

COMMITTEE ON LEGISLATIVE RESEARCH
OVERSIGHT DIVISION

FISCAL NOTE

L.R. No.: 3193-02
Bill No.: HB 1957
Subject: Taxation and Revenue-General; Revenue, Department of; Taxation and Revenue-Sales and Use; Taxation and Revenue-Income
Type: Original
Date: January 14, 2020

Bill Summary: This proposal modifies provisions relating to taxation.

FISCAL SUMMARY

ESTIMATED NET EFFECT ON GENERAL REVENUE FUND				
FUND AFFECTED	FY 2021	FY 2022	FY 2023	Fully Implemented (FY 2024)
General Revenue	\$13,129,089 to \$38,129,089	(\$17,468,252) to \$53,531,748	(\$126,284,138) to (\$5,584,138)	(\$205,094,953) to (\$54,694,953)
Total Estimated Net Effect on General Revenue	\$13,129,089 to \$38,129,089	(\$17,468,252) to \$53,531,748	(\$126,284,138) to (\$5,584,138)	(\$205,094,953) to (\$54,694,953)

ESTIMATED NET EFFECT ON OTHER STATE FUNDS				
FUND AFFECTED	FY 2021	FY 2022	FY 2023	Fully Implemented (FY 2024)
Conservation Commission	\$1,500,000 to \$2,300,000	\$3,100,000 to \$4,700,000	\$3,200,000 to \$4,900,000	\$3,400,000 to \$5,100,000
Park, Soil, and Water	\$1,200,000 to \$1,800,000	\$2,500,000 to \$3,700,000	\$2,600,000 to \$3,900,000	\$2,700,000 to \$4,100,000
Total Estimated Net Effect on Other State Funds	\$2,700,000 to \$4,100,000	\$5,600,000 to \$8,400,000	\$5,800,000 to \$8,800,000	\$6,100,000 to \$9,200,000

Numbers within parentheses: () indicate costs or losses. This fiscal note contains 25 pages.

ESTIMATED NET EFFECT ON FEDERAL FUNDS				
FUND AFFECTED	FY 2021	FY 2022	FY 2023	Fully Implemented (FY 2024)
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 2021	FY 2022	FY 2023	Fully Implemented (FY 2024)
General Revenue	33 FTE	33 FTE	33 FTE	33 FTE
Total Estimated Net Effect on FTE	33 FTE	33 FTE	33 FTE	33 FTE

Estimated Net Effect (expenditures or reduced revenues) expected to exceed \$100,000 in any of the three fiscal years after implementation of the act.

ESTIMATED NET EFFECT ON LOCAL FUNDS				
FUND AFFECTED	FY 2021	FY 2022	FY 2023	Fully Implemented (FY 2024)
Local Government	\$0 or \$18,400,000 to \$28,200,000	\$0 or \$37,900,000 to \$57,900,000	\$0 or \$39,700,000 to \$60,700,000	\$0 or \$41,100,000 to \$62,800,000

FISCAL ANALYSIS

ASSUMPTION

Oversight was unable to receive some of the agency responses and conduct an analysis on this proposal due to the short fiscal note request time. Oversight has presented this fiscal note on the best current information that we have or on prior year information regarding a similar bill. Upon the receipt of additional agency responses, Oversight will review to determine if an updated fiscal note should be prepared and seek the necessary approval of the chairperson of the Joint Committee on Legislative Research to publish a new fiscal note.

Income Tax Reduction (Section 143.011)

Officials from the **Office of Administration - Budget and Planning (B&P)** state:

Section 143.011.4(1) would create an additional 0.08% reduction in the top rate of tax, beginning tax year 2021.

Section 143.011.4(2) would allow for an additional reduction or increase in the top rate of tax during tax year 2022 and tax year 2023.

Beginning with tax year 2022 a reduction of 0.05% may occur for every \$45M collected in total state sales and use tax collected from October 1, 2020 to September 30, 2021 over a 2.8% percent increase in total state sales and use tax revenue received from October 1, 2019 to September 30, 2020. An increase of 0.05% in the top tax rate may occur for every \$45M collected in total state sales and use tax that collections failed to equal a 2.8% percent increase in total state sales and use tax revenue received during the same time period.

Beginning with tax year 2023 a reduction of 0.05% may occur for every \$45M collected in total state sales and use tax collected from October 1, 2020 to September 30, 2021 over a 5.6% increase in total state sales and use tax revenue received from October 1, 2019 to September 30, 2020. An increase of 0.05% in the top tax rate may occur for every \$45M collected in total state sales and use tax that collections failed to equal a 5.6% increase in total state sales and use tax revenue received during the same time period.

