

COMMITTEE ON LEGISLATIVE RESEARCH
OVERSIGHT DIVISION

FISCAL NOTE

L.R. No.: 1018H.02I
Bill No.: HB 554
Subject: Taxation and Revenue - General; Taxation and Revenue - Sales and Use; Taxation and Revenue - Income; Revenue, Department of
Type: Original
Date: February 9, 2021

Bill Summary: This proposal modifies provisions relating to taxation.

FISCAL SUMMARY

ESTIMATED NET EFFECT ON GENERAL REVENUE FUND				
FUND AFFECTED	FY 2022	FY 2023	FY 2024	Fully Implemented (FY 2028)
General Revenue	Less than (\$9,807,492) to \$10,047,787	Less than (\$29,676,211) to \$11,114,989	Less than (\$25,803,926) to \$16,824,128	Less than (\$119,254,905) to (\$71,788,781)
Total Estimated Net Effect on General Revenue	Less than (\$9,807,492) to \$10,047,787	Less than (\$29,676,211) to \$11,114,989	Less than (\$25,803,926) to \$16,824,128	Less than (\$119,254,905) to (\$71,788,781)

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 2028)
School District Trust Fund (0688)	Less than \$12,540,177 to \$19,158,603	Less than \$25,762,863 to \$39,359,930	Less than \$26,922,981 to \$41,132,333	Less than \$29,978,606 to \$45,800,647
Conservation Commission Fund (0609)	Less than \$1,567,522 to \$2,394,826	Less than \$3,220,358 to \$4,919,992	Less than \$3,365,373 to \$5,141,542	Less than \$3,747,326 to \$5,725,081
Parks and Soils State Sales Tax Fund(s) (0613 & 0614)	Less than \$1,254,018 to \$1,915,861	Less than \$2,576,286 to \$3,935,993	Less than \$2,692,298 to \$4,113,233	Less than \$2,997,861 to \$4,580,065
Total Estimated Net Effect on Other State Funds	Less than \$15,361,717 to \$23,469,290	Less than \$31,559,507 to \$48,215,915	Less than \$32,980,652 to \$50,387,108	Less than \$36,723,793 to \$56,105,793

ESTIMATED NET EFFECT ON FEDERAL FUNDS				
FUND AFFECTED	FY 2022	FY 2023	FY 2024	Fully Implemented (FY 2028)
Total Estimated Net Effect on All 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 2028)
General Revenue – DOR	34 FTE	34 FTE	34 FTE	34 FTE
Total Estimated Net Effect on FTE	34 FTE	34 FTE	34 FTE	34 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 2028)
Local Political Subdivisions*	\$0 to \$29,744,407	\$0 to \$61,107,679	\$0 to \$63,859,396	\$0 to \$71,107,119
Local Government	\$0 to \$29,744,407	\$0 to \$61,107,679	\$0 to \$63,859,396	\$0 to \$71,107,119

*Section 144.605.2.g(e) states “any vendor that meets the provisions... of subparagraph c. of this paragraph shall not be subject to local use tax imposed by a political subdivision in this state enacted prior to January 1, 2022, except in such political subdivisions in which a majority of voters have approved expanding a use tax that was enacted prior to January 1, 2022”.

Furthermore, Section 144.605.2.g(f) states “...political subdivisions that wish to enact a new local use tax, but do not wish to subject vendors that meet the provisions of subparagraph c. of this paragraph to such local use tax, may enact such local use tax... and may exclude vendors from such new tax”. Therefore, a range is reported for local political subdivisions as it relates to use tax collection(s) from out-of-state/online retailers and marketplace facilitators. The reported impact of “\$0” would occur if no political subdivision puts forth a proposal to such political subdivision’s voters to expand their current use tax, or the voters of the political subdivisions do not pass such proposal, and/or political subdivisions have enacted a use tax excluding vendors from the new tax. The “to \$29,744,407 - \$71,107,119” would occur if all political subdivisions put forth and approve a proposal to expand their current use tax to capture the use tax from out-of-state/online retailers and marketplace facilitators.

FISCAL ANALYSIS

ASSUMPTION

Section 32.310 – DOR Sales and Use Tax Map

Officials from the **Office of Administration – Budget & Planning Division (B&P)** state this section adds use tax information to the Missouri Department of Revenue mapping system. This section further requires the Missouri Department of Revenue to update the mapping system, by July 2022, to include the total sales and use tax rates for jurisdictions with overlapping sales or use tax levies.

