

COMMITTEE ON LEGISLATIVE RESEARCH
OVERSIGHT DIVISION

FISCAL NOTE

L.R. No.: 1235-02
Bill No.: HCS for HB 548
Subject: Taxation and Revenue - General; Taxation and Revenue - Sales and Use;
Department of Revenue
Type: Original
Date: March 11, 2019

Bill Summary: This proposal establishes Simplified Remote Sales Tax provisions.

FISCAL SUMMARY

ESTIMATED NET EFFECT ON GENERAL REVENUE FUND				
FUND AFFECTED	FY 2020	FY 2021	FY 2022	Fully Implemented (FY 2023)
General Revenue*	Unknown to (Unknown) or \$10,958,592 to (\$12,341,408)	Unknown to (Unknown) or (\$30,853,570) to (\$59,253,570)	Unknown to (Unknown) or (\$75,170,186) to (\$80,170,186)	Unknown to (Unknown) or (\$67,791,431) to (\$76,591,430)
Total Estimated Net Effect on General Revenue	Unknown to (Unknown) or \$10,958,592 to (\$12,341,408)	Unknown to (Unknown) or (\$30,853,570) to (\$59,253,570)	Unknown to (Unknown) or (\$75,170,186) to (\$80,170,186)	Unknown to (Unknown) or (\$67,791,431) to (\$76,591,430)

*** Oversight assumes a positive unknown to negative unknown for revenue estimates until we are able to estimate revenue or verify the data and models provided. Oversight will also reflect B&P's revenue estimates for the changes to the tax rates.**

Numbers within parentheses: () indicate costs or losses.
This fiscal note contains 23 pages.

ESTIMATED NET EFFECT ON OTHER STATE FUNDS				
FUND AFFECTED	FY 2020	FY 2021	FY 2022	Fully Implemented (FY 2023)
Conservation Commission	Unknown to (Unknown) or \$1,400,000 to \$2,100,000	Unknown to (Unknown) or \$2,900,000 to \$4,400,000	Unknown to (Unknown) or \$3,100,000 to \$4,700,000	Unknown to (Unknown) or \$3,200,000 to \$4,900,000
Park, Soil & Water	Unknown to (Unknown) or \$1,100,000 to \$1,700,000	Unknown to (Unknown) or \$2,300,000 to \$3,500,000	Unknown to (Unknown) or \$2,400,000 to \$3,700,000	Unknown to (Unknown) or \$2,600,000 to \$3,900,000
Total Estimated Net Effect on <u>Other</u> State Funds	Unknown to (Unknown) or \$2,500,000 to \$3,800,000	Unknown to (Unknown) or \$5,200,000 to \$7,900,000	Unknown to (Unknown) or \$5,500,000 to \$8,400,000	Unknown to (Unknown) or \$5,800,000 to \$8,800,000

*** Oversight assumes a positive unknown to negative unknown for revenue estimates until we are able to estimate revenue or verify the data and models provided. Oversight will also reflect B&P's revenue estimates for the changes to the tax rates.**

ESTIMATED NET EFFECT ON FEDERAL FUNDS				
FUND AFFECTED	FY 2020	FY 2021	FY 2022	Fully Implemented (FY 2023)
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 2020	FY 2021	FY 2022	Fully Implemented (FY 2023)
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 2020	FY 2021	FY 2022	Fully Implemented (FY 2023)
Local Governments*	\$0 or (Unknown)	\$0 or (Unknown)	\$0 or (Unknown)	\$0 or (Unknown)

* If this proposal limits the ability for political subdivisions to collect local use taxes, this could have a substantial negative impact on local governments. According to the Department of Revenue's Financial and Statistical Report, DOR collected \$131.7 million in local option use taxes in FY 2017

FISCAL ANALYSIS

ASSUMPTION

INDIVIDUAL SECTION CALCULATIONS

§144.530, §144.535, §144.540, §144.545, §144.565, and §144.575 Online Sales Tax

Officials at the **Office of Administration Division of Budget and Planning (B&P)** will address the response for these sections together as one "online sales tax" impact. B&P will also show the impact from these sections before listing the impacts for §143.011 as the online sales tax estimates directly impact the income tax reduction estimates.

