COMMITTEE ON LEGISLATIVE RESEARCH
OVERSIGHT DIVISION

FISCAL NOTE

L.R. No.: 0752S.07P
Bill No.: Perfected SS for SCS for SB Nos. 153 & 97
Subject: Taxation and Revenue - Income; Taxation and Revenue - General; Taxation and Revenue - Sales and Use; Cities, Towns and Villages; Counties
Type: Original
Date: March 10, 2021

Bill Summary: This proposal would modify 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 Fund*/**	($51,018,100) to ($57,018,100)	$39,769,801 to $45,769,801	($2,652,355)	($185,688,861)
Total Estimated Net Effect on General Revenue	**($51,018,100) to ($57,018,100)**	**$39,769,801 to $45,769,801**	**($2,652,355)**	**($185,688,861)**

*Oversight notes the numbers above also reflect a potential timing difference as a result of changes to Section 144.080, of $42.4 million to $48.4 million from (negative) Fiscal Year 2022 shifted to (positive) Fiscal Year 2023.

Oversight notes the fully implemented date reported is Fiscal Year 2028. Oversight notes the provisions of Section 143.011 extend beyond Fiscal Year 2028. However, due to time constraints of less than four (4) hours, **Oversight was unable to accurately update the provisions that are fully implemented in Fiscal Year 2028 to reflect the associated impacts for Fiscal Year 2030. Oversight assumes the impact(s) associated with Fiscal Year 2030 could be **unofficially** estimated by reviewing the individual income tax provisions on page(s) 8-11 that do report the associated impact(s) through Fiscal Year 2030 in conjunction with the information provided for all other provisions that impact GR. **Oversight notes, NOT reflected in the estimates above are two (2) of the three (3) additional 0.1% rate reductions to the individual income tax (§143.011), estimated to reduce General Revenue by approximately <u>$105,000,000</u> each.**

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)
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 $89,935,816 to $137,401,940
School District Trust Fund (0688)*	($14,100,000) to ($16,100,000)	Less than $27,322,687 to $36,301,327	Less than $26,922,981 to $41,132,333	Less than $29,978,606 to $45,800,647
Conservation Commission Fund (0609)*	($1,800,000) to ($2,000,000)	Less than $3,452,836 to $4,525,166	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)*	($1,400,000) to ($1,600,000)	Less than $2,722,269 to $3,620,133	Less than $2,692,298 to $4,113,233	Less than $2,997,861 to $4,580,065
Total Estimated Net Effect on <u>Other</u> State Funds	**($17,300,000) to ($19,700,000)**	**Less than $73,165,852 to $105,050,607**	**Less than $113,749,595 to $173,784,105**	**Less than $126,659,609 to $193,507,733**

*Oversight notes the numbers above include a potential timing difference/cash flow difference as a result of changes to Section 144.080 from (negative) Fiscal Year 2022 shifted to (positive) Fiscal Year 2023.

ESTIMATED NET EFFECT ON FEDERAL FUNDS				
FUND AFFECTED	FY 2022	FY 2023	FY 2024	Fully Implemented (FY 2028)
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 2028)
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 or at full implementation of the act.

☒ Estimated Net Effect (savings or increased revenues) expected to exceed $250,000 in any of the three fiscal years after implementation of the act or at full implementation of the act.

ESTIMATED NET EFFECT ON LOCAL FUNDS				
FUND AFFECTED	FY 2022	FY 2023	FY 2024	Fully Implemented (FY 2028)
Local Political Subdivisions*	($55,500,000) to ($63,500,000)	Less than $59,207,043 to $78,041,627	Less than $5,514,610 to $27,575,128	Less than $1,445,069 to $26,009,346
Local Government	**($55,500,000) to ($63,500,000)**	**Less than $59,207,043 to $78,041,627**	**Less than $5,514,610 to $27,575,128**	**Less than $1,445,069 to $26,009,346**

**Oversight notes the numbers above include a potential timing difference/cash flow difference as a result of changes to Section 144.080 from (negative) Fiscal Year 2022 shifted to (positive) Fiscal Year 2023.

FISCAL ANALYSIS

ASSUMPTION

Due to time constraints, **Oversight** was unable to receive some agency responses in a timely manner and performed limited analysis. Oversight has presented this fiscal note on the best current information that we have or on information regarding a similar bill(s). Upon the receipt of agency responses, Oversight will review to determine if an updated fiscal note should be prepared and seek the necessary approval to publish a new fiscal note.

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'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.

This section will not impact 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 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.

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 144.060.2 of this proposed legislation states a purchaser shall be relieved from additional tax, interest, additions, or penalties for failure to collect and remit the proper amount of tax owed on purchases subject to sales tax if the purchaser's seller or certified service provider relied on erroneous tax rate, boundary, and/or taxing jurisdiction assignment data provide by the Director of the Department of Revenue.

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.

Senate Amendment No. 1 to SS to SCS to SB 153 & 987 - Section 33.575 – Cash Operating Expense Fund

Oversight notes this section creates the Cash Operating Expense Fund (COEF). The COEF shall consist of the state General Revenue (GR) portion of remittances made under Section 144.752 (marketplace facilitators) and paragraph (e) of subdivision (3) of Section 144.605 (online retailers).

The revenues collected pursuant to Section 144.701 (School District Trust Fund), Article IV, Section 43(a) (Conservation Commission Fund) and Article IV, Section 47(a) (Parks and Soils State Sales Tax Fund) shall **not** be deposited into the COEF, but shall continue to be deposited and allocated as such revenues are currently deposited and allocated.

