

COMMITTEE ON LEGISLATIVE RESEARCH
OVERSIGHT DIVISION

FISCAL NOTE

L.R. No.: 1305H.011
 Bill No.: HB 644
 Subject: Taxation and Revenue - General; Revenue, Department of; Taxation and Revenue
 - Sales and Use
 Type: Original
 Date: February 9, 2021

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

FISCAL SUMMARY

ESTIMATED NET EFFECT ON GENERAL REVENUE FUND			
FUND AFFECTED	FY 2022	FY 2023	FY 2024
General Revenue	Could be significantly less than \$51,700,123 to could be significantly less than \$80,821,732	Less than \$74,794,406 to \$115,585,606	Less than \$78,253,627 to \$120,881,681
Total Estimated Net Effect on General Revenue	Could be significantly less than \$51,700,123 to could be significantly less than \$80,821,732	Less than \$74,794,406 to \$115,585,606	Less than \$78,253,627 to \$120,881,681

Numbers within parentheses: () indicate costs or losses.

ESTIMATED NET EFFECT ON OTHER STATE FUNDS			
FUND AFFECTED	FY 2022	FY 2023	FY 2024
School District Trust Fund (0688)	Could be significantly less than \$18,392,595 to could be significantly less than \$28,099,799	Less than \$25,762,863, to \$39,359,930	Less than \$26,922,981 to \$41,132,333
Conservation Commission Fund (0609)	Could be significantly less than \$2,299,074 to could be significantly less than \$3,512,475	Less than \$3,220,358 to \$4,919,992	Less than \$3,365,373 to \$5,141,542
Parks and Soils State Sales Tax Fund(s) (0613 & 0614)	Could be significantly less than \$1,839,260 to could be significantly less than \$2,809,980	Less than \$2,576,286 to \$3,935,993	Less than \$2,692,298 to \$4,113,233
Total Estimated Net Effect on <u>Other</u> State Funds	Could be significantly less than \$22,530,929 to could be significantly less than \$34,422,254	Less than \$31,559,507 to \$48,215,915	Less than \$32,980,652 to \$50,387,108

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

ESTIMATED NET EFFECT ON FULL TIME EQUIVALENT (FTE)			
FUND AFFECTED	FY 2022	FY 2023	FY 2024
General Revenue – DOR	34 FTE	34 FTE	34 FTE
Total Estimated Net Effect on FTE	34 FTE	34 FTE	34 FTE

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

ESTIMATED NET EFFECT ON LOCAL FUNDS			
FUND AFFECTED	FY 2022	FY 2023	FY 2024

Local Political Subdivisions	Could be significantly less than \$28,555,153 to could be significantly less than \$92,591,488	Less than \$39,997,754 to \$161,703,712	Less than \$41,798,878 to \$168,985,331
Local Governments	Could be significantly less than \$28,555,153 to could be significantly less than \$92,591,488	Less than \$39,997,754 to \$161,703,712	Less than \$41,798,878 to \$168,985,331

FISCAL ANALYSIS

ASSUMPTION

Section 32.310 – DOR Sales and Use Tax Map

Officials from the **Missouri Department of Revenue (DOR)** state this section adds “use tax” to the DOR’s mapping feature which currently states sales tax. DOR assumes this will not have a fiscal impact as use tax is already included in the map where provided by the political subdivision.

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

Sections 144.575 and 144.605 – Online Sales Tax

Officials from **B&P** state Section 144.575 defines marketplace facilitators and states that a marketplace facilitator counts as one (1) seller. Starting January 1, 2022, marketplace facilitators must register with 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 third party financial institutions from the definition of marketplace facilitators. This exclusion will not impact the estimates provided in this analysis.

Section 144.605 requires retailers that do not have a physical presence within Missouri to collect and remit use tax on purchases delivered into Missouri beginning October 1, 2021. Only retailers with gross revenues greater than \$100,000 from deliveries or 200 separate transactions into Missouri would be required to collect Missouri use tax.

B&P & DOR – Online Sales/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 note that Section 144.575 would require marketplace facilitators to remit sales tax, but Section 144.605 would require online vendors to remit use tax. While this will not affect state sales and use tax estimates, as both rates are set at 4.225%, this could have a large impact

on local tax collections. B&P notes that the population weighted local sales tax rate is 3.98%, while the population weighted local use tax rate is only 1.385%. B&P is unable to determine how much of the tax revenue would come from online vendors versus marketplace facilitators. Therefore, B&P will reflect local tax collections as a range between the lowest use tax estimate and the highest sales tax estimate.

B&P and DOR further note that Section 144.605 requires online vendors to remit use tax beginning October 1, 2021. However, marketplace facilitators are not required to remit use tax until January 1, 2022. B&P is unable to determine how much tax revenue could be from online vendors versus marketplace facilitators. Therefore, B&P will reflect Tax Year 2021 and Fiscal Year 2022 collections as “could be significantly less than”.