In order to determine potential sales and use tax revenue growth, B&P utilized forecasted GR sales and use tax growth for FY20 and FY21. B&P then used those growth rates to estimate potential revenue growth for other state sales and use tax funds (Prop C, Conservation sales tax, and the Parks, Soil, Water sales taxes). B&P then used the 5-year average sales and use tax growth to estimate potential revenue growth in FY22.

ASSUMPTION (continued)

B&P then combined the forecasted growth with the estimated online sales and use tax collections for tax year 2021 and tax year 2022 in order to estimate any rate changes triggered under Section 143.011.4(2). Based on the above calculations, B&P estimates that if online sales tax collections were low, one additional 0.5% rate reduction would be triggered for tax year 2022 and two additional rate reductions would be triggered for tax year 2023. However, if online sales taxes were high two additional reductions would be triggered for tax year 2022 and three additional rate reductions would be triggered for tax year 2023. Table 3 shows the estimated tax rates under this proposal.

Table 3: Income Tax Rates

Tax Year	Current Law*	Proposal - Low Sales		Proposal - High Sales	
		Reductions	Estimated New Rate	Reductions	Estimated New Rate
2021	5.30%	0.08%	5.22%	0.08%	5.22%
2022	5.20%	0.05%	5.07%	0.10%	5.02%
2023	5.10%	0.10%	4.87%	0.15%	4.77%

*Current Law - Assumes SB 509 (2014) growth triggers are met every year.

For the purpose of this fiscal note, B&P will assume that the income tax rate reductions and business income exemptions scheduled to occur under current law happen in consecutive years from tax year 2021 through tax year 2023.

Accounting for the changes in individual income tax law created by SB 509 (2014), HB 2540 (2018) and the TCJA (2017), B&P estimates that this section could reduce TSR and GR by \$74.5M in tax year 2021. Once fully implemented in tax year 2023, this section could reduce income taxes by \$215.1M to \$309.7M annually, depending on the amount of future sales tax growth. The following tables show the estimated impacts by tax year.

Table 4: Impact from Income Tax Reductions by Tax Year

Tax Year	Proposal - Low	Proposal - High
2021	(\$74.5)	(\$74.5)
2022	(\$120.1)	(\$166.4)
2023	(\$215.1)	(\$309.7)

Figures in \$M

ASSUMPTION (continued)

However, because this proposal would take effect January 1, 2021 individuals will adjust their withholdings and declarations during FY20. B&P notes that based on historical income tax collections, B&P adjusts tax year income tax impacts to reflect 42% of the impact in the first fiscal year (from changes in withholding and declarations) and 58% of the impact in the second fiscal year (from changes in withholding, declarations, and final remittance payments).

Therefore, B&P estimates that this section could reduce TSR and GR by \$31.3M in FY21. Once fully implemented in FY24, this section could reduce income taxes by \$215.1M to \$309.7M annually, depending on the amount of future sales tax growth. The following tables show the estimated impacts by fiscal year.

Table 5: Impact from Income Tax Reductions by Fiscal Year

Tax Year	Proposal - Low	Proposal - High
2021	(\$31.3)	(\$31.3)
2022	(\$93.7)	(\$113.1)
2023	(\$160.0)	(\$226.6)
2024	(\$215.1)	(\$309.7)

Figures in \$M

Officials from the **Department of Revenue (DOR)** state this proposal in Section 143.011.4 (1) would create an additional 0.08% reduction in the top rate of tax, beginning tax year 2020.

DOR notes the current projected Individual Income Tax Rate is calculated with SB 509 (2014) and HB 2540 (2018) as follows:

TY 2018 it was 5.9% (.1% reduction from SB 509)

TY 2019 it was 5.4% (.1% reduction from SB 509 + .4% reduction from HB 2540)

TY 2020 it is 5.4% (no reductions)

TY 2021 will be 5.3% (.1% reduction from SB 509)

TY 2022 will be 5.2% (.1% reduction from SB 509)

TY 2023 will be 5.1% (last .1% reduction from SB 509)

DOR assumes that SB 509 triggers each year consecutively for fiscal note purposes.

This proposal in Section 143.011(2) would allow for an additional reduction or increase in the individual income tax rate during 2022 and 2023 based on the amount of state sales and use tax collected. For each additional \$45M in total state sales and use tax collected from October 1,

ASSUMPTION (continued)

2020 to September 30, 2021 that exceeds 2.8% increase from the previous year the top tax rate shall be reduced five-hundredths of one percent. If it fails to increase over the 2.8% then the rate would increase by the five-hundredths of one percent.

For tax year 2032 for each additional \$45M in total state sales and use tax collected from October 1, 2020 to September 30, 2022 that exceeds 5.6% increase from the previous year the top tax rate shall be reduced five-hundredths of one percent. If it fails to increase over the 5.6% then the rate would increase by the five-hundredths of one percent.