For purposes of this fiscal note, Oversight will assume the GR portion of the use tax collections under Section 144.605 and 144.752 will be deposited to the credit of the COEF.

Section 67.2677 – Video Service Providers - Definitions

Oversight notes this section modifies the definition of "Gross Revenues" so that amounts received by video service providers from advertisers for: rental of set top boxes and other video service equipment, service charges, administrative charges, and a pro rata portion of all revenue derived for advertising are no longer included within a video service provider's gross revenues.

Officials from **DOR** state these provisions change how cable franchise fees are defined and handled. DOR does not collect these fees, they are done by local political subdivisions. These provisions will not have a fiscal impact on DOR and DOR defers to local political subdivisions for the impact.

Senate Amendment No. 2 to SS for SCS for SB 153 & 97 provides that the provision(s) of this section shall become effective August 28, 2023.

Section 67.2689 – Video Service Provider Fee

Oversight notes this section modifies the calculation of the video service provider fee.

Current law states a franchise entity, which is a political subdivision that was entitled to franchises and imposed fees on cable operators on the date before the effective date of Section(s) 67.2675 to 67.2714, may collect a video service provider fee equal to not more than five percent (5%) of the gross revenues from each video service provider that provides video service within the geographic area of such franchise entity.

This section modifies the fee to state that a franchise entity may collect a service provider fee equal to not more than five percent (5%) of the gross revenues charged to each customer of a video service provider that provides video service in a geographic area of such franchise entity.

This section further states that:

- Beginning August 28, 2023 (Fiscal Year 2024), franchise entities are prohibited from collecting a video service provider fee in excess of four and one-half percent (4.5%) of such gross revenues.
- Beginning August 28, 2024 (Fiscal Year 2025), franchise entities are prohibited from collecting a video service provider fee in excess of four percent (4%) of such gross revenues.
- Beginning August 28, 2025 (Fiscal Year 2026), franchise entities are prohibited from collecting a video service provider fee in excess of three and one-half percent (3.5%) of such gross revenues.
- Beginning August 28, 2026 (Fiscal Year 2027), franchise entities are prohibited from collecting a video service provider fee in excess of three percent (3%) of such gross revenues.
- Beginning August 28, 2027 (Fiscal Year 2028) and each year thereafter, franchise entities are prohibited from collecting a video service provider fee in excess of two and one-half percent (2.5%) of such gross revenues.

This section would <u>require</u> video service providers to identify and collect the fee and other specified fees as separate line items on a subscriber's bill.

Oversight notes, per information received from the Missouri Municipal League during the interim, of responding municipalities, municipalities collected $20,451,246 in cable/franchise/video service provider fee(s) in 2016.

Oversight notes, per information received from responding municipalities during the interim, municipalities collected $22,311,372 in video service provider fee(s) in 2018 and $22,033,761 in video service provider fee(s) in 2019.

Using the amount reported for 2019, Oversight estimates the total gross receipts reported by video service providers totaled $440,675,220 ($22,033,761 / 5%).

Using the estimated total gross receipts reported in 2019, Oversight estimates local revenues could decrease each fiscal year by an amount in excess of (accounting for the municipalities who did not respond and the modification(s) to the definition of "Gross Receipts"):

Fiscal Year	Video Service Provider Fee (%)	Loss to Local Municipalities
2024	4.5%	($2,203,376)
2025	4%	($4,406,752)
2026	3.5%	($6,610,128)
2027	3%	($8,813,504)
2028	2.5%	($11,016,881)
2029	2.5%	($11,016,881)

For purposes of this fiscal note, Oversight will report the loss to local political subdivisions equal to an amount that "Could exceed" the amount(s) reported above. The "Could exceed" is the result of municipalities that did not respond to Oversight's inquiry during the interim as well as the changes made to the definition of "Gross Receipts" which reduces the applicable items that are to be included in a video service provider's gross receipts.

Officials from **B&P** state this section changes the definition of "gross revenue." The gross revenues are limited to amounts billed to video service subscribers for recurring charges to video services and to event-based charges for video service. Gross revenues will no longer include in the total: rental of set top boxes, modems or other equipment used to provide video services; service charges related to the provision of video services; administrative charges related to the provision of services; and a pro rata portion of all revenues derived from advertising.

B&P states this section changes the amount a franchise entity may collect. Before August 28, 2023, the gross revenues cannot exceed five percent (5%) of the gross revenues of a video service provider providing services in the geographic area. This amount decreases half of a percent (0.5%) per year. Beginning August 28, 2023, the gross revenues cannot exceed four and half percent (4.5%) of gross revenues. Beginning August 28, 2024, the gross revenues cannot exceed four percent (4%) of gross revenues. Beginning August 28, 2025, the gross revenues cannot exceed three and half percent (3.5%) of gross revenues. Beginning August 28, 2026, the gross revenues cannot exceed three percent (3%) of gross revenues. Finally, beginning August 28, 2027, the gross revenues cannot exceed two and half percent (2.5%) of gross revenues.

B&P assumes this proposed legislation has no impact on state revenues. To the extent this impacts local revenues, this proposed legislation could impact the calculation pursuant to Article X, Section 18(e). B&P does not have data to calculate the impact at the local level.

Section 67.2720 – Task Force on the Future of Right-Of-Way Management and Taxation

Oversight notes this section establishes the Task Force on the Future of Right-Of-Way Management and Taxation.

The task force shall study best methods for right-of-way management, taxation of video service providers, and the future revenue needs of municipalities and political subdivisions as such revenue relates to video services.

The task force must compile and submit a report of its activities to the General Assembly no later than December 31, 2023 which shall include any recommendations which the task force may have for legislative action(s).