B&P and DOR estimates that, in Calendar Year 2021, Missouri could gain up to \$24.7 million to \$37.8 million in TSR. By Calendar Year 2023, B&P and DOR estimate that TSR could be increased by \$111.7 million to \$170.7 million. Table 1 shows the estimated impact by calendar year.

Table 1: Collections by Calendar Year

Table 1: Collections by Calendar Year

Revenue Estimates	2021*		2022		2023	
	Low	High	Low	High	Low	High
General Revenue	Could be significantly less than \$17,557,257	Could be significantly less than \$26,823,586	\$75,241,059	\$114,951,618	\$79,336,120	\$121,207,962
Education (SDF)	Could be significantly less than \$5,852,419	Could be significantly less than \$8,941,196	\$25,080,353	\$38,317,206	\$26,445,373	\$40,402,654
Conservation	Could be significantly less than \$731,552	Could be significantly less than \$1,117,650	\$3,135,044	\$4,789,651	\$3,305,672	\$5,050,332
Parks, Soil, Water	Could be significantly less than \$585,242	Could be significantly less than \$894,120	\$2,508,035	\$3,831,721	\$2,644,537	\$4,040,265
TSR	Could be significantly less than \$24,726,470	Could be significantly less than \$37,776,551	\$105,964,491	\$161,890,196	\$111,731,702	\$170,701,213
Local**/**	Could be significantly less than \$9,086,087	Could be significantly less than \$13,881,521	\$38,938,132	Could be significantly less than \$157,419,855	\$41,057,375	Could be significantly less than \$165,987,569

*Only online vendors are required to remit use tax from Oct. 2021 - Dec 2021. Marketplace facilitators are not required to remit sales tax until Jan. 2022.

**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.

***"Low" local estimates reflects the potential that all revenue received is from vendor use tax. "High" local estimates reflects the potential that all revenue received is from marketplace facilitator sales tax.

B&P and DOR estimate that, in Fiscal Year 2022, TSR could increase by \$77.7 million to \$118.7 million. By Fiscal Year 2024, B&P and DOR estimate that TSR could increase by \$113.7 million to \$173.8 million. Table 2 shows the estimated impact by fiscal year.

Table 2: Collections by Fiscal Year

Table 2: Collections by Fiscal Year

Revenue Estimates	FY 2022*		FY 2023		FY 2024	
	Low	High	Low	High	Low	High
General Revenue	Could be significantly less than \$55,177,786	Could be significantly less than \$84,299,395	\$77,288,589.50	\$118,079,790	\$80,768,943	\$123,396,997
Education (SDTF)	Could be significantly less than \$18,392,595	Could be significantly less than \$28,099,799	\$25,762,863	\$39,359,930	\$26,922,981	\$41,132,333
Conservation	Could be significantly less than \$2,299,074	Could be significantly less than \$3,512,475	\$3,220,358	\$4,919,992	\$3,365,373	\$5,141,542
Parks, Soil, Water	Could be significantly less than \$1,839,260	Could be significantly less than \$2,809,980	\$2,576,286	\$3,935,993	\$2,692,298	\$4,113,233
TSR	Could be significantly less than \$77,708,715	Could be significantly less than \$118,721,649	\$108,848,097	\$166,295,705	\$113,749,595	\$173,784,104
Local**/**	Could be significantly less than \$28,555,153	Could be significantly less than \$92,591,448	\$39,997,754	Could be significantly less than \$161,703,712	\$41,798,878	Could be significantly less than \$168,985,331

*Only online vendors are required to remit use tax from Oct. 2021 - Dec 2021. Marketplace facilitators are not required to remit sales tax until Jan. 2022.

*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.

***"Low" local estimates reflects the potential that all revenue received is from vendor use tax. "High" local estimates reflects the potential that all revenue received is from marketplace facilitator sales tax.

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 – 3 (\$44,784.48 per FTE)
- Kansas City – 2 (\$44,784.48 per FTE)
- Springfield -2 (\$44,784.48 per FTE)
- Central Office in Jefferson City – 1 (\$44,784.48 per FTE)

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

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

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

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

and marketplace facilitators at a rate higher than estimated, the impact(s) reported above could prove to be lower.

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

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

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

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

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

MDC states the Conservation Sales Tax funds are derived from one-eighth of one percent sales and use tax pursuant to Article IV Section 43 (a) of the Missouri Constitution. Any change in sales and use tax collected would affect revenue to the Conservation Sales Tax funds. However, the initiative is very complex and may require adjustments to Missouri sales tax law which could cause some downside risk to the Conservation Sales Tax. MDC assumes the Missouri Department of Revenue would be better able to estimate the anticipated fiscal impact that would result from this proposal.