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

Officials from the **Missouri Department of Revenue (DOR)** state this section adds “use tax” to the DOR mapping feature which currently states the sales tax rate of a given political subdivision. 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.

This section also requires the DOR to update the map to include combined rate for overlapping sales taxes levied and for the total use tax rate of overlapping districts. DOR does not anticipate a fiscal impact from this provision.

Section 143.011 – Individual Income Tax Rate Reduction

Officials from **B&P** state this section would increase the number of 0.1% reductions currently scheduled to occur from five (5) to six (6).

Based on current revenue forecasts and average revenue growth, B&P estimates that revenues in Fiscal Year 2021, Fiscal Year 2024, and Fiscal Year 2025 will reach the [SB 509 \(2014\)](#) growth trigger requirement for reductions to the top rate of tax.

Therefore, the top rate of tax will be reduced by 0.1% in Tax Year 2022, 2025, and 2026 under SB 509 (2014). For the purpose of this fiscal note, B&P will assume that the additional reduction will occur for Tax Year 2027. B&P acknowledges, however, that the rate reduction may not be triggered until a later Tax Year.

B&P notes this section would reduce the top tax rate by an additional 0.1% beginning on August 28, 2021. However, Section 143.011.4(2) states that the rate change will only apply to tax years beginning on or after the effective date. For the purpose of this fiscal note, B&P will therefore assume that this reduction will not occur until Tax Year 2022, as the majority of Individual Income Tax years are on a calendar year.

Table 1 shows the current versus proposed future top tax rates.

Table 1: Current vs. Proposed Tax Rates

Tax Year	Current Law	Proposed Reduction	Proposed Tax Rate
2021	5.40%		5.40%
2022	5.30%	0.10%	5.20%
2023	5.30%		5.20%
2024	5.30%		5.20%
2025	5.20%		5.10%
2026	5.10%		5.00%
2027	5.10%	0.10%	4.90%

Using Tax Year 2018 data, the most current complete year available, and accounting for the changes in individual income tax law created by SB 509 (2014) and HB 2540 (2018), B&P estimates that this section will reduce TSR and General Revenue (GR) by \$104,643,711 in Tax Year 2022. Table 2 shows the estimated impacts by tax year.

Table 2: Rate Reduction by Calendar Year

Tax Year	GR Impact
2022	(\$104,643,711)
2023	(\$104,231,583)
2024	(\$103,817,226)
2025	(\$103,092,112)
2026	(\$102,437,890)
2027	(\$206,588,675)

However, because the first tax rate reduction would take effect January 1, 2022 individuals will adjust their withholdings and declarations during Fiscal Year 2022. Therefore, B&P estimates that this proposal will reduce TSR and GR by \$43,950,359 in Fiscal Year 2022. Once fully

implemented, this proposed legislation will reduce TSR and GR by \$206,588,675 annually. Table 3 shows the estimated impacts per fiscal year.

Table 3: Rate Reduction by Fiscal Year

Fiscal Year	GR Impact
2022	(\$43,950,359)
2023	(\$104,470,617)
2024	(\$104,057,553)
2025	(\$103,512,678)
2026	(\$102,817,339)
2027	(\$146,181,219)
2028	(\$206,588,675)

Officials from **DOR** state, currently, SB 509 (2014) allows for five (5) reductions of the Individual Income Tax rate. DOR notes, under current law, two (2) of the reductions have already occurred (Tax Year 2018 & Tax Year 2019) and the third (3rd) is currently forecasted to occur in Tax Year 2022 which will set the rate at 5.3%.

This section would change the five (5) current reductions under SB 509 to six (6) reductions. DOR notes that the Individual Income Tax filing deadline that was scheduled for April 15, 2020 was moved to July 15, 2020.

The adjustment in the filing deadline is estimated to prevent the triggering of rate reductions for the next three (3) years. Therefore, this sixth reduction is projected to occur in Fiscal Year 2027 after the remaining two (2) reductions occur.

Beginning with the effective date of this provision (August 28, 2021), this section would require a reduction of the top rate of individual tax at an additional one-tenth of one percent (0.1%). Tax Year 2021 is currently projected to have a tax rate of 5.4%. Since this section states the reduction shall occur only for tax years that begin on or after the date the modification takes place, DOR assumes this proposal would begin with Tax Year 2022.