This section shall expire on December 31, 2023.

In response to similar legislation (Perfected HB 554 – 2021), officials from the **Missouri Department of Transportation (MoDOT)** stated, in its current form, this section could result in an unknown negative fiscal impact to the State Road Fund. Additionally, Art. IV § 30(b) of the Missouri Constitution grants the Missouri Highways and Transportation Commission discretion to plan, locate, relocate, establish, acquire, construct and maintain highways, bridges, and tunnels.

MoDOT assumes the task force considered in this legislation could delay important decision-making in the roadbuilding process, leading to declined infrastructure and public safety.

MoDOT assumes the changes put forth could result in an increase in litigation over ownership and control of the Missouri Highways and Transportation Commission's right of way. The Missouri Highways and Transportation Commission is afforded ownership and control over its right of way; the future recommendations of the task force created could hinder the abilities of this structure.

Officials from **DOR** state this provision creates a task force and which would not fiscally impact DOR.

For purposes of this fiscal note, Oversight will not report a fiscal impact as it relates to this section.

Section 143.011 – Individual Income Tax Rate Reduction(s)

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

This section expands the five (5) reductions to eight (8) reductions under SB 509. These reductions will also only occur if the SB 509 trigger ($150 million) is met. Therefore, this reduction in the rate of tax shall only occur 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 one hundred fifty million dollars ($150 million).

DOR used its internal Income Tax Model that contains confidential taxpayer data to create the fiscal impact. DOR notes that the individual income tax filing deadline that was scheduled for April 15, 2020 was moved to July 15, 2020. This move in the filing deadline is estimated to prevent the rate reduction triggers for the next three (3) fiscal years of the original SB 509 and would additionally not allow this section's three (3) reduction requirements to be implemented until at least Tax Year 2027. DOR believes that the tax rates, as proposed, would be as follows:

Tax Year	Current Income Tax Rate under SB 509	Proposed Income Tax Rate
2018	5.9%	5.9%
2019	5.4%	5.4%
2020	5.4%	5.4%
2021	5.4%	5.4%
2022	5.3%	5.3%
2023	5.3%	5.3%
2024	5.3%	5.3%
2025	5.2%	5.2%
2026	5.1%	5.1%
2027	5.1%	5.0%
2028	5.1%	4.9%
2029	5.1%	4.8%

The combined impact from the Individual Income Tax rate and the Working Family Tax Credit result in the following tax year impact.

Tax Year	Amount
2025	($23,960,726.28)
2026	($37,593,957.83)
2027	($138,670,317.94)
2028	($244,087,588.66)
2029	($346,399,240.05)

DOR uses a 42% in the first year and 58% in the second year split when converting from tax (calendar) year to fiscal year. The loss to GR per Fiscal Year is estimated to be:

Fiscal Year	Loss to GR
2025	($10,063,505.04)
2026	($29,686,683.53)
2027	($80,046,029.08)
2028	($182,945,571.64)
2029	($287,058,482.25)
2030	($346,399,240.05)

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 DOR.

Section 143.177 – Missouri Working Family Tax Credit

Officials from **DOR** state this section creates the MO Working Family Tax Credit program that would provide an eligible taxpayer a tax credit equal to a percentage of the amount the taxpayer would receive under the Federal Earned Income Tax Credit as of January 1, 2021. The percentage starts at 10% of the federal credit and can increase to 20% of the credit if the SB 509 $150 million income trigger is met.

DOR notes that the Individual Income Tax filing deadline that was scheduled for April 15, 2020 was moved to July 15, 2020. This move in the filing deadline is estimated to prevent the rate reduction triggers for the next three (3) fiscal years of the original SB 509 and would additionally not allow this proposal's percentage reductions to start being implemented until at least Tax Year 2025.

The credit is **NOT** refundable and cannot be carried forward. DOR used its internal Income Tax Model that contains confidential taxpayer data to calculate the fiscal impact with the individual income tax changes. **The impact is included in the results listed under Section 143.011**.

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 DOR.

Section 144.049 – Back-to-School Sales Tax Holiday

Oversight notes this section eliminates the imposition of local sales tax on qualifying items during the Back-to-School Sales Tax Holiday. Currently, qualifying Back-to-School Sales Tax Holiday items are only exempt from state sales tax and local sales tax within local political subdivisions that have **not** opted out of the sales tax holiday. This section repeals the provision in current law that permits local political subdivisions to opt out of the Back-to-School Sales Tax Holiday.

Officials from **B&P** state this section would no longer allow local municipalities to opt out of the school tax holiday. This will reduce revenues in all localities that currently opt out of the sales tax holiday.

Local sales tax collections for qualifying items during the tax holiday were $677,464 in Fiscal Year 2018, $432,274 in Fiscal Year 2019, and $287,295 in Fiscal Year 2020.

B&P notes that the sales tax holiday occurs in August, after the start of Fiscal Year 2024. Using a three-year (3) average of local collections, B&P estimates that this section could reduce funds to localities that had previously opted-out of the sales tax holiday by $465,677 ($677,464 + $432,274 + $287,295 / 3) beginning in Fiscal Year 2024.

Officials from **DOR** state this section would eliminate the ability of a local political subdivision to opt out of participating in the Back to School sales tax holiday, which occurs in August annually. DOR collected $677,463.79 in Tax Year 2018, $432,273.52 in Tax Year 2019, and $287,294.97 in Tax Year 2020 from jurisdictions that currently opt out of this holiday. This will be a decrease in revenue to the local jurisdictions that currently opt out.