DOR assumes this proposal could result in new tax rate of:

Tax Year	Current Law	Reduction - Low	Estimated New Rate - Low	Reduction - High	Estimated New Rate - High
2021	5.3%	0.08%	5.22%	0.08%	5.22%
2022	5.2%	0.05%	5.07	0.10%	5.02%
2023	5.1%	0.10%	4.87	0.15%	4.77%

Impact assumes SB 509 is triggered annually.

DOR assumes in fiscal notes that the income tax rate reductions and business income exemptions scheduled to occur under current law happen in consecutive years from tax year 2021 through tax year 2023. So accounting for the changes in individual income tax law created by SB 509 (2014), HB 2540 (2018) and the TCJA (2017) the tax year impact is estimated to be:

Tax Year	Low	High
2021	(\$74,239,101)	(\$74,239,101)
2022	(\$119,700,129)	(\$165,738,635)
2023	(\$214,326,955)	(\$308,587,619)

DOR uses a 42% in the first year and 58% split in the second year to convert calendar year numbers into fiscal year numbers. The following tables show the estimated impacts by fiscal year.

Fiscal Year	Low	High
2021	(\$31,180,422)	(\$31,180,422)
2022	(\$93,332,733)	(\$112,668,905)
2023	(\$159,443,396)	(\$225,735,208)
2024	(\$214,326,955)	(\$308,587,619)

ASSUMPTION (continued)

Officials from the **University of Missouri - Economic & Policy Analysis Research Center (EPARC)** state although there are many changes in current statutes within this bill, we will restrict our analysis to the individual income tax changes. This bill initially decreases the top individual income tax by eight-hundredths of one percent, then adjusts this top rate up or down by five-hundredths of one percent depending on a sales tax revenue trigger.

Specifically, this bill would decrease the top individual income tax rate by eight-hundredths (0.08%) beginning in 2021.

“For the 2022 calendar year, for every additional \$45 million in sales and use tax revenue received from October 1, 2020, to September 30, 2021, that exceeds a 2.8% increase in sales and use tax revenue received from October 1, 2019, to September 30, 2020, the top tax rate will be reduced 0.05% from its 2021 rate. For every \$45 million in sales and use tax revenue received from October 1, 2020, to September 30, 2021, that fails to equal a 2.8% increase in sales and use tax revenue received from October 1, 2019, to September 30, 2020, the top tax rate will be increased 0.05% from its 2021 rate.”

“Beginning with the 2023 calendar year, for every additional \$45 million in sales and use tax revenue received from October 1, 2020, to September 30, 2022, that exceeds a 5.6% increase in sales and use tax revenue received from October 1, 2019, to September 30, 2020, the top tax rate will be reduced 0.05% from its 2021 rate. For every \$45 million in sales and use tax revenue received from October 1, 2020, to September 30, 2022, that fails to equal a 5.6% increase in sales and use tax revenue received from October 1, 2019, to September 30, 2020, the top tax rate will be increased 0.05% from its 2021 rate.”

Although we are unable to predict the economic impact of the remainder of this bill, we are able to provide a sample of the impact of reducing the top individual income tax rate by eight-hundredths of one percent in 2021 then further reducing or increasing that rate in five-hundredths of one percent increments within the two years of adjustments. The following table reports all possibilities.

Top Tax Rate	Attached Table	Change in Net Tax Due in Attached Table
5.40%	Table 1	\$0
5.42%	Table 2	\$19.851 million
5.37%	Table 3	(\$29.747 million)
5.32%	Table 4	(\$79.291 million)
5.27%	Table 5	(\$128.742 million)
5.22%	Table 6	(\$178.095 million)

ASSUMPTION (continued)

Table 1 reports the baseline for our analysis where Net Tax Due is \$5,680.602 million.

FY2022:

Table 4 reports the findings of the initial decrease in the top tax rate from 5.4% to 5.32% in 2021. Our simulation findings in Table 4 show Net Tax Due reduces to \$5,601.311 million. This is a \$79.291 million drop in Net Tax Due, which translates into a decrease in Net General Revenue of \$79.291 million in the following fiscal year, FY2022, due to reducing the top tax rate by 0.08%.

FY2023:

Within the first year of adjustment (2022), the top tax rate may increase by 0.05%, decrease by 0.05%, or remain at 5.32%. Therefore the tax year 2022 may see a top tax rate as low as 5.27% or as high as 5.37%. Using these figures, Table 3 and Table 5 report the simulation findings for these top tax rates.