Online sales tax collection 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, 2020. 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. (§144.530 and §144.535)

This proposal states that any department with a sales tax authorized under Article IV of the Missouri Constitution shall instead remit the sales taxes collected to DOR so that they may be deposited into General Revenue. 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 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 that the Conservation sales tax can be used. 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 144.530 to 144.575 of this proposal as deposited into their existing Conservation and DNR funds and not diverted into General Revenue. 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. (§144.535.5)

Section 144.530 contains definitions for the newly created "Simplified remote sales tax remittance program". Section 144.535 creates the sales tax program. All eligible sellers in Missouri shall participate in the sales tax program. The program shall be administered by DOR. Section 144.575 defines market place facilitators and states that a facilitator counts as one seller. Starting January 1, 2020, market place facilitators that reach the sales thresholds outlined under Section 144.530.2 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.

ASSUMPTION (continued)

Section 144.540 states that the sales tax rate for retailers participating in the program is 4.225% on tangible personal property sold or delivered into Missouri. B&P notes that the state sales tax rate on tangible personal property is 4.225%. Therefore, B&P assumes that no local sales taxes shall be collected under this proposal. Section 144.540 states that retailers participating in the program will not be required to collect sales taxes in excess of the 4.225% rate. B&P notes that it is unclear whether purchasers would still be liable for local use tax. Section 144.545 allows a purchaser who pays the simplified remote sales tax to apply for a refund if the actual amount of sales tax collected was greater than the actual combined state and local sales tax levied in the locality where the sale was delivered.

This proposal would divert the 1% sales tax that would otherwise be deposited into the School District Trust Fund (SDTF) into General Revenue instead for moneys collected under Sections 144.530 to 144.575 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 General Revenue. (144.7012)

Online Sales Tax Collection Estimates Summary

B&P and the **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 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

ASSUMPTION (continued)

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 the online sales tax sections could increase Total State Revenue by \$46.6 million to \$71.3 million in calendar year 2020, of which \$33.1 million to \$50.6 million would be General Revenue. By calendar year 2023, these sections could increase Total State Revenue by \$108.1 million to \$165.1 million of which \$76.7 million to \$117.2 million would be General Revenue. 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. Tables 1 and 2 show the estimated revenue from the online sales tax Sections by calendar year and fiscal year.

ASSUMPTION (continued)

Table 1: Estimated Sales Tax Collections from Online Sales by **TAX** Year (Figures in Millions)

Tax Year	2020		2021		2022		2023	
	Low	High	Low	High	Low	High	Low	High
GR (3% GR TAX)	\$66.2	\$101.2	\$71.2	\$108.7	\$75.2	\$114.9	\$78.2	\$119.5
GR (1% SDTF Tax)	\$22.1	\$33.7	\$23.7	\$36.2	\$25.1	\$38.3	\$26.1	\$39.8
Total GR	\$88.3	\$134.9	\$94.9	\$145.0	\$100.3	\$153.3	\$104.3	\$159.4
Conservation	\$2.8	\$4.2	\$3.0	\$4.5	\$3.1	\$4.8	\$3.3	\$5.0
Parks, Soil & Water	\$2.2	\$3.4	\$2.4	\$3.6	\$2.5	\$3.8	\$2.6	\$4.0
TSR (4.225% sales tax)	\$93.3	\$142.5	\$100.2	\$153.1	\$106.0	\$161.9	\$110.2	\$168.3
Local (0.0% sales tax)	\$0.0	\$0.0	\$0.0	\$0.0	\$0.0	\$0.0	\$0.0	\$0.0

ASSUMPTION (continued)

Table 2: Estimated Sales Tax Collections from Online Sales by **FISCAL** Year (Figures in Millions)

Fiscal Year	2020		2021		2022		2023	
	Low	High	Low	High	Low	High	Low	High
GR (3% GR TAX)	\$33.1	\$50.6	\$68.7	\$105.0	\$73.2	\$111.8	\$76.7	\$117.2
GR (1% SDTF Tax)	\$11.0	\$16.9	\$22.9	\$35.0	\$24.4	\$37.3	\$25.6	\$39.1
Total GR	\$44.2	\$67.5	\$91.6	\$139.9	\$97.6	\$149.1	\$102.3	\$156.3
Conservation	\$1.4	\$2.1	\$2.9	\$4.4	\$3.1	\$4.7	\$3.2	\$4.9
Parks, Soil & Water	\$1.1	\$1.7	\$2.3	\$3.5	\$2.4	\$3.7	\$2.6	\$3.9
TSR (4.225% sales tax)	\$46.6	\$71.3	\$96.8	\$147.8	\$103.1	\$157.5	\$108.1	\$165.1
Local (0.0% sales tax)	\$0.0	\$0.0	\$0.0	\$0.0	\$0.0	\$0.0	\$0.0	\$0.0

Section 144.530 to 144.575 will not impact the calculation under Article X, Section 18(e) as this would not technically be a new tax. Much of the revenue from online retail sales should already be due under the existing use tax law.

