146</u>
ESTIMATED NET EFFECT ON LOCAL POLITICAL SUBDIVISIONS	\$0	<u>Less than</u> <u>\$20,528,688 to</u> <u>\$31,363,272</u>	<u>Less than</u> <u>\$41,798,878 to</u> <u>\$63,859,396</u>	<u>Less than</u> <u>\$43,093,405 to</u> <u>\$65,837,146</u>

FISCAL IMPACT – Small Business

The collection of use tax from out-of-state/online retailers and marketplace facilitators could even the playing field for local in-state small businesses. Out-of-state/online businesses and marketplace facilitators would be required to collect and remit the tax to the Missouri Department of Revenue; increasing their administrative costs.

FISCAL DESCRIPTION

USE TAX MAPPING

Current law requires the Department of Revenue to create and maintain a mapping feature on its website that displays various sales tax information. This act requires such mapping feature to include use tax information. Political subdivisions collecting a use tax shall send such data to the Department of Revenue by January 1, 2022, and the Department shall implement the mapping feature using the use tax data by August 28, 2022.

If the boundaries of a political subdivision in which a sales or use tax has been imposed shall thereafter be changed or altered, the political subdivision shall forward such changes to the Department, as described in the act. (Section 32.310)

CASH OPERATING EXPENSE FUND

This act establishes the "Cash Operating Expense Fund", which shall consist of the state portion of use tax revenues collected under the provisions of this act; any funds appropriated to the Office of the Governor for expenses related to emergency duties performed by the National Guard, matching funds for federal grants and emergency assistance, and expenses of any state agency responding during a declared emergency, as described in the act, that are unexpended at the end of a fiscal year; and moneys appropriated by the General Assembly.

Subject to appropriation, the Governor may transfer moneys from the fund into the General Revenue Fund in any fiscal year in which actual revenues are less than the revenue estimates upon which appropriations were based or in which there is a budget need due to a natural disaster, as proclaimed by the Governor to be an emergency.

When the balance in the fund at the close of any fiscal year exceeds 2.5% of net General Revenue collections for the previous year, such excess shall be divided evenly between the State Road Fund and the Debt Retirement Fund, which is created by the act for the retirement of debt related to bonds issued by or on behalf of the state, as described in the act. (Section 33.575)

ECONOMIC NEXUS

This act modifies the definition of "engaging in business activities within this state" to include vendors that had cumulative gross receipts of at least \$100,000 from the sale of tangible personal property for the purpose of storage, use, or consumption in this state in the previous twelve-month period, as described in the act. Vendors meeting such criteria shall be required to collect and remit the use tax as provided under current law. (Section 144.605)

TAXING JURISDICTION DATABASE

This act requires the Director of Revenue to provide and maintain a downloadable electronic database at no cost to the user of the database for taxing jurisdiction boundary changes and tax rates. Such databases may be directly provided by the Director, or may be provided by a third party as designated by the Director.

Vendors shall not be liable for reliance upon erroneous data provided by the Director on tax rates, boundaries, or taxing jurisdiction assignments. (Section 144.637)

This act also requires the Director of Revenue to provide and maintain a taxability matrix and shall provide notice of changes in the taxability of products or services listed in the matrix.

Sellers and certified service providers (CSP) shall be relieved from liability for reliance upon erroneous data provided or approved by the Department, and a seller shall be relieved from liability for erroneous returns made by a CSP on behalf of the seller. (Section 144.638)

LOCAL USE TAX BALLOT LANGUAGE

This act modifies ballot language required for the submission of a local use tax to voters by including language stating that the approval of the local use tax will eliminate the disparity in tax rates collected by local and out-of-state sellers by imposing the same rate on all sellers, and by repealing ballot language specific to St. Louis County and its municipalities. (Section 144.757)

This act provides that the portion of the local use tax imposed by St. Louis County shall be distributed to the cities, towns, villages, and unincorporated areas of the county on the ratio of the population that each such city, town, village, and unincorporated area bears to the total population of the county. (Section 144.759)

MARKETPLACE FACILITATORS

Beginning January 1, 2023, marketplace facilitators, as defined in the act, that engage in business activities within the state shall register with the Department to collect and remit use tax on sales delivered into the state through the marketplace facilitator's marketplace by or on behalf of a marketplace seller, as defined in the act. Such retail sales shall include those made directly by the marketplace facilitator as well as those made by marketplace sellers through the marketplace facilitator's marketplace.

Marketplace facilitators shall report and remit use tax collected under this act as determined by the Department. Marketplace facilitators properly collecting and remitting use tax in a timely manner shall be eligible for any discount provided for under current law.

Marketplace facilitators shall provide purchasers with a statement or invoice showing that the use tax was collected and shall be remitted on the purchaser's behalf.

No class action shall be brought against a marketplace facilitator in any court in this state on behalf of purchasers arising from or in any way related to an overpayment of sales or use tax collected on retail sales facilitated by a marketplace facilitator, regardless of whether that claim is characterized as a tax refund claim. (Section 144.752)

Monetary allowances from taxes collected shall be provided to certain sellers and certified service providers for collecting and remitting state and local taxes, as described in the act. (Sections 144.140 and 144.710)

EFFECTIVE DATE

Provisions of this act relating to economic nexus, marketplace facilitators, and the distribution of local use tax revenue in St. Louis County shall become effective January 1, 2023.

Provisions of this act establishing the Cash Operating Expense Fund contain an emergency clause and shall become effective upon passage and approval.

All other provisions of this act shall become effective August 28, 2021.

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

Office of Administration – Budget & Planning Division
Missouri Department of Natural Resources
Missouri Department of Revenue
Missouri Department of Conservation
Missouri Department of Transportation
Missouri Secretary of State’s Office
Missouri State Treasurer’s Office
Joint Committee on Administrative Rules
City of Ballwin
City of Corder
City of Hale
City of Hughesville
City of Kansas City
City of Springfield
Kansas City BEC
Platte County Election Authority
St. Louis County Election Authority
High Point R-III School District



Julie Morff
Director
February 9, 2021



Ross Strobe
Assistant Director
February 9, 2021