Table 3 reports a Net Tax Due of \$5,650.845 million, a decrease of \$29.757 million from the baseline. Therefore, this would indicate an equivalent decrease in Net General Revenue of \$29.757 million if the top tax rate were adjusted to 5.37% in 2022. Table 5 reports a Net Tax Due of \$5,551.860 million, a decrease of \$128.742 million from the baseline. Therefore, this would indicate an equivalent decrease in Net General Revenue of \$128.742 million if the top tax rate were adjusted to 5.27% in 2022. Therefore due to this bill, FY2023 will see a decrease in Net General Revenue between \$29.757 million and \$128.742 million compared to the baseline year due to the top tax rate adjusting between 5.27% and 5.37%.

FY2024:

Within the second year of adjustment (2023), the top tax rate may increase by an additional 0.05%, or decrease by an additional 0.05%, or remain constant. Therefore the tax year 2023 may see a top tax rate as low as 5.22% or as high as 5.42%. Using these figures, Table 2 and Table 6 report the simulation findings for these top tax rates.

Table 2 reports a Net Tax Due of \$5,700.453 million, an increase of \$19.851 million from the baseline. Therefore, this would indicate an equivalent increase in Net General Revenue of \$19.851 million if the top tax rate were adjusted to 5.42% in 2023. Table 6 reports a Net Tax Due of \$5,502.507 million, a decrease of \$178.095 million from the baseline. Therefore, this would indicate an equivalent decrease in Net General Revenue of \$178.095 million if the top tax rate were adjusted to 5.22% in 2023. Therefore due to this bill, FY2024 will see either an increase in Net General Revenue of \$19.851 million if the top tax rate is adjusted to 5.42% or a decrease of \$178.095 million if the top tax rate is adjusted to 5.22%.

ASSUMPTION (continued)

Conclusion: As stated above, although there are many changes in current statutes within this bill, we will restrict our analysis to the individual income tax changes.

By reducing the top individual income tax rate by 0.08% to 5.32% in 2021 we estimate Net General Revenue will decrease by \$79.291 million in FY2022.

By allowing for a 0.05% adjustment to the 5.32% top tax rate in 2022, the top tax rate may adjust between 5.27% and 5.37%. Should the top tax rate adjust to 5.27%, we estimate a decrease in FY2023 Net General Revenue by \$29.575 million. Should the top tax rate adjust to 5.37%, we estimate a decrease in FY2023 by \$128.742 million.

By allowing for an additional 0.05% adjustment to the top tax rate in 2023, the top tax rate may adjust between 5.22% and 5.42%. Should the top tax rate adjust to 5.42%, we estimate an increase in FY2024 Net General Revenue by \$19.851 million. Should the top tax rate adjust to 5.22%, we estimate a decrease in FY2024 Net General Revenue by \$178.095 million.

Oversight notes we are unable to estimate revenue or verify the data and models provided. Oversight will reflect the estimates provided by the Department of Revenue and the Office of Administration - Budget and Planning for changes to the income tax as well as sales and use tax.

Online Use Tax Collections (Sections 144.605, 144.637, 144.701, 144.752, and 144.757)

Officials from the **Office of Administration - Budget and Planning (B&P)** state sections 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, 2021. Only retailers with gross revenue greater than \$100,000 from deliveries or retailers with at least 200 separate transactions 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 a sales tax authorized under Article IV of the Missouri Constitution may instead remit the sales taxes collected to DOR so that they may be deposited into GR. B&P notes that this subsection would apply to the motor vehicle sales tax (Article IV, Section 30(b)), Conservation sales tax (Article IV, Section 43(a)), and the Parks, Soil

ASSUMPTION (continued)

and Water sales taxes administered by DNR (Article IV, Section 47(a)). Article IV, Section 30(d) prohibits the diversion of motor vehicle sales tax money for non-highway purposes. Article IV, Section 43(b) details the uses for the Conservation sales tax. Article IV, Section 47(b) details the uses for the moneys collected by the Parks, Soil and Water sales taxes. B&P notes that all three sections require such funds to only be used on such explicit purposes. Therefore, B&P will reflect revenues collected under Sections 144.605 to 144.752 of this proposal as deposited into their existing Conservation and DNR funds and not diverted into GR. B&P notes that state and local use taxes on motor vehicles are already collected outside of this proposal and will therefore not be impacted.

Section 144.605(2)(g)e states that any vendor that meets the requirements in Section 155.605(2)(g)c shall not be subject to any local use tax that was enacted prior to January 1, 2021 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 144.637 requires DOR 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. DOR 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.

Subsection 144.637.3 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.

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.

This section will not impact TSR or the calculation under Article X, Section 18(e); however, B&P defers to DOR for more information on potential costs.

ASSUMPTION (continued)

Section 144.701.2 would divert the 1% sales tax that would otherwise be deposited into the School District Trust Fund (SDTF) into GR instead for moneys collected under Sections 144.605 to 144.752 of this proposal. Therefore, B&P will show the full 4% sales tax collections (3% GR and 1% SDTF) resulting from this proposal as being deposited into GR.