DOR assumes that the tax rates, as put forth, would be:

Tax Year	Current Income Tax Rate under SB 509	Proposed Income Tax Rate
2021	5.4%	5.4%
2022	5.3%	5.2%
2023	5.3%	5.2%
2024	5.3%	5.2%
2025	5.2%	5.1%
2026	5.1%	5.0%
2027	5.1%	4.9%
2028	5.1%	4.9%

DOR estimates the loss to GR per fiscal year would be:

Fiscal Year	Amount
2022	(\$43,802,455)
2023	(\$104,119,087)
2024	(\$103,707,699)
2025	(\$103,147,866)
2026	(\$102,431,568)
2027	(\$145,633,099)
2028	(\$206,215,113)

Oversight notes that it **does not currently have the resources and/or access to state tax data** to produce an independent revenue estimate and is unable to verify the revenue estimates provided by B&P and DOR.

For purposes of this fiscal note, Oversight will report the fiscal impact, as a result of the individual income tax change(s), as reported by B&P.

Section(s) 144.605 and 144.752 – Online Use Tax Collections

Officials from **B&P** state Section(s) 144.605 and 144.752 require retailers and marketplace facilitators that do not have a physical presence within Missouri to collect and remit sales tax on purchases delivered into Missouri beginning January 1, 2022. Only retailers with gross revenues greater than \$100,000 from deliveries into Missouri would be required to collect Missouri sales tax.

Section 144.605(2)(g)c states that the use tax thresholds shall only apply to vendors that do not have a physical presence within the state and complete sales of tangible personal property online. B&P notes that this would exclude mail order businesses from the online use tax remittance requirements in Section 144.605(2)(g).

Section 144.605(2)(g)d states that any department with constitutional authority to collect sales or use taxes under Article IV of the Missouri Constitution may remit the money collected from online vendors to the Missouri Department of Revenue and the money shall then be deposited into GR. B&P notes that both the Missouri Department of Conservation and the Missouri Department of Natural Resources have constitutional sales and use taxes under Article IV. However, the Missouri Department of Revenue collects and then distributes the sales and use tax money to each department. In addition, the language in this subparagraph would only capture online vendor use tax and would not capture marketplace facilitator use taxes. For the purpose of this fiscal note, B&P will reflect the use tax money generated from online vendors as going to both the Missouri Department of Conservation and the Missouri Department of Natural Resources.

Section 144.605(2)(g)e states that any vendor that meets the requirements in Section 144.605(2)(g)c shall not be subject to any local use tax that was enacted prior to January 1, 2022 unless an expansion of such tax to include online vendors has been voter approved.

B&P notes that it is unclear whether purchasers would still be subject to such local use tax in the event an expansion has not been approved by voters. Section 144.757 includes the ballot language to be used for voter approval of the use tax expansion.

Therefore, B&P will show potential local revenues from Section 144.605 and 144.752 as \$0 (no local expansion approved) to \$X (the full amount, all local jurisdictions with a current use tax approved expansion).

Section 144.605(2)(g)f allows local taxing jurisdictions to exclude online vendors from any new use tax levies after January 1, 2022.

Section 144.752 defines marketplace facilitators and states that a facilitator counts as one seller. Starting January 1, 2022, marketplace facilitators that reach the sales threshold outlined under Section 144.605(2)(g) must register with the Missouri Department of Revenue and begin remitting sales tax on behalf of individual marketplace sellers. B&P notes that this provision would apply to retailers such as Amazon's marketplace, ETSY, EBAY, etc. This section further clarifies that internet advertisers, travel agencies, and third party payment processors are not considered marketplace facilitators. In addition, marketplace facilitators that collect and remit use tax in a timely manner are eligible for the 2% use tax timely filing discount.

Officials from **DOR** state this section would require out-of-state vendors that meet certain qualifications to start remitting use tax (Section 144.605). However, local political subdivisions would be prohibited from collecting their local use tax on these vendors (Section 144.605(2)(g)e).

Section 144.757 outlines a procedure to allow local political subdivisions to adopt a use tax that could be collected. The Department is unable to estimate the number of local political subdivisions that will adopt the use tax, or to determine when those elections may actually occur. For the simplicity of the fiscal note, DOR, will show the impact as \$0 (none adopt the tax) to the full impact.