This section has an effective date of January 1, 2023. Thus, this section would begin in Fiscal Year 2024 as the first holiday that would occur after January 1, 2023 would be in August 2023 (Fiscal Year 2024). Due to economic disruptions that occurred in Tax Year 2020, DOR will use a three year average to estimate the future fiscal impact ($465,677).

In response to a previous version of this proposed legislation, officials from the **City of Kansas City (Kansas City)** anticipated this section would result in a negative fiscal impact of an indeterminate amount.

In response to a previous version of this proposed legislation, officials from **Springfield** state this section could result in a negative fiscal impact of approximately $75,000 annually.

Oversight will report a reduction to local political subdivisions equal to the amount(s) reported by B&P and DOR.

Section 144.054 – Manufacturing Sales Tax Exemption

Oversight notes this section would expand the manufacturing sales tax exemption to include local sales tax. Currently, the manufacturing sales tax exemption is only applicable to state sales tax.

Officials from **B&P** state this section would expand the manufacturing sales tax exemption to include local sales tax. In Fiscal Year 2020, the most recent year data is available; there were $853,312,101 in taxable sales, with estimated local sales tax collections of $36,052,436.

Therefore, B&P estimates that this section will reduce local sales tax collections by $16,767,583 ($33,535,166 / 2) during Fiscal Year 2023. Once fully implemented in Fiscal Year 2024, and annually thereafter, this section will reduce local sales tax collections by $33,535,166.

Officials from **DOR** state, currently, there is a state sales and use tax manufacturing exemption. Local political subdivisions are currently allowed to collect their portion of the sales and use tax. This section would end the local's ability to continue to collect the tax.

DOR tracked an estimated $854,639,269.76 in taxable sales that came from manufacturing in Fiscal Year 2020. Taking the total taxable sales by the population weighted average local sales tax rate for Missouri (3.93%) would cause an estimated revenue reduction to the local political subdivisions of $33,587,323.

This section has an effective date of January 1, 2023. This provision would result in six (6) months of reduced revenue to local political subdivisions in Fiscal Year 2023 of $16,793,662.

In response to the previous version of this proposed legislation, officials from the **Kansas City** anticipated this section would result in a negative fiscal impact of an indeterminate amount.

Officials from **Springfield** state this section could result in a negative fiscal impact of approximately $2.2 million annually.

Oversight will report the reduction to local political subdivisions as reported by DOR.

Section 144.060 – Purchaser Responsibility to Pay Sales Tax

Oversight notes this section relieves a purchaser from additional tax, interest, additions, or penalties should such purchaser fail to collect and remit the proper amount of tax owed provided a purchaser's seller or Certified Service Provider relied on erroneous data provided by the Missouri Department of Revenue on tax rates, boundaries, and/or taxing jurisdiction assignments or in the taxability matrix created under Section 144.638 or in a database created under Section 144.637.

Oversight notes Section 32.10 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.

Oversight is unable to determine whether using the last known sales tax or use tax rate for political subdivisions, as instructed under Section 32.310, 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.

Section 144.080 – Seller Responsibility to Pay Sales Tax

Oversight notes this section states, beginning January 1, 2022, where the total amount of tax imposed on a seller is greater than $250 for either the first or second month of a calendar quarter, such seller shall file and pay sales tax for such months to the Director of Revenue on or before the last day of the succeeding month.

Officials from **B&P** state this section would change the monthly sales tax due date from the 20th of every month to the last working day beginning January 1, 2022.

B&P notes in months where there is a quarterly sales tax due date, the monthly due date is already the last working day. B&P further notes that this section will impact all state and local entities that receive a monthly sales tax distribution.

Currently, the monthly due date is the 20th of any given month except July, October, January, and April. In those months the monthly sales tax due date is the last working day of the month. In addition, all local distributions for sales tax are completed on the last working day of the month. This means that many local taxing entities do not receive collections from the monthly sales tax due date during July, October, January, and April. Rather, many localities end up receiving two (2) distributions worth of monthly sales tax collections the following month (August, November, February, and May).

By moving all monthly sales tax due dates to the last working day of the month, localities will receive monthly sales tax collections every month (rather than $0 in some months and two (2) payments in other months).

Therefore, some revenues that would have been deposited into GR from June 20th through June 30th will instead be deposited into the following fiscal year. However, this cash flow impact will only be evident during the first year of implementation.

Using data provided by the Missouri Department of Revenue, B&P estimates that, on average, $6.1 million in monthly sales tax deposits into GR are made daily throughout the month. Assuming there are 7-8 working days between the current due date (the 20th) and the last day of the month, B&P estimates that approximately $42.4 million to $48.4 million in GR could be shifted from the first month to the second month. B&P further notes this proposal could shift $42.4 million to $48.4 million from GR into the next fiscal year. The following table shows B&P's estimated GR cash flow impact by month during the first year of implementation.

Month	Fiscal Year	Due Date Changed by Proposal	Cash Flow Impact
Jan. 2022	2022	No	$0
Feb. 2022	2022	Yes	($42.4M to $48.4M)
Mar. 2022	2022	Yes	$42.4M to $48.4M (from Feb.) ($42.4M to $48.4M) (into April) Net $0
Apr. 2022	2022	No	$42.4M to $48.4M
May 2022	2022	Yes	($42.4M to $48.4M)
June 2022	2022	Yes	$42.4M to $48.4M (from May) ($42.4M to $48.4M) (into July) Net $0
July 2022	2023	No	$42.4M to $48.4M (from June)
Aug. 2022	2023	Yes	($42.4M to $48.4M)
Sept. 2022	2023	Yes	$42.4M to $48.4M (from Aug.) ($42.4M to $48.4M) (into Oct.) Net $0
Oct. 2022	2023	No	$42.4M to $48.4M
Nov. 2022	2023	Yes	($42.4M to $48.4M)
Dec. 2022	2023	Yes	$42.4M to $48.4M (from Nov.) ($42.4M to $48.4M) (into Jan.) Net $0
Jan. 2023	2023	No	$42.4M to $48.4M

B&P estimates that this section could reduce TSR by $59.7 million to $68.2 million and GR by $42.4 million to $48.4 million in Fiscal Year 2022. This proposal would then increase TSR and GR by a corresponding amount in Fiscal Year 2023.