Section 144.752 defines marketplace facilitators and states that a facilitator counts as one seller. Starting January 1, 2021 market place facilitators that reach the sales thresholds outlined under Section 144.605(2)(g) must register with DOR 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. This section further clarifies that 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.

Online Use Tax Collection Estimates 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 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 and use 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

ASSUMPTION (continued)

to accurately reflect growth in the online sales and use tax base. B&P notes that using growth in the full e-commerce market would overestimate the sales and use 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 2020 Missouri could gain up to \$93.3 million to \$142.5 million in total state revenues, of which \$66.2 million to \$101.2 million would be General Revenue. By 2023, B&P and DOR estimate that total state revenues could be increased by \$111.8 million to \$170.9 million, of which \$79.4 million to \$121.4 million would be General Revenue. Table 1 shows the estimated impact by calendar year. 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.

ASSUMPTION (continued)

Table 1: Collections by **Calendar** Year (figures in millions)

Revenue Estimates	FY 2021		FY 2022		FY 2023	
	Low	High	Low	High	Low	High
General Revenue (3% tax)	\$71.2	\$108.7	\$75.2	\$115.0	\$78.2	\$119.5
Education (GR) (1%)	\$ 23.7	\$ 36.2	\$ 25.1	\$ 38.3	\$ 26.1	\$ 39.8
Conservation	\$ 3.0	\$ 4.5	\$ 3.1	\$ 4.8	\$ 3.3	\$ 5.0
Parks, Soil & Water	\$ 2.4	\$ 3.6	\$ 2.5	\$ 3.8	\$ 2.6	\$ 4.0
Total State Revenue	\$100.2	\$153.1	\$106.0	\$161.9	\$110.2	\$168.3
Local (pop weighted use tax rate 1.385%)	\$0 to \$36.8	\$0 to \$56.3	\$0 to \$38.9	\$0 to \$59.5	\$0 to \$40.5	\$0 to \$61.9

Figures in \$M

*Section 144.605.1(2)(g)e requires local use tax collections under this proposal be voter approve.

*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.

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 and DOR estimate that in fiscal year 2021 Missouri could gain up to \$50.1 million to \$76.6 million in total state revenues, of which \$47.5 million to \$72.5 million would be General Revenue. By fiscal year 2024, B&P and DOR estimate that total state revenues could be increased by \$111.9 million to \$170.9 million, of which \$105.9 million to \$161.7 million would be General Revenue. Table 2 shows the estimated impact by fiscal year.

ASSUMPTION (continued)

Table 1: Collections by **Fiscal Year** (figures in millions)

Revenue Estimates	FY 2021		FY 2022		FY 2023	
	Low	High	Low	High	Low	High
General Revenue (3% tax)	\$ 35.6	\$ 54.4	\$ 73.2	\$111.9	\$ 76.7	\$ 79.4
Education (GR) (1%)	\$ 11.9	\$ 18.1	\$ 24.4	\$ 37.3	\$ 25.6	\$ 39.1
Conservation	\$ 1.5	\$ 2.3	\$ 3.1	\$ 4.7	\$ 3.2	\$ 4.9
Parks, Soil & Water	\$ 1.2	\$ 1.8	\$ 2.5	\$ 3.7	\$ 2.6	\$ 3.9
Total State Revenue	\$ 50.1	\$ 76.6	\$103.1	\$157.5	\$108.1	\$165.1
Local (pop weighted use tax rate 1.385%)	\$0 to \$18.4	\$0 to \$28.2	\$0 to \$37.9	\$0 to \$57.9	\$0 to \$39.7	\$0 to \$60.7

figures in \$M

*Section 144.605.1(2)(g)e requires local use tax collections under this proposal be voter approve.

*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.

Officials from the **Department of Revenue (DOR)** supplied revenue estimates very similar to B&P.

DOR also stated they 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.

Administrative Impact

• Sales Tax:

- The Department estimates it will need three (3) Revenue Processing Technician (RPT) I's to process the additional returns.
- The Department estimates it will need one (1) RPT I to answer additional correspondence.
- The Department estimates it will need two (2) RPT I's to process the additional registration applications and perform location maintenance.

ASSUMPTION (continued)

FCB Audit:

- The Department will need to increase our number of auditors, especially those in out-of-state offices, in order to address the potential of a greater non-compliant tax base. The Department would need to add twenty-five (25) auditors. The Department believes the twenty-five total auditors could increase over a period of time, as the Department generally performs three-year audits, and there will be limited records to audit in the first several years following implementation of this proposed bill.
- The Department also estimates it will need two (2) additional auditors in training, to perform discovery work needed to identify potential audit leads from non-registered businesses.

Section 144.637 Tax Database

This proposed section states 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 the tax imposed under Sections 144.600 to 144.745.

This proposed 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.