Currently the state sales and use tax is statutorily set at 4.225% and is distributed as follows:

- 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))

Section 144.605(2)(g)d states that "Any department that has the constitutional authority to collect sales or use tax under Article IV of the Constitution of Missouri may remit any moneys collected under this paragraph to the Missouri Department of Revenue, and such moneys shall be deposited into the state general revenue fund established under section 33.543;"

It should be noted that the Conservation Commission Fund and the Parks, Soil & Water Funds are constitutionally created under Article IV of the Missouri Constitution. Article IV of the Missouri Constitution allows for the Missouri Department of Conservation and the Department of Natural Resources to levy and impose a state sales and use tax. DOR is charged with the collection of the sales and use tax.

DOR assumes, for purposes of this fiscal note that the constitutionally created funds will continue to receive their funding.

B&P & DOR – Online Use Tax Collection 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 Calendar Year 2022 Missouri could gain up to \$106.0 million to \$161.9 million in total state revenues.

By Calendar Year 2027, B&P and DOR estimate that total state revenues could be increased by \$125.0 million to \$191.0 million. Table 1 shows the estimated impact by calendar year.

Table 1: Collections by Calendar Year

Revenue Estimates	2022		2023		2024	
	Low	High	Low	High	Low	High
General Revenue	\$75,241,059	\$114,951,618	\$79,336,120	\$121,207,962	\$82,201,766	\$125,586,032
Education (SDTF)	\$25,080,353	\$38,317,206	\$26,445,373	\$40,402,654	\$27,400,589	\$41,862,011
Conservation	\$3,135,044	\$4,789,651	\$3,305,672	\$5,050,332	\$3,425,074	\$5,232,751
Parks, Soil, Water	\$2,508,035	\$3,831,721	\$2,644,537	\$4,040,265	\$2,740,059	\$4,186,201
TSR	\$105,964,491	\$161,890,196	\$111,731,702	\$170,701,213	\$115,767,488	\$176,866,995
Local	\$0	\$59,488,813	\$0	\$62,726,544	\$0	\$64,992,247

**Section 144.637.3 requires that the lowest combined tax rate within a zip code be used to determine local sales tax due. This may lower the actual local tax collections.*

***Section 144.605(2)(g)e requires local jurisdictions to receive voter approval prior to enacting use tax on online vendors.*

Table 1: Collections by Calendar Year (cont.)

Revenue Estimates	2025		2026		2027	
	Low	High	Low	High	Low	High
General Revenue	\$84,339,012	\$128,851,269	\$86,531,827	\$132,201,401	\$88,781,654	\$135,638,638
Education (SDTF)	\$28,113,004	\$42,950,423	\$28,843,942	\$44,067,134	\$29,593,885	\$45,212,879
Conservation	\$3,514,126	\$5,368,803	\$3,605,493	\$5,508,392	\$3,699,236	\$5,651,610
Parks, Soil, Water	\$2,811,300	\$4,295,042	\$2,884,394	\$4,406,713	\$2,959,388	\$4,521,288
TSR	\$118,777,442	\$181,465,537	\$121,865,656	\$186,183,640	\$125,034,163	\$191,024,415
Local	\$0	\$66,682,045	\$0	\$68,415,778	\$0	\$70,194,589

**Section 144.637.3 requires that the lowest combined tax rate within a zip code be used to determine local sales tax due. This may lower the actual local tax collections.*

***Section 144.605(2)(g)e requires local jurisdictions to receive voter approval prior to enacting use tax on online vendors.*

B&P and DOR estimate that in Fiscal Year 2024, TSR could increase by \$53.0 million to \$80.9 million. By Fiscal Year 2027, B&P and DOR estimate that TSR could increase by \$123.4 million to \$188.6 million. Table 2 shows the estimated impact by fiscal year.