Beginning in Fiscal Year 2024, there will no longer be an impact to TSR and GR.

In addition, this section will decrease local distributions by $55.5 million to $63.5 million in Fiscal Year 2022 and increase distributions by $55.5 million to $63.5 million in Fiscal Year 2023. The following table shows the estimated impact to state and local funds.

Month	Due Date Changed by Proposal	Education	MDC	DNR	Local Taxes
Jan. 2022	No	$0	$0	$0	$0
Feb. 2022	Yes	($14.1M to $16.1M)	($1.8M to $2.0M)	($1.4M to $1.6M)	($55.5M to $63.5M)
Mar. 2022	Yes	Net $0	Net $0	Net $0	Net $0
Apr. 2022	No	$14.1M to $16.1M	$1.8M to $2.0M	$1.4M to $1.6M	$55.5M to $63.5M
May 2022	Yes	($14.1M to $16.1M)	($1.8M to $2.0M)	($1.4M to $1.6M)	($55.5M to $63.5M)
June 2022	Yes	Net $0	Net $0	Net $0	Net $0
July 2022	No	$14.1M to $16.1M	$1.8M to $2.0M	$1.4M to $1.6M	$55.5M to $63.5M
Aug. 2022	Yes	($14.1M to $16.1M)	($1.8M to $2.0M)	($1.4M to $1.6M)	($55.5M to $63.5M)
Sept. 2022	Yes	Net $0	Net $0	Net $0	Net $0
Oct. 2022	No	$14.1M to $16.1M	$1.8M to $2.0M	$1.4M to $1.6M	$55.5M to $63.5M
Nov. 2022	Yes	($14.1M to $16.1M)	($1.8M to $2.0M)	($1.4M to $1.6M)	($55.5M to $63.5M)
Dec. 2022	Yes	Net $0	Net $0	Net $0	Net $0
Jan. 2023	No	$14.1M to $16.1M	$1.8M to $2.0M	$1.4M to $1.6M	$55.5M to $63.5M

Officials from **DOR** state this section moves the due date for sales tax returns that are filed on a monthly basis from the twentieth (20th) day of the succeeding month to the last day of the succeeding month. This will align this deadline with the quarterly and annual filing deadlines which are on the last day of the month and simplify the deadlines for taxpayers with multiple businesses.

DOR does not anticipate a fiscal impact. DOR does recognize there may be a timing adjustment for distribution of funds the first month after implementation. Changing the due date to the last day of the month would mean that funds DOR normally receives on or around the 20th, would not be received until the end of the month and therefore, posted in the succeeding month. DOR notes it is also possible businesses continue to file around the 20th as they have always done, so the possibility exists that no adjustment may happen.

For purposes of this fiscal note, **Oversight** will report the fiscal impact of this section as estimated by B&P.

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.

Section 144.526 – Show-Me Green Sales Tax Holiday

Oversight notes this section would eliminate the imposition of local sales and use tax on qualifying items during the Show-Me Green Sales Tax Holiday. Currently, qualifying Show-Me Green Sales Tax Holiday items are only exempt from state sales tax unless local political subdivision(s) wish to participate in the holiday. This section repeals the provision in current law that permits local political subdivisions to opt out of the Show-Me Green Sales Tax Holiday.

Officials from **B&P** state this section would no longer allow local municipalities to opt out of the Show Me Green sales Tax Holiday. This will reduce revenues in all localities that currently opt-out of this sales tax holiday.

Local sales tax collections for qualifying items during the tax holiday were $19,844 in Fiscal Year 2018, $21,439 in Fiscal Year 2019, and $42,667 in Fiscal Year 2020.

B&P notes that the sales tax holiday occurs in April, before the end of Fiscal Year 2023. Using a three (3) year average of local collections, B&P estimates that this section could reduce funds to localities that had previously opted-out of the sales tax holiday by $27,983 ($19,844 + $21,439 + $42,667 / 3) beginning in Fiscal Year 2023.

Officials from **DOR** state this section would eliminate the ability of a local political subdivision to opt out of participating in the Show Me Green Sales Tax Holiday, which occurs in April annually. In Tax Year 2018, DOR collected $19,843.65, in Tax Year 2019, DOR collected $21,439.46 and in Tax Year 2020, DOR collected $42,666.70 from local jurisdictions that currently opt out of this holiday. This section will decrease revenue to the local jurisdictions that currently opt out.

This section has an effective date of January 1, 2023. This section would begin in Fiscal Year 2023 as the holiday occurs in April 2023 (Fiscal Year 2023). Due to economic disruptions that occurred in Tax Year 2020, DOR will use a three (3) year average to estimate the future fiscal impact ($27,983).

In response to the previous version of this proposed legislation, officials from the **Kansas City** anticipated this section would result in a negative fiscal impact of an indeterminate amount.

Officials from **Springfield** state this section could result in a negative fiscal impact of approximately $1,800 annually.