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

DNR assumes the Missouri Department of Revenue would be better able to estimate the anticipated fiscal impact that would result from this proposal. Officials from the **City of Springfield** anticipate a positive fiscal impact from the remittance of tax(es) by out-of-state vendors and marketplace facilitators.

Officials from the **City of St. Louis (St. Louis)** anticipate a positive fiscal impact equal to \$6,900,000 to \$10,600,000.

Officials from **Boone County** anticipate a positive fiscal impact from the remittance of tax(es) by out-of-state vendors and marketplace facilitators.

For purposes of this fiscal note, **Oversight** will report the fiscal impact(s) of Section(s) 144.575 and 144.605 as reported by B&P and DOR, including DOR's administrative impact(s).

Section 144.637 – DOR Tax Database

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

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

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

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

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

Officials from **B&P** state this section requires the Missouri Department of Revenue to create, maintain, and provide a database that assigns each nine-digit and five-digit zip code with the lowest combined local tax rate for that zip code. Vendors are required to use the database in determining the amount of use tax to collect and remit. The Missouri Department of Revenue may provide an address level database with the corresponding tax rate for each address. If such a database is created, vendors must use the address level database in lieu of the zip code database when determining the amount of use tax to collect and remit.

Any and all databases created, maintained, or certified by the Missouri Department of Revenue must be provided at no cost to vendors for their use in collecting and remitting use taxes. B&P defers to the Missouri Department of Revenue for the estimated cost to the agency from this section.

Section 144.757 – Local Ballot Language

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.

Legislation as a Whole –

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

<u>FISCAL IMPACT –</u> <u>State Government</u>	FY 2022 (10 Mo.)	FY 2023	FY 2024
GENERAL REVENUE FUND			
<u>Revenue Gain –</u> Section 144.575 & 144.605 – Online Retailers & Marketplace Facilitators Sales & Use Tax Remittance	Could be significantly less than \$55,177,786 to could be significantly less than \$84,299,395	Less than \$77,288,590 to \$118,079,790	Less than \$80,768,943 to \$123,396,997
<u>Cost – DOR –</u> Section(s) 144.575, 144.605 & 144.637			
Personnel Services	(\$1,277,894)	(\$1,548,808)	(\$1,564,296)
Fringe Benefits	(\$769,589)	(\$928,683)	(\$933,910)
Equipment & Expense	(\$1,430,180)	(\$16,693)	(\$17,110)
Total Cost – DOR	(\$3,477,663)	(\$2,494,184)	(\$2,515,316)
FTE Change – DOR	34 FTE	34 FTE	34 FTE
ESTIMATED NET EFFECT ON GENERAL REVENUE FUND	Could be significantly less than \$51,700,123 to could be significantly less than \$80,821,732	Less than \$74,794,406 to \$115,585,606	Less than \$78,253,627 to \$120,881,681

SCHOOL DISTRICT TRUST FUND (0688)			
Revenue Gain – Section 144.575 & 144.605 – Online Retailers & Marketplace Facilitators Sales & Use Tax Remittance	Could be significantly less than \$18,392,595 to could be significantly less than \$28,099,799	Less than \$25,762,863 to \$39,359,930	Less than \$26,922,981 to \$41,132,333
ESTIMATED NET EFFECT ON SCHOOL DISTRICT TRUST FUND	Could be significantly less than \$18,392,595 to could be significantly less than \$28,099,799	Less than \$25,762,863 to \$39,359,930	Less than \$26,922,981 to \$41,132,333
CONSERVATION COMMISSION FUND (0609)			
Revenue Gain – Section 144.575 & 144.605 – Online Retailers & Marketplace Facilitators Sales & Use Tax Remittance	Could be significantly less than \$2,299,074 to could be significantly less than \$3,512,475	Less than \$3,220,358 to \$4,919,992	Less than \$3,365,373 to \$5,141,542
ESTIMATED NET EFFECT ON CONSERVATION COMMISSION FUND	Could be significantly less than \$2,299,074 to could be significantly less than \$3,512,475	Less than \$3,220,358 to \$4,919,992	Less than \$3,365,373 to \$5,141,542

PARKS AND SOILS STATE SALES TAX FUND(S) (0613 & 0614)			
<u>Revenue Gain</u> – Section 144.575 & 144.605 – Online Retailers & Marketplace Facilitators Sales & Use Tax Remittance	Could be significantly less than \$1,839,260 to could be significantly less than \$2,809,980	Less than \$2,576,286 to \$3,935,993	Less than \$2,692,298 to \$4,113,233
ESTIMATED NET EFFECT ON PARKS AND SOILS STATE SALES TAX FUND(S)	Could be significantly less than \$1,839,260 to could be significantly less than \$2,809,980	Less than \$2,576,286 to \$3,935,993	Less than \$2,692,298 to \$4,113,233