Table 2: Collections by Fiscal Year

Revenue Estimates	FY 2022		FY 2023		FY 2024	
	Low	High	Low	High	Low	High
General Revenue	\$37,620,530	\$57,475,809	\$77,288,590	\$118,079,790	\$80,768,943	\$123,396,997
Education (SDTF)	\$12,540,177	\$19,158,603	\$25,762,863	\$39,359,930	\$26,922,981	\$41,132,333
Conservation	\$1,567,522	\$2,394,826	\$3,220,358	\$4,919,992	\$3,365,373	\$5,141,542
Parks, Soil, Water	\$1,254,018	\$1,915,861	\$2,576,286	\$3,935,993	\$2,692,298	\$4,113,233
TSR	\$52,982,246	\$80,945,098	\$108,848,097	\$166,295,705	\$113,749,595	\$173,784,104
Local	\$0	\$29,744,407	\$0	\$61,107,679	\$0	\$63,859,396

**Section 144.637.3 requires that the lowest combined tax rate within a zip code be used to determine local sales tax due. This may lower the actual local tax collections.*

***Section 144.605(2)(g)e requires local jurisdictions to receive voter approval prior to enacting use tax on online vendors.*

Table 2: Collections by Fiscal Year (cont.)

Revenue Estimates	FY 2025		FY 2026		FY 2027	
	Low	High	Low	High	Low	High
General Revenue	\$83,270,389	\$127,218,651	\$85,435,419.50	\$130,526,335	\$87,656,741	\$133,920,020
Education (SDTF)	\$27,756,797	\$42,406,217	\$28,478,473	\$43,508,779	\$29,218,914	\$44,640,007
Conservation	\$3,469,600	\$5,300,777	\$3,559,810	\$5,438,598	\$3,652,365	\$5,580,001
Parks, Soil, Water	\$2,775,680	\$4,240,622	\$2,847,847	\$4,350,878	\$2,921,891	\$4,464,001
TSR	\$117,272,465	\$179,166,266	\$120,321,549	\$183,824,589	\$123,449,910	\$188,604,028
Local	\$0	\$65,837,146	\$0	\$67,548,912	\$0	\$69,305,184

**Section 144.637.3 requires that the lowest combined tax rate within a zip code be used to determine local sales tax due. This may lower the actual local tax collections.*

***Section 144.605(2)(g)e requires local jurisdictions to receive voter approval prior to enacting use tax on online vendors.*

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 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 Springfield** anticipate a positive fiscal impact.

Officials from the **City of Kansas City (Kansas City)** assume Section 144.605 would require Kansas City to have an election if it wishes to collect use tax for online sales. This would cause a negative fiscal impact as a result of having an election.

Kansas City assumes Section 144.752 would result in a positive impact to Kansas City.

For purposes of this fiscal note, **Oversight** will report the fiscal impact(s) of Section(s) 144.605 and 144.752 as reported by B&P and DOR, including DOR's administrative impact(s).

Section 144.637 – DOR Tax Database

Officials from **DOR** state that the Director of Revenue shall 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 and 3 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.

Officials from **B&P** state this section requires the Missouri Department of Revenue to create, maintain, and provide a database that assigns each nine-digit and five-digit zip code with the lowest combined local tax rate for that zip code. Vendors are required to use the database in determining the amount of use tax to collect and remit. The Missouri Department of Revenue may provide an address level database with the corresponding tax rate for each address. If such a database is created, vendors must use the address level database in lieu of the zip code database when determining the amount of use tax to collect and remit. Any and all databases created, maintained, or certified by DOR must be provided at no cost to vendors for their use in collecting and remitting use taxes. B&P defers to the Missouri Department of Revenue for the estimated cost to the agency from this section.

B&P notes this section requires that the lowest combined tax rate within a zip code area must be applied if there are multiple tax rates within the zip code. B&P notes that using the lowest combined local tax rate may reduce the local sales tax collections estimated for online sales.

Section 144.757 – Local Ballot Language

Officials from **B&P** state this section requires voter approval in order for political subdivisions to expand existing use taxes to online vendors under Section 144.602.1(2)(g) (see discussion under online use tax section).

This section also places a cap on local use taxes. Under this section, a local use tax shall not exceed the rate enacted as of January 1, 2022. B&P notes that this would remove the parity between local sales and use taxes.

Currently, local use taxes are set at the same rate as local sales taxes. This section would prevent local use taxes from being increased any time a local sales tax is increased after January 1, 2022.

Officials from **DOR** state this section states that political subdivisions with an existing use tax adopted prior to January 1, 2022 may keep their use tax but may not exceed the rate set prior to January 2022.