For purposes of this fiscal note, Oversight will report a reduction to local political subdivisions equal to the amount(s) estimated by B&P and DOR.

Section 144.605 & 144.752 – Online Use Tax

Oversight notes this section adds the definition of "Certified Service Provider" for purposes of Missouri's use tax laws.

Oversight notes this section 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 exceed $100,000 in a calendar year.

Officials from **B&P** state **Section 144.605** requires retailers 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 revenue greater than $100,000 from deliveries into Missouri would be required to collect Missouri sales 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).

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 sales 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 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 & 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, in Calendar Year 2023, Missouri could gain up to $111.7 million to $170.7 million in TSR. By calendar Year 2028, B&P and DOR estimate that TSR could increase by $128.3 million to $195.9 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

Table 1: Collections by Calendar Year (cont.)

Revenue Estimates	2026		2027		2028	
	Low	High	Low	High	Low	High
COEF	**$86,531,827**	**$132,201,401**	**$88,781,654**	**$135,638,638**	**$91,089,977**	**$139,165,242**
Education (SDTF)	$28,843,942	$44,067,134	$29,593,885	$45,212,879	$30,363,326	$46,388,414
Conservation	$3,605,493	$5,508,392	$3,699,236	$5,651,610	$3,795,416	$5,798,552
Parks, Soil, Water	$2,884,394	$4,406,713	$2,959,388	$4,521,288	$3,036,333	$4,638,841
TSR	**$121,865,656**	**$186,183,640**	**$125,034,163**	**$191,024,415**	**$128,285,051**	**$195,991,049**
Local	$44,781,237	$68,415,778	$45,945,549	$70,194,589	$47,140,134	$72,019,648

B&P and DOR estimate that in Fiscal Year 2023, TSR could increase by $55.9 million to $85.4 million. By Fiscal Year 2028, B&P and DOR estimate that TSR could increase by $126.7 million to $193.5 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

Table 2: Collections by Fiscal Year (cont.)

Revenue Estimates	FY 2026		FY 2027		FY 2028	
	Low	High	Low	High	Low	High
COEF	**$85,435,420**	**$130,526,335**	**$87,656,740.50**	**$133,920,020**	**$89,935,816**	**$137,401,940**
Education (SDTF)	$28,478,473	$43,508,779	$29,218,914	$44,640,007	$29,978,606	$45,800,647
Conservation	$3,559,810	$5,438,598	$3,652,365	$5,580,001	$3,747,326	$5,725,081
Parks, Soil, Water	$2,847,847	$4,350,878	$2,921,891	$4,464,001	$2,997,861	$4,580,065
TSR	**$120,321,549**	**$183,824,589**	**$123,449,910**	**$188,604,028**	**$126,659,608**	**$193,507,732**
Local	$44,213,834	$67,548,912	$45,363,393	$69,305,184	$46,542,842	$71,107,119

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 **<u>largely dependent</u>** on the percentage of collections from out-of-state/online retailers and marketplace facilitators that Missouri is <u>currently</u> receiving versus the percentage that is <u>not currently</u> 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 <u>only</u> 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 <u>source</u> 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.

In response to a previous version of this proposed legislation, officials from the **Missouri Department of Conservation (MDC)** stated this proposed legislation will have an unknown fiscal impact, but greater than $250,000.

MDC further 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 increase in sales and use tax would increase revenue to the Conservation Sales Tax Fun(s). However, MDC states 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 proposed legislation.

Oversight notes MDC's Conservation Commission Fund (0609) receives one-eighth of one percent of the revenues generated from state sales and use tax. For purposes of this fiscal note, Oversight will report the impact to the Conservation Commission Fund, as reported by B&P and DOR.

Officials from the **Missouri Department of Natural Resources (DNR)** state DNR's Parks and Soils Sales Tax Fund(s) are derived from one-tenth of one percent of sales and use tax pursuant to Article IV, Section 47(a) of the Missouri Constitution. Any increase in sales [and use] tax collected could increase the revenue to the Parks and Soils Sales Tax Fund(s). DNR assumes any increase in revenue to the Parks and Soils Sales Tax Fund(s) would be used for the purposes established under 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 proposed legislation.

Oversight notes DNR's Parks and Soils State Sales Tax Fund(s) (0613 & 0614) receive one-tenth of one percent of the revenues generated from state sales and use tax. For purposes of this fiscal note, Oversight will report the impact to the Parks and Soils State Sales Tax Fund(s), as reported by B&P and DOR.

In response to a previous version of this proposed legislation, officials from **Kansas City** anticipated the provisions of these sections would result in a positive fiscal impact of an indeterminate amount.

In response to a previous version of this proposed legislation, officials from **Springfield** stated this section could result in a positive fiscal impact of an unknown amount.

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 144.608 – DOR Consulting

Oversight notes this section permits DOR 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 to 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 proposed 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 they 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 the Department 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).

<u>Section 144.757 – Local Use Tax</u>

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.

<u>Section 144.759 – Local Use Tax Distribution</u>

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.

Oversight assumes this may change the current distribution; therefore, Oversight will reflect a potential impact to local political subdivisions within St. Louis County (some positive and some negative) – all of which will net to zero.

<u>Sections 144.1000 – 144.1015 – Simplified Sales and Use Tax Administration Act</u>

Oversight notes this proposed legislation eliminates Section(s) 144.1000 – 144.1015; the Simplified Sales and Use Tax Administration Act.

In response to a previous version of this proposed legislation, officials from the **Missouri Attorney General's Office (AGO)** assume any additional litigation costs arising from this proposed legislation can be absorbed with existing personnel and resources. However, the AGO may seek additional appropriations should the increase in litigation become significant.