Oversight notes that B&P uses a 50%/50% split to convert sales tax numbers from tax year to fiscal year.

Officials at the **Department of Revenue (DOR)** assume in addition to the joint research with B&P noted in their response, DOR reviewed confidential internal data related to remote sales and use tax collections. While the Department does not believe enough internal data exists to support a definitive conclusion, the data we were able to analyze supported a revenue estimate in the range referenced in our joint research with B&P.

ASSUMPTION (continued)

The Department of Revenue notes that the collectability of sales taxes on remote sellers is an unknown, particularly for sellers outside the United States. The revenue estimates supported by research may be reduced by an unknown amount due to collectability.

If we estimate that any online seller attributes 1.6% of its sales to Missouri purchasers, the online seller would need to have total sales of approximately \$6 million to generate more than \$100,000 in annual Missouri sales (\$6 million total sales*1.6% MO GDP=\$96,000 Missouri sales) . According to PipeCandy.com, there are approximately 9,151 total online sellers that generate more than \$5 million annually in online sales.

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 \$100,000.

The Sales Tax Section estimates it will need 3 Revenue Processing Technicians I (\$24,360 each) to process the additional returns, 1 Revenue Processing Technician I (\$24,360) to answer additional correspondence and 2 Revenue Processing Technicians I (\$24,360) to process the additional registration applications and perform location maintenance.

The FCB Audit Section 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 25 Auditors (\$38,304 for each Missouri Auditor, more for out-of-state). The Department believes the 25 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. DOR also estimates it will need 2 additional Auditors in the Training Section, to perform discovery work needed to identify potential audit leads from non-registered businesses.

Oversight will show the need for the DOR FTE and mailing costs in the fiscal note.

Oversight will show B&P's estimate in the fiscal note.

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

ASSUMPTION (continued)

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 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.

Office of the **City of Kansas City** assume this legislation could have a negative fiscal impact on the City of Kansas City, Missouri. Proposed 144.540 establishes a new sales tax (at the state level) and exempts sellers from collecting all other taxes, including local sales and use tax. While the local use tax doesn't appear to be unenforceable, this approach to incorporating the *South Dakota v. Wayfair* decision into Missouri law would ensure no source collection of any applicable use tax. Total budgeted use tax for KC for FY2018-19 is \$40.5 million.

In response to the previous version, officials of **Boone County** responded to Oversight's request for fiscal impact but did not indicate a fiscal impact.

In response to the previous version, officials of the **Monroe County Assessor's Office** assumed there was no fiscal impact from this proposal.

In response to the previous version, officials of the **City of Liberty** assumed this proposal would be very detrimental to local governments. This proposal establishes the remote sales tax rate at 4.225% (current state rate); however this proposal reads as if the State retains 100% of the tax.

Liberty passed its use tax in April 2018 with 70% voter approval. With the generational change occurring in retail purchase patterns (moving from storefronts to online), this approval

ASSUMPTION (continued)

represented a significant modernization to Liberty's revenue base. Attached to this approval, the City committed to the voters that we would make neighborhood park improvements, build a new modern animal shelter, make improvements to our community center, strengthen our information technology services and further support our robust senior services programs. To this end, Liberty issued \$6.0 million in bonds to fund the park, community center and animal shelter improvements. The bond debt will be paid from use tax revenues. The use tax will also support general operations. This is necessary as retail trends continue and storefront retail sales are reduced and online sales increase. Our use tax is intended to fill that revenue gap. Without it we would lose net revenues.

If any legislation is passed that reduces Liberty's local option use tax rate, the fiscal implication would be severe. This proposal appears to eliminate local use tax rates from online, remote sales (use tax based sales included). Not only would Liberty lose annual revenues of \$1.8 million, other general operations would need to be reduced in order to support the debt service the use tax was intended to support.

Officials at the **Joint Committee on Administrative Rules (JCAR)** assume this proposal is not anticipated to cause a fiscal impact beyond current appropriations.