• Integrated Tax System

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

ASSUMPTION (continued)

The Department 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.

Section 144.757

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 provision a local use tax shall not exceed the rate enacted as of January 1, 2021. 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 provision would prevent local use taxes from being increased any time a local sales tax is increased after January 1, 2021.

DOR states this proposal modifies the ballot language for sales and use tax issues. The Department assumes no fiscal impact from changing the ballot language.

This section also places a cap on local use taxes. Under this provision a local use tax shall not exceed the rate enacted as of January 1, 2021. Currently, local use taxes are set at the same rate as local sales taxes. This provision would prevent local use taxes from being increased any time a local sales tax is increased after January 1, 2021. The Department assumes no fiscal impact from this provision.

Proposal Summary

B&P estimates that this proposal could increase TSR by \$18.9M and GR by \$16.2M during FY21 if online use tax collections are low. If online use tax collections are high, this proposal could increase TSR by \$45.2M and GR by \$41.2M in FY21.

Once fully implemented (FY24), this proposal could decrease TSR by \$103.2M and GR by \$109.2M annually, if online use tax collections are low. If online use tax collections are high, this proposal could decrease TSR by \$138.9M and GR by \$148.0M annually beginning in FY24. The following table shows the summary impact to TSR and GR from this proposal.

ASSUMPTION (continued)

SUMMARY BY B&P:

Table 6: Summary of GR Impact by Fiscal Year

Fund	2021		2022		2023		2024	
	Low Sales	High Sales	Low Sales	High Sales	Low Sales	High Sales	Low Sales	High Sales
General Revenue								
Online Sales Tax	\$47.5	\$72.5	\$97.6	\$149.1	\$102.3	\$156.3	\$105.9	\$161.7
Income Tax Rate Reduction	(\$31.3)	(\$31.3)	(\$93.7)	(\$113.1)	(\$160.0)	(\$226.6)	(\$215.1)	(\$309.7)
Net GR Impact	\$16.2	\$41.2	\$3.9	\$36.0	(\$57.7)	(\$70.3)	(\$109.2)	(\$148.0)
Conservation	\$1.5	\$2.3	\$3.1	\$4.7	\$3.2	\$4.9	\$3.4	\$5.1
Parks, Soil, Water	\$1.2	\$1.8	\$2.5	\$3.7	\$2.6	\$3.9	\$2.7	\$4.1
Net TSR Impact	\$18.9	\$45.2	\$9.4	\$44.4	(\$52.0)	(\$61.5)	(\$103.2)	(\$138.9)
Local* (Pop Weighted Rate 1.385%)	\$0 to \$18.4	\$0 to \$28.2	\$0 to \$37.9	\$0 to \$57.9	\$0 to \$39.7	\$0 to \$60.7	\$0 to \$41.1	\$0 to \$62.8

figures in \$M

*Section 144.605.1(2)(g) requires local use tax collections under this proposal be voter approve.

*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.

B&P notes that the online use tax 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.

ASSUMPTION (continued)

SUMMARY BY DOR:

Impact to General Revenue

General Revenue	2021		2022		2023		2024	
	Low	High	Low	High	Low	High	Low	High
Out of State Sales Tax	\$47.5	\$72.5	\$97.6	\$149.1	\$102.3	\$156.3	\$104.3	\$159.3
Admin impact of out of state sales	(\$3.0)	(\$3.0)	(\$1.9)	(\$1.9)	(\$1.9)	(\$1.9)	(\$1.9)	(\$1.9)
Tax Database	(\$1.0)	(\$1.0)	(UNK)	(UNK)	(UNK)	(UNK)	(UNK)	(UNK)
Individual Income Tax Reduction	(\$31.1)	(\$31.1)	(\$93.3)	(\$112.6)	(\$159.4)	(\$225.7)	(\$214.3)	(\$308.5)
TOTAL	\$13.2	\$38.2	\$4.2	\$34.4	(\$59.1)	(\$71.4)	(\$111.9)	(\$51.1)

Impact to Other State Funds and Local Funds

Revenue Estimates	2021		2022		2023		2024	
	Low	High	Low	High	Low	High	Low	High
Conservation (0.125% tax)	\$1.5	\$2.3	\$3.1	\$4.7	\$3.2	\$4.9	\$3.3	\$5.0
Parks, Soil, Water (0.1% tax)	\$1.2	\$1.8	\$2.4	\$3.7	\$2.6	\$3.9	\$2.6	\$4.0
Local*	\$0 to \$18.4	\$0 to \$28.2	\$0 to \$37.9	\$0 to \$57.9	\$0 to \$39.7	\$0 to \$60.7	\$0 to \$40.5	\$0 to \$61.90

figures in \$M

Officials at the **Department of Conservation** assume an unknown fiscal impact but greater than \$100,000. The Conservation Sales Tax funds are derived from one-eighth of one percent sales and use tax pursuant to Article IV Section 43 (a) of the Missouri Constitution. Any increase in sales and use tax collected would increase 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. The Department assumes the Department of Revenue would be better able to estimate the anticipated fiscal impact that would result from this proposal.