<u>FISCAL IMPACT</u> – <u>Local Government</u>	FY 2022 (10 Mo.)	FY 2023	FY 2024
LOCAL POLITICAL SUBDIVISIONS			
<u>Revenue Gain</u> – Section 144.575 & 144.605 – Online Retailers & Marketplace Facilitators Sales & Use Tax Remittance	Could be significantly less than \$28,555,153 to could be significantly less than \$92,591,488	Less than \$39,997,754 to \$161,703,712	Less than \$41,798,878 to \$168,985,331
ESTIMATED NET EFFECT ON LOCAL POLITICAL SUBDIVISIONS	Could be significantly less than \$28,555,153 to could be significantly less than \$92,591,488	Less than \$39,997,754 to \$161,703,712	Less than \$41,798,878 to \$168,985,331

FISCAL IMPACT – Small Business

The collection of use tax from out-of-state/online retailers and marketplace facilitators could even the playing field for local in-state small businesses; therefore, they could experience revenue growth. Out-of-state/online businesses and marketplace facilitators would be required to collect and remit the applicable tax(es) to the Missouri Department of Revenue; increasing their administrative costs and decreasing their net revenues. (Section(s) 144.575 & 144.605)

FISCAL DESCRIPTION

Currently, the Department of Revenue must maintain a mapping feature on its website that displays various sales tax information. This bill requires the mapping feature to include use tax information. (Section 32.310)

Beginning January 1, 2022, marketplace facilitators, as defined in the bill, that engage in business activities within the state must register with the Department of Revenue 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. Such retail sales include those made directly by the marketplace facilitator as well as those made by marketplace sellers through the marketplace facilitator's marketplace.

Marketplace facilitators that collect sales tax must report and remit the tax in accordance with current law and must maintain records of all sales delivered to a location in the state, including copies of invoices showing the purchaser, address, purchase amount, and sales tax collected. These records will be made available for review and inspection upon request by the Department of Revenue.

Marketplace facilitators who properly collect and remit to the Department of Revenue, in a timely manner, sales tax, by or on behalf of marketplace sellers, will be eligible for any discount provided under current law.

The marketplace facilitator must provide the purchaser with a statement or invoice showing that the sales tax was collected and must be remitted on the purchaser's behalf.

Any taxpayer who remits sales tax under this section will be entitled to refunds or credits to the same extent and in the same manner provided under current law.

Marketplace facilitators will be subject to the penalty provisions, procedures, and reporting requirements of Chapter 144.

No class action will be brought against a marketplace facilitator in any court of this state on behalf of customers arising from or in any way related to an overpayment of sales or use tax collected on sales facilitated by the marketplace facilitator, regardless of whether that claim is

characterized as a tax refund claim. Nothing in this proposed legislation will affect a customer's right to seek a refund.

A marketplace facilitator will be relieved of liability for failure to collect and remit the correct amount of tax to the extent that the error was due to incorrect or insufficient information given to the marketplace facilitator by the marketplace seller; provided, however, this will not apply if the marketplace facilitator and the marketplace seller are the same entity or related entities. (Section 144.575)

Beginning October 1, 2021, a vendor will be considered to be engaging in business activities in this state if cumulative gross receipts from the vendor's sales in this state are \$100,000 or more during any 12 month period, or the vendor enters into 200 or more separate transactions in this state during any 12 month period. Vendors meeting such criteria will be required to collect and remit the use tax as provided under current law. (Section 144.605)

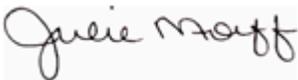
This bill requires the Department of Revenue to provide and maintain a downloadable electronic database at no cost to the user of the database for taxing jurisdiction boundary changes and tax rates. Vendors will not be liable for reliance upon inaccurate data provided by the department on tax rates, boundaries, or taxing jurisdiction assignments. (Section 144.637)

This bill modifies ballot language required for the submission of a local use tax to voters by including that the approval of the local use tax will eliminate the difference in tax rates collected by local and out-of-state sellers by imposing the same rate on all sellers. (Section 144.757)

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

Missouri Attorney General's Office
Office of Administration – Budget & Planning Division
Missouri Department of Natural Resources
Missouri Department of Revenue
Missouri Department of Conservation
Office of Administration – Director's Office
Missouri Secretary of State
City of Claycomo
City of Corder
City of Hughesville
City of Liberty
City of O'Fallon
City of Springfield
City of St. Louis
City of Tipton
Platte County Election Authority
St. Louis County Election Authority
Boone County
High Point R-III School District



Julie Morff
Director
February 9, 2021



Ross Strope
Assistant Director
February 9, 2021