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

Officials from the **Office of the Secretary of State (SOS)** assume many bills considered by the General Assembly include provisions allowing or requiring agencies to submit rules and regulations to implement the act. The 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 the SOS for Administrative Rules is less than \$5,000. The SOS recognizes that this is a small amount and does not expect that additional funding would be required to meet these costs. However, the 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 the office can sustain with the core budget. Therefore, the 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 proposal. If multiple bills pass which require the printing and distribution of regulations at substantial costs, the SOS could require additional resources.

ASSUMPTION (continued)

§143.011 Individual Income Tax Rate Change

Oversight notes the projected Individual Income Tax rates used in this fiscal note are calculated with SB 509 (2014) and HB 2540 (2018) as follows:

TY 2018 it was 5.9%

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

TY 2020 will be 5.3% (.1% reduction from SB 509)

TY 2021 will be 5.2% (.1% reduction from SB 509)

TY 2022 will be 5.1% (last .1% reduction from SB 509)

Officials at the **B&P** assume §143.011.4(1) would create an additional 0.14% reduction in the top rate of tax, beginning tax year 2020.

Section 143.011.4(2) would allow for an additional reduction or increase in the top rate of tax beginning with tax year 2021. A reduction of 0.05% may occur for every \$40 million collected in a tax year over a four percent increase in sales tax revenue in the previous tax year. An increase of 0.05% may occur for every \$40 million in sales taxes collected in a tax year is below a four percent increase in sales tax revenue in the previous tax year.

B&P notes that the timing of "tax year" and "previous tax year" are not clear. For the purpose of this fiscal note, B&P will assume that in order to trigger a rate reduction or decrease in tax year 2021, revenues between tax year 2019 and 2020 must be compared. In order to trigger a rate reduction or decrease in tax year 2022, sales tax revenues between tax year 2020 and 2021 must be compared. However, the language could be interpreted as comparing tax year 2021 sales tax revenue against tax year 2020. In such instance any rate change triggered would occur after the end of the tax year, preventing individuals from adjusting their withholding and declarations.

B&P also notes that "sales tax revenue received" is undefined. It is unclear whether this term applies to only sales tax collections deposited into General Revenue, all state sales tax collections (TSR), or state and local sales tax collections. For the purpose of this fiscal note, B&P assumes "sales tax revenue received" applies to all state collections (i.e. TSR), but does not include local collections. A change in this assumption could have a significant impact on the estimates provided by B&P for the income tax portion of this proposal.

In order to determine potential sales tax revenue growth, B&P utilized the Consensus Revenue Estimate (CRE) forecasted General Revenue sales tax growth for FY 2019 and FY 2020. B&P then used those growth rates to estimate potential revenue growth for other state sales tax funds (Prop C, Conservation sales tax, and the Parks, Soil, Water sales taxes). B&P then used the 5-year average sales tax growth to estimate potential revenue growth in FY 2021.

ASSUMPTION (continued)

B&P then combined the forecasted growth with the estimated online sales tax collections for tax year 2020 and tax year 2021 in order to estimate any rate changes triggered under Section 143.011.4(2). Based on the above calculations, B&P estimates that for tax year 2021, if online sales taxes are low, one 0.05% rate reduction would be triggered. If online sales taxes are high, two 0.05% rate reduction would occur. B&P estimates that no rate reductions or increases would be triggered in tax year 2022. 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
2020	5.30%	0.14%	5.16%	0.14%	5.16%
2021	5.20%	0.05%	5.01%	0.10%	4.96%
2022	5.10%	0.00%	4.91%	0.00%	4.86%

*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 2018 through tax year 2022. Based on tax year 2016 data, the most recent complete tax year available, B&P estimates that this section could reduce Total State Revenue and General Revenue by \$54.5 million in FY 2020. Once fully implemented in FY 2023, this section could reduce income taxes by \$176.7 million to \$221.9 million annually, depending on the amount of future sales tax growth. The following tables show the estimated impacts by tax and fiscal year.

Table 4: B&P - Impact from Income Tax Reductions by Tax Year

Tax Year	Proposals - Low Sales	Proposal- High Sales
2020	(\$129.8)	(\$129.8)
2021	(\$174.9)	(\$222.5)
2022	(\$176.7)	(\$221.9)

ASSUMPTION (continued)

Table 5: B&P - Impact from Income Tax Reductions by Fiscal Year

Fiscal Year	Proposals - Low Sales	Proposal- High Sales
2020	(\$54.5)	(\$54.5)
2021	(\$148.8)	(\$168.7)
2022	(\$175.7)	(\$222.2)
2023	(\$176.7)	(\$221.9)

Section 143.011 will impact the calculation under Article X, Section 18(e).