Officials at the **Department of Natural Resources** assume the Department's Parks and Soils Sales Tax Funds are derived from one-tenth of one percent sales and use tax pursuant to Article IV Section 47(a) of the Missouri Constitution. Any increase in sales tax collected could increase

ASSUMPTION (continued)

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.

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

Oversight notes that Article IV, Section 47 of the Missouri Constitution, allows revenue received from an additional sales tax of one-tenth (1/10) of percent (1%) to be used for the conservation and management of the soil and water resources of Missouri and for the proper management of the state parks. The Parks Sales Tax Fund (0613) and the Soil and Water Sales Tax Fund (0614) each are to receive 50% of this additional sales tax funding.

Officials from the **Department of Transportation** defer to the Office of Administration to estimate the fiscal impact of the proposed legislation on their respective organization.

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

FISCAL IMPACT -
State Government

	FY 2021 (10 Mo.)	FY 2022	FY 2023	Fully Implemented (FY 2024)
GENERAL REVENUE				
<u>Revenue - DOR</u>				
§144.605 Out-of-State tax collection	\$35,600,000 to \$54,400,000	\$73,200,000 to \$111,900,000	\$76,700,000 to \$117,300,000	\$79,400,000 to \$121,300,000
Revenue - DOR (1% exempt)	\$11,900,000 to \$18,100,000	\$24,400,000 to \$37,300,000	\$25,600,000 to \$39,100,000	\$26,500,000 to \$40,400,000
<u>Loss - Income Tax changes §143.011</u>	(\$31,300,000)	(\$93,700,000) to (\$113,100,000)	(\$160,000,000) to (\$226,600,000)	(\$215,100,000) to (\$309,700,000)
<u>Cost - DOR</u>				
§144.605 - 6 Revenue Processing Techs & 27- Auditors				
Salaries	(\$983,640)	(\$1,192,172)	(\$1,204,093)	(\$1,216,134)
Fringe Benefits	(\$643,467)	(\$776,080)	(\$780,039)	(\$78,819)
Tax Database	(\$1,000,000)	(Unknown)	(Unknown)	(Unknown)
Mailing	(\$200,000)			
Equipment & Expense	<u>(\$243,804)</u>	<u>\$0</u>	<u>\$0</u>	<u>\$0</u>
<u>Total Cost</u>	(\$3,070,911)	(\$1,968,252)	(\$1,984,138)	(\$1,294,953)
FTE Change	33 FTE	33 FTE	33 FTE	33 FTE
ESTIMATED NET EFFECT ON GENERAL REVENUE				
	\$13,129,089 to <u>\$38,129,089</u>	(\$17,468,252) to <u>\$53,531,748</u>	(\$126,284,138) <u>to (\$5,584,138)</u>	(\$205,094,953) <u>to (\$54,694,953)</u>
Estimated Net FTE Change on GR	33 FTE	33 FTE	33 FTE	33 FTE

<u>FISCAL IMPACT -</u> <u>State Government</u> (continued)	FY 2021 (10 Mo.)	FY 2022	FY 2023	Fully Implemented (FY 2024)
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**CONSERVATION
 COMMISSION
 FUNDS**

Revenue - DOR
 §144.605-144.757
 44.021 Online Sales
 Tax Collection*
 page 9

<u>\$1,500,000 to</u> <u>\$2,300,000</u>	<u>\$3,100,000 to</u> <u>\$4,700,000</u>	<u>\$3,200,000 to</u> <u>\$4,900,000</u>	<u>\$3,400,000 to</u> <u>\$5,100,000</u>
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**ESTIMATED NET
 EFFECT ON
 CONSERVATION
 COMMISSION
 FUNDS**

<u>\$1,500,000 to</u> <u>\$2,300,000</u>	<u>\$3,100,000 to</u> <u>\$4,700,000</u>	<u>\$3,200,000 to</u> <u>\$4,900,000</u>	<u>\$3,400,000 to</u> <u>\$5,100,000</u>
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**PARK, SOIL &
 WATER FUNDS**

Revenue - DOR
 §144.605-144.757
 Online Sales Tax
 Collection* page 9

<u>\$1,200,000 to</u> <u>\$1,800,000</u>	<u>\$2,500,000 to</u> <u>\$3,700,000</u>	<u>\$2,600,000 to</u> <u>\$3,900,000</u>	<u>\$2,700,000 to</u> <u>\$4,100,000</u>
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**ESTIMATED NET
 EFFECT ON
 PARK, SOIL &
 WATER FUNDS**