<u>Legislation as a Whole</u> –

In response to a previous version of this proposed legislation, 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 Auditor's Office**, the **South River Drainage District** and the **St. Charles County Public Water Supply District # 2** do not anticipate this proposed legislation will cause a fiscal impact on their organization. Oversight does not have any information to the contrary. Therefore, Oversight will not report a fiscal impact for these organizations.

In response to a previous version of this proposed legislation, officials from the **Missouri Department of Economic Development** and the **Office of Administration** did not anticipate this proposed legislation will have an impact on their organizations. Oversight does not have any information to the contrary. Therefore, for purposes of this fiscal note, Oversight will not show a fiscal impact for these organizations.

FISCAL IMPACT – State Government	FY 2022 (10 Mo.)	FY 2023	FY 2024	Fully Implemented (FY 2028)
GENERAL REVENUE FUND				
Revenue Reduction - Section 143.011 & 143.177 –Income Tax Rate Reduction(s) (#6 of 8) **PLUS** Working Families Tax Credit p. **8-11**	$0	$0	$0	($182,945,572)
Revenue Change – Section 144.080 – Change In Sales Tax Due Date (**timing) p. 13-17**	($42,400,000) to ($48,400,000)	$42,400,000 to $48,400,000	$0	$0
Cost – DOR – Section(s) 144.605, 144.752, 144.637, & 144.638 **p. 22-26**				
Personnel Services	($1,338,794)	($1,622,619)	($1,638,845)	($1,705,388)
Fringe Benefits	($819,993)	($989,414)	($994,890)	($1,017,348)
Equipment & Expense	($6,459,313)	($18,166)	($18,620)	($20,553)
Total Cost	($8,618,100)	($2,630,199)	($2,652,355)	($2,743,289)
FTE Change – DOR	37 FTE	37 FTE	37 FTE	37 FTE
ESTIMATED NET EFFECT ON GENERAL REVENUE FUND	**($51,018,100) to ($57,018,100)**	**$39,769,801 to $45,769,801**	**($2,652,355)**	**($185,688,861)**

CASH OPERATING EXPENSE FUND				
Revenue Gain – Section(s) 166.05 & 144.752 – Online Use Tax **p. 18-25**	$0	Less than $39,668,060 to $60,603,981	Less than $80,768,943 to $123,396,997	Less than $89,935,816 to $137,401,940
ESTIMATED NET EFFECT ON 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 $89,935,816 to $137,401,940**
SCHOOL DISTRICT TRUST FUND (0688)				
Revenue Change – Section 144.080 – Change In Sales Tax Due Date (**timing) p. 13-17**	($14,100,000) to ($16,100,000)	$14,100,000 to $16,100,000	$0	$0
Revenue Gain – Section(s) 144.605 & 144.752 – Online Use Tax p. **18-25**	$0	Less than $13,222,687 to $20,201,327	Less than $26,922,981 to $41,132,333	Less than $29,978,606 to $45,800,647
ESTIMATED NET EFFECT ON SCHOOL DISTRICT TRUST FUND	**($14,100,000) to ($16,100,000)**	**Less than $27,322,687 to $36,301,327**	**Less than $26,922,981 to $41,132,333**	**Less than $29,978,606 to $45,800,647**

CONSERVATION COMMISSION FUND (0609)				
Revenue Change – Section 144.080 – Change In Sales Tax Due Date (**timing**) p. **13-17**	($1,800,000) to ($2,000,000)	$1,800,000 to $2,000,000	$0	$0
Revenue Gain – Section(s) 144.605 & 144.752 – Online Use Tax p. **18-25**	$0	Less than $1,652,836 to $2,525,166	Less than $3,365,373 to $5,141,542	Less than $3,747,326 to $5,725,081
ESTIMATED NET EFFECT ON CONSERVATION COMMISSION FUND	**($1,800,000) to ($2,000,000)**	**Less than $3,452,836 to $4,525,166**	**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)				
Revenue Change – Section 144.080 – Change In Sales Tax Due Date **(timing) p. 13-17**	($1,400,000) to ($1,600,000)	$1,400,000 to $1,600,000	$0	$0
Revenue Gain – Section(s) 144.605 & 144.752 – Online Use Tax p. **18-25**	$0	Less than $1,322,269 to $2,020,133	Less than $2,692,298 to $4,113,233	Less than $2,997,861 to $4,580,065
ESTIMATED NET EFFECT ON PARKS AND				**Less than $2,997,861 to $4,580,065**

SOILS STATE SALES TAX FUND(S)	**($1,400,000) to ($1,600,000)**	**Less than $2,722,269 to $3,620,133**	**Less than $2,692,298 to $4,113,233**	

FISCAL IMPACT – Local Government	FY 2022 (10 Mo.)	FY 2023	FY 2024	Fully Implemented (FY 2028)
LOCAL POLITICAL SUBDIVISIONS				
Revenue Reduction – Section(s) 67.2677 & 67.2689 – Modification of Definition of "Gross Receipts" and Reduction Percentage Used To Calculate Video Service Provider Fee(s) **p. 5-7**	$0	$0	($2,203,376)	($11,016,881)
Revenue Reduction – Section 144.049 – Back-To-School Sales Tax Holiday Sales Tax Exemption **p. 11-12**	$0	$0	($465,677)	($465,677)
Revenue Reduction – Section 144.054 – Manufacturing Sales Tax Exemption **p. 12**	$0	($16,793,662)	($33,587,232)	($33,587,232)
Revenue Change – Section 144.080 – Change In Sales Tax Due Date (**timing) p. 13-17**	($55,500,000) to ($63,500,000)	$55,500,000 to $63,500,000	$0	$0