Under this section, out-of-state use tax vendors that meet certain qualifications will be required to start remitting use tax (Section 144.605). However, local political subdivisions are prohibited from collecting their local use tax on these vendors (Section 144.605(2)(g)e).

This section requires that existing local use taxes rates must be re-voted on by the people in order for the municipality to receive funding from the online use tax implemented in this proposal. If adopted by the people, the local political subdivision would be allowed to collect the out-of-state seller use tax established under this proposal for purchases made through a website. DOR assumes the Office of the Secretary of State would be able to estimate the impact of political subdivision holding these use tax elections. DOR does not anticipate a fiscal impact from these elections.

This section also modifies the ballot language that must be used when submitting a use tax issue to the voters to be approved. DOR assumes no fiscal impact from changing the wording of the ballot language.

Oversight notes this section could induce a change in the amount of revenue(s) local political subdivisions recognize in future years should such local political subdivision (or voters of) approved an increase in the local political subdivisions local use tax in the future should such political subdivision not be bound by the rate equal to the use tax rate as of January 1, 2022.

Oversight is unable to determine the amount of revenue(s) local political subdivisions would have received in future years had such local political subdivisions increased their respective local use tax rate having not been bound by a rate equal to the use tax rate as of January 1, 2022.

For purposes of this fiscal note, since the proposed legislation does not impact the amount of use tax local political subdivisions **currently** collect, Oversight will not report a fiscal impact for this section.

Officials from **Kansas City** assume this section could result in a positive fiscal impact.

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 **Missouri Department of Transportation**, the **High Point R-III School District**, the **Kansas City Board of Election Commissioners**, the **Platte County Election Authority**, the **St. Louis County Election Authority**, the **City of Claycomo**, the **City of Corder**, the **City of Hughesville**, the **City of O’Fallon**, and the **City of Southwest City** 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 2028)
GENERAL REVENUE FUND				
<u>Revenue Reduction</u> – Section 143.011 – Reduction(s) To Individual Income Tax Rate – p. 4-7	(\$43,950,359)	(\$104,470,617)	(\$104,057,553)	(\$206,588,675)
<u>Revenue Gain</u> – Section(s) 144.605 & 144.752 – Online Use Tax Collection p. 8-15	Less than \$37,620,530 to \$57,475,809	Less than \$77,288,590 to \$118,079,790	Less than \$80,768,943 to \$123,396,997	Less than \$89,935,816 to \$137,401,940
<u>Cost – DOR –</u> Section 144.605 & 144.752 – Online Use Tax Collection p. 12-13				
Personnel Services	(\$1,277,894)	(\$1,548,808)	(\$1,564,296)	(\$1,627,812)
Fringe Benefits	(\$769,589)	(\$928,683)	(\$933,910)	(\$955,347)
Equipment & Expense	(\$1,430,180)	(\$16,693)	(\$17,110)	(\$18,887)
Total Cost	(\$3,477,663)	(\$2,494,184)	(\$2,515,316)	(\$2,602,046)
FTE Change – DOR	34 FTE	34 FTE	34 FTE	34 FTE
ESTIMATED NET EFFECT ON GENERAL REVENUE FUND	<u>Less than</u> <u>(\$9,807,492) to</u> <u>\$10,047,787</u>	<u>Less than</u> <u>(\$29,676,211)</u> <u>to \$11,114,989</u>	<u>Less than</u> <u>(\$25,803,926)</u> <u>to \$16,824,128</u>	<u>Less than</u> <u>(\$119,254,905)</u> <u>to (\$71,788,781)</u>