<u>\$1,200,000 to</u> <u>\$1,800,000</u>	<u>\$2,500,000 to</u> <u>\$3,700,000</u>	<u>\$2,600,000 to</u> <u>\$3,900,000</u>	<u>\$2,700,000 to</u> <u>\$4,100,000</u>
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<u>FISCAL IMPACT -</u>				Fully
<u>Local Government</u>	FY 2021	FY 2022	FY 2023	Implemented
	(10 Mo.)			(FY 2024)

**LOCAL
 POLITICAL
 SUBDIVISIONS**

<u>Revenue - DOR</u>				
§144.605 et al	<u>\$0 or</u>	<u>\$0 or</u>	<u>\$0 or</u>	<u>\$0 or</u>
Online Sales Tax	<u>\$18,400,000 to</u>	<u>\$37,900,000 to</u>	<u>\$39,700,000 to</u>	<u>\$41,100,000 to</u>
Collection* page 9	<u>\$28,200,000</u>	<u>\$57,900,000</u>	<u>\$60,700,000</u>	<u>\$62,800,000</u>

**ESTIMATED NET
 EFFECT TO**

LOCAL	<u>\$0 or</u>	<u>\$0 or</u>	<u>\$0 or</u>	<u>\$0 or</u>
POLITICAL	<u>\$18,400,000 to</u>	<u>\$37,900,000 to</u>	<u>\$39,700,000 to</u>	<u>\$41,100,000 to</u>
SUBDIVISIONS	<u>\$28,200,000</u>	<u>\$57,900,000</u>	<u>\$60,700,000</u>	<u>\$62,800,000</u>

FISCAL IMPACT - Small Business

Online sales tax will now be collected on out of state sellers creating a potential even playing field for local in-state businesses.

FISCAL DESCRIPTION

This bill reduces the top income tax rate 0.08% on January 1, 2021.

Additionally, beginning with the 2022 calendar year this bill will allow the income tax rate to adjust for a period of two years:

- (1) For the 2022 calendar year, for every additional \$45 million in sales and use tax revenue received from October 1, 2020, to September 30, 2021, that exceeds a 2.8% increase in sales and use tax revenue received from October 1, 2019, to September 30, 2020, the top tax rate will be reduced 0.05% from its 2021 rate. For every \$45 million in sales and use tax revenue received from October 1, 2020, to September 30, 2021, that fails to equal a 2.8% increase in sales and use tax revenue received from October 1, 2019, to September 30, 2020, the top tax rate will be increased 0.05% from its 2021 rate.

FISCAL DESCRIPTION (continued)

(2) Beginning with the 2023 calendar year, for every additional \$45 million in sales and use tax revenue received from October 1, 2020, to September 30, 2022, that exceeds a 5.6% increase in sales and use tax revenue received from October 1, 2019, to September 30, 2020, the top tax rate will be reduced 0.05% from its 2021 rate. For every \$45 million in sales and use tax revenue received from October 1, 2020, to September 30, 2022, that fails to equal a 5.6% increase in sales and use tax revenue received from October 1, 2019, to September 30, 2020, the top tax rate will be increased 0.05% from its 2021 rate (Section 143.011, RSMo).

ECONOMIC NEXUS

Beginning January 1, 2021, this bill provides that a vendor also engages in business activities in this state if a vendor during a 12 month period, as defined in the bill:

- (1) Has cumulative gross receipts of at least \$100,000 from the sale of tangible personal property; or
- (2) Has 200 or more separate transactions, for the purpose of storage, use, or consumption in this state in the previous 12 month period, as described in the bill; and
- (3) Does not have a physical presence within the state and the associated sales occurred with use of the Internet (Section 144.605).

TAXING JURISDICTION DATABASE

This bill 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 erroneous data provided by the director on tax rates, boundaries, or taxing jurisdiction assignments (Section 144.637).

MARKETPLACE FACILITATORS

By January 1, 2021, 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 in the bill.

FISCAL DESCRIPTION (continued)

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).

OTHER PROVISIONS OF THE BILL

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 (Section 144.605).

The bill specifies that new revenue collected under the provisions of the bill that would be deposited into the school district trust fund will now be deposited into the state General Revenue Fund (Section 144.701).

This bill specifies that any vendor meeting the provisions of the economic nexus, as defined in the bill, with the state of Missouri, 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 (Section 144.605).

Ballot language for approval or reapproval by the voters of the political subdivision is included in this bill (Section 144.757).

This bill has a nonseverability 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

Department of Revenue
Office of Administration - Budget and Planning
Department of Natural Resources
Missouri Department of Conservation
Department of Transportation
University of Missouri - Economic & Policy Analysis Research Center



Julie Morff
Director
January 14, 2020

Ross Strobe
Assistant Director
January 14, 2020