Revenue Reduction – Section 144.526 – Show-Me Green Sales Tax Holiday p. 17-18	$0	($27,983)	($27,983)	($27,983)
Revenue Gain – Section(s) 144.605 & 144.752 – Online Use Tax **p. 18-25**	$0	Less than $20,528,688 to $31,363,272	Less than $41,798,878 to $63,859,396	Less than $46,542,842 to $71,107,119
Revenue Increase – Section 144.759 – Local Use Tax Distribution – Potential For Some Local Political Sub. In St. Louis County To Recognize Additional Use Tax Revenue **p. 27**	$0 or Unknown	$0 or Unknown	$0 or Unknown	$0 or Unknown
Revenue Decrease – Section 144.759 – Local Use Tax Distribution – Potential For Some Local Political Sub. In St. Louis County To Recognize Reduced Use Tax Revenue **p. 27**	$0 or (Unknown)	$0 or (Unknown)	$0 or (Unknown)	$0 or (Unknown)
ESTIMATED NET EFFECT ON LOCAL POLITICAL SUBDIVISIONS	**($55,500,000) to ($63,500,000)**	**Less than $59,207,043 to $78,041,627**	**Less than $5,514,610 to $27,575,128**	**Less than $1,445,069 to $26,009,346**

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, in-state small businesses 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).

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.

INDIVIDUAL INCOME TAX

This act provides for additional Individual Income Tax Rate Reductions

USE TAX 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)

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.

Marketplace facilitators may apply to the Department for relief from liability for the failure to collect and remit the correct amount of sales or use tax on retail sales facilitated for marketplace sellers under certain circumstances, as described in the act. Relief from liability shall be a percentage of the sales and use tax collected by the marketplace facilitator, with such percentage being four percent for sales made during the 2023 calendar year, two percent for sales made during the 2024 calendar year, one percent for sales made during the 2025 calendar year, and zero percent thereafter. (Section 144.752)

SALES TAX ADMINISTRATION

This act authorizes the Department of Revenue to consult, contract, and work jointly with the Streamlined Sales and Use Tax Agreement's Governing Board to allow sellers to use the Governing Board's certified service providers and central registration system services, or to consult, contract, and work with certified service providers independently. The Department may determine the method and amount of compensation to be provided to certified service providers. (Section 144.608)

The school and Show Me Green sales tax holidays are modified by repealing the ability for political subdivisions to opt out of the sales tax holidays, and by defining how the sales tax exemption applies to the purchase or return of certain items. (Sections 144.049 and 144.526)

This act relieves a purchaser from any penalties for failure to pay the proper amount of sales tax if the error was a result of erroneous information provided by the Director of Revenue. (Section 144.060)
Beginning January 1, 2022, for sellers collecting at least $250 in sales tax in the first or second month of a calendar quarter, such taxes shall be remitted on or before the last day of the succeeding month rather than on the twentieth day of the succeeding month. (Section 144.080)

The Director shall provide and maintain downloadable electronic databases at no cost to the user of the databases for taxing jurisdiction boundary changes, tax rates, and a taxability matrix detailing taxable property and services. Sellers and certified service providers (CSP) will be relieved from liability if they fail to properly collect tax based upon information provided by the Department. Certified service providers, sellers, and marketplace facilitators may utilize proprietary data, provided the Director certifies that such data meets the standards provided for under the act. (Sections 144.637 and 144.638)

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. (Section 144.140)

MISSOURI WORKING FAMILIES TAX CREDIT ACT

This act establishes the Missouri Working Family Tax Credit Act. A taxpayer shall receive a tax credit equal to the amount such taxpayer would have received under 26 U.S.C. Section 32 as of January 1, 2021. (Section 143.177)

VIDEO SERVICE PROVIDERS

The act modifies the definition of "gross revenues" for provisions of law relating to video service providers.

Under the act, a franchise entity may collect a video service provider fee equal to not more than 5% of the gross revenues of a video service provider providing service in the geographic area of such franchise entity. The fee shall be phased out as follows:

• Beginning August 28, 2023, 4.5% of gross revenues;
• Beginning August 28, 2024, 4% of gross revenues;
• Beginning August 28, 2025, 3.5% of gross revenues;
• Beginning August 28, 2026, 3% of gross revenues; and
• Beginning August 28, 2027, and continuing thereafter, 2.5% of gross revenues.

Currently, video service providers may identify and collect the amount of the video service provider fee as a separate line item on subscriber bills. Under this act, the fee shall be identified and collected as a separate line item.

The act also creates the Task Force on the Future of Right-of-Way Management and Taxation consisting of 16 members as set forth in the act. The purpose of the Task Force is to study best methods for right-of-way management, taxation of video services, and the future revenue needs of municipalities and political subdivisions as such revenue relates to video services.

The Task Force shall compile a report of its activities for submission to the General Assembly. The report shall be submitted no later than December 31, 2023, and shall include any recommendations which the Task Force may have for legislative action. The Task Force shall expire on December 31, 2023.

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 Revenue
Missouri Department of Conservation
Missouri Department of Natural Resources
Missouri Department of Transportation
Missouri Attorney General's Office
Missouri Secretary of State
Joint Committee on Administrative Rules
Missouri Department of Economic Development
Office of Administration
Missouri State Auditor's Office
Kansas City
Springfield
South River Drainage District
St. Charles County Public Water District #2

Julie Morff
Director
March 10, 2021

Ross Strope
Assistant Director
March 10, 2021

TS:LR:OD