SCHOOL DISTRICT TRUSTS FUND (0688)				
<u>Revenue Gain – Section 144.605 & 144.752 – Online Use Tax Collection p. 8-15</u>	<u>Less than \$12,540,177 to \$19,158,603</u>	<u>Less than \$25,762,863 to \$39,359,930</u>	<u>Less than \$26,922,981 to \$41,132,333</u>	<u>Less than \$29,978,606 to \$45,800,647</u>
ESTIMATED NET EFFECT ON SCHOOL DISTRICT TRUST FUND	<u>Less than \$12,540,177 to \$19,158,603</u>	<u>Less than \$25,762,863 to \$39,359,930</u>	<u>Less than \$26,922,981 to \$41,132,333</u>	<u>Less than \$29,978,606 to \$45,800,647</u>
CONSERVATION COMMISSION FUND (0609)				
<u>Revenue Gain – Section 144.605 & 144.752 – Online Use Tax Collection p. 8-15</u>	<u>Less than \$1,567,522 to \$2,394,826</u>	<u>Less than \$3,220,358 to \$4,919,992</u>	<u>Less than \$3,365,373 to \$5,141,542</u>	<u>Less than \$3,747,326 to \$5,725,081</u>
ESTIMATED NET EFFECT ON CONSERVATION COMMISSION FUND	<u>Less than \$1,567,522 to \$2,394,826</u>	<u>Less than \$3,220,358 to \$4,919,992</u>	<u>Less than \$3,365,373 to \$5,141,542</u>	<u>Less than \$3,747,326 to \$5,725,081</u>

PARKS AND SOILS STATE SALES TAX FUND(S) (0613 & 0614)				
<u>Revenue Gain – Section 144.605 & 144.752 – Online Use Tax Collection p. 8-15</u>	<u>Less than \$1,254,018 to \$1,915,861</u>	<u>Less than \$2,576,286 to \$3,935,993</u>	<u>Less than \$2,692,298 to \$4,113,233</u>	<u>Less than \$2,997,861 to \$4,580,065</u>
ESTIMATED NET EFFECT ON PARKS AND SOILS STATE SALES TAX FUND(S)	<u>Less than \$1,254,018 to \$1,915,861</u>	<u>Less than \$2,576,286 to \$3,935,993</u>	<u>Less than \$2,692,298 to \$4,113,233</u>	<u>Less than \$2,997,861 to \$4,580,065</u>

<u>FISCAL IMPACT</u> <u>– Local</u> <u>Government</u>	FY 2022 (10 Mo.)	FY 2023	FY 2024	Fully Implemented (FY 2028)
LOCAL POLITICAL SUBDIVISIONS*				
<u>Revenue Gain –</u> Section 144.605 & 144.752 – Online Use Tax Collection - p. 8-15	\$0 to <u>\$29,744,407</u>	\$0 to <u>\$61,107,679</u>	\$0 to <u>\$63,859,396</u>	\$0 to <u>\$71,107,119</u>
ESTIMATED NET EFFECT ON LOCAL POLITICAL SUBDIVISIONS	\$0 to <u>\$29,744,407</u>	\$0 to <u>\$61,107,679</u>	\$0 to <u>\$63,859,396</u>	\$0 to <u>\$71,107,119</u>

*Section 144.605.2.g(e) states “any vendor that meets the provisions... of subparagraph c. of this paragraph shall not be subject to local use tax imposed by a political subdivision in this state enacted prior to January 1, 2022, except in such political subdivisions in which a majority of voters have approved expanding a use tax that was enacted prior to January 1, 2022”. Furthermore, Section 144.605.2.g(f) states “...political subdivisions that wish to enact a new local use tax, but do not wish to subject vendors that meet the provisions of subparagraph c. of this paragraph to such local use tax, may enact such local use tax... and may exclude vendors from such new tax”. Therefore, a range is reported for local political subdivisions as it relates to use tax collection(s) from out-of-state/online retailers and marketplace facilitators. The reported impact of “\$0” would occur if no political subdivision puts forth a proposal to such political subdivision’s voters to expand their current use tax, or the voters of the political subdivisions do not pass such proposal, and/or political subdivisions have enacted a use tax excluding vendors from the new tax. The “to \$29,744,407 - \$71,107,119” would occur if all political subdivisions put forth and approve a proposal to expand their current use tax to capture the use tax from out-of-state/online retailers and marketplace facilitators.

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; therefore, they could experience revenue growth. Out-of-state/online businesses and marketplace facilitators would be required to collect and remit the applicable tax(es) to the Missouri Department of Revenue; increasing their administrative costs and decreasing their net revenues (Section(s) 144.605 & 144.752).

This proposed legislation could impact any small business that currently collects and remits use tax to the Missouri Department of Revenue from out-of-state/online retailers or marketplace facilitators as such business would no longer collect such tax unless the voters of the local political subdivision in which such small business is located votes to expand their use tax to capture the tax from out-of-state/online retailers.

FISCAL DESCRIPTION

Currently, the Department of Revenue maintains a mapping feature on its website that displays sales tax information of political subdivisions of this state that have taxing authority.

This proposed legislation requires use tax information to be added to the mapping feature. Also, this bill requires the mapping feature to show the total of combined rates of overlapping taxing jurisdictions by July 1, 2022. (Section 32.310)

Currently, the top rate of income tax is 5.4% and may be reduced to 5.1% by a series of tax cuts of .1% over a period of years with only one reduction occurring per year. A tax reduction at the top rate occurs if the amount of net general revenue collected in the previous fiscal year exceeds the highest amount of net general revenue collected in any of the three fiscal years prior to such fiscal year by at least \$150 million.

This bill reduces the top rate of income tax to 5.3% and increases the series of cuts so the rate may be reduced to 4.9%. (Section 143.011)

Beginning January 1, 2022, this proposed legislation provides that a vendor engages in business activities in this state if a vendor during a 12 month period meets the following criteria:

(1) Has cumulative gross receipts of at least \$100,000 from the sale of tangible personal property to purchasers for the purpose of storage, use, or consumption in this state, as determined by the bill; and

(2) Does not have a physical presence within the state and the associated sales occurred with use of the Internet.

Any department that has the Constitutional authority to collect sales and use tax under Article IV of the Constitution of Missouri may remit any new revenue collected under the provisions of the bill to the General Revenue Fund.

This proposed legislation specifies that any vendor that does not have a physical presence within the state and the associated sales occurred with use of the Internet will not be subject to use taxes of a political subdivision in this state unless the use tax is approved or reapproved by the voters of the political subdivision.

Additionally, this bill provides that political subdivisions that wish to enact a new local use tax, but do not wish to subject vendors that do not have a physical presence within the state and the associated sales occurred with use of the Internet to such local use tax, may enact such local use tax according to the applicable provisions local use tax laws, or any other applicable local use tax authorization provisions, and may exclude such vendors from such new tax. (Section 144.605)

This proposed legislation requires the Director of the Department of Revenue to provide and maintain a downloadable electronic database at no cost to the user 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 will not be liable for reliance upon incorrect data provided by the director on tax rates, boundaries, or taxing jurisdiction assignments. (Section 144.637)

By January 1, 2022, marketplace facilitators, as defined in the bill, that meet the use tax economic nexus threshold established in the bill must register with the Department of Revenue to collect and remit use tax on sales made into the state through the marketplace facilitator's marketplace by or on behalf of a marketplace seller, as defined in the bill. These retail sales will include those made directly by the marketplace facilitator as well as those made by marketplace sellers through the marketplace facilitator's marketplace, as defined.

Marketplace facilitators properly collecting and remitting use tax in a timely manner will be eligible for any discount provided for currently.

Marketplace facilitators must provide purchasers with a statement or invoice showing that the use tax was collected and will be remitted on the purchaser's behalf. (Section 144.752)

This proposed legislation alters ballot language for approval or reapproval by the voters of the political subdivision for the collection of use taxes. Under this bill, any county or municipality with an existing local use tax enacted prior to January 1, 2022, will be permitted to keep such existing local use tax at a rate not to exceed the rate enacted as of January 1, 2022. If any such county or municipality places a new use tax measure on the ballot and the measure fails to pass, the use tax enacted prior to January 1, 2022, will remain in effect until it expires or is repealed, reduced, or raised by a future ballot measure. If any such county or municipality places the use tax measure of this section on the ballot and the measure passes, the use tax of this section will replace the previously enacted use tax.

Currently, a local use tax may be referred to or described as the equivalent of a sales tax on purchases made from out-of-state sellers by in-state buyers and on certain intrabusiness transactions and the description will not change the classification, form or subject of the use tax or the manner in which it is collected.

This proposed legislation provides that the use tax must not be described as a new tax, described as not being a new tax, nor will it be advertised or promoted in a manner in violation of current law. (Section 144.757)

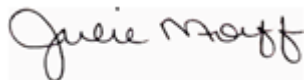
This proposed legislation repeals the Simplified Sales and Use Tax Administration Act. (Section(s) 144.1000 – 144.1015)

This proposed legislation has a non-severability clause.


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
City of Claycomo
City of Corder
City of Hale
City of Hughesville
City of Kansas City
City of O’Fallon
City of Southwest City
City of Springfield
Kansas City Board of Election Commissioners
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