Oversight notes that B&P uses a 42% in first fiscal year and 58% split in the second year to convert the numbers from tax year to fiscal year.

Officials at the **DOR** assume this section states, that in addition to the rate reductions under subsections 2 and 3 of this section, beginning with the 2020 calendar year, the top rate of tax under subsection 1 of this section may be reduced over a period of years. Reductions in the top rate of tax shall be in increments of fourteen-hundredths of one percent (.14%). Such Reductions in the rate of tax shall take effect on January first of the 2020 calendar year.

In addition to the rate reductions under subsections 2 and 3 of this section, beginning with the 2021 calendar year, the top rate of tax under subsection 1 of this section may be adjusted annually over a period of two years. For every additional forty million dollars in sales tax revenue received in a tax year over a four percent increase in sales tax revenue received in the previous tax year, the top rate of tax under subsection 1 of this section shall be reduced by five-hundredths of one percent (0.05%). For every forty million dollars by which the sales tax revenue received in a tax year fails to equal a four percent increase in the amount of sales tax revenue collected in the previous tax year, the top rate of tax under subsection 1 of this section shall be increased by five-hundredths of one percent (0.05%).

Any adjustment of tax under subdivision 2 of this subsection shall take effect January first of the calendar year following the year in which a change in sales tax revenue triggered an adjustment.

ASSUMPTION (continued)

The Department used our individual income tax model that contains confidential taxpayer data to run this proposed legislation. Per §143.011, we followed the following chart regarding the number of .05 percent reductions would happen during each year, and since our Wayfair estimates are based on high and low estimates there will also be a high and low estimate when it comes to income tax.

Number of .05% Reduction		
	Low	High
TY 20	0	0
TY 21	1	2
TY 22	0	0

After these reductions were applied to the top tax bracket, the following chart shows what the top rate would be.

	Tax Rate (Low)	Tax Rate (High)
TY19	5.3%	5.3%
TY20	5.16%	5.16%
TY21	5.01%	4.96%
TY22	4.91%	4.86%

The Department then utilized the tax model to find the individual income tax impacts of this proposal.

DOR Income Tax Estimates (HB 548)		
	Low Estimate	High Estimate
FY 19	\$0.0	\$0.0
FY 20	(\$54.3)	(\$54.3)
TY 21	(\$148.0)	(\$168.0)
TY 22	(\$174.80)	(\$222.0)
TY 23	(\$175.90)	(\$222.80)

Oversight currently does not have the data or resources available to produce independent revenue projections, therefore Oversight uses the same assumptions for revenue growth as the FY 2020 Consensus Revenue Estimate (CRE) for revenue growth in all future years. The CRE assumes an increase in net general revenue collections of \$192.6 million for FY 2020.

ASSUMPTION (continued)

Oversight notes pursuant to §143.011 - §143.022 (SBs 509 & 496 2014) if the previous fiscal year's net general revenue collections exceed the highest net general revenue collection of the three previous fiscal years by at least \$150 million, then there will be a reduction in the individual income tax rate by one-tenth of a percent and a reduction for individual income tax filers of 5% of "business income." These reductions will reduce net General Revenue collections by an estimated \$160.0 million annually. Oversight notes the proposed legislation may impact future net revenue collections and could impact future triggering of the rate reductions required under §143.011 - §143.022.

§144.701 Education Sales Tax

Officials at the **DOR** assume this would make the 1% that goes to the Education Fund from sales and use tax collections, to be deposited into the General Revenue Fund instead.

SUMMARY

B&P estimates that this proposal could reduce Total State Revenue by \$7.9 million and General Revenue by \$10.3 million during FY 2020 if online sales tax collections are low. If online sales tax collections are high, this proposal could increase Total State Revenue by \$16.8 million and reduce General Revenue by \$13.0 million in FY 2020. Once fully implemented (FY 2023), this proposal could reduce Total State Revenue by \$68.7 million and General Revenue by \$74.4 million annually, if online sales tax collections are low. If online sales tax collections are high, this proposal could reduce Total State Revenue by \$56.8 million and General Revenue by \$65.6 million annually beginning in FY 2023. The following table shows the summary impact to Total State Revenue and General Revenue from this proposal.

ASSUMPTION (continued)

Table 7: B&P Summary of General Revenue by Fiscal Year (figures in millions)

Fund	2020		2021		2022		2023	
General Revenue	Low	High	Low	High	Low	High	Low	High
Online Sales Tax	\$44.2	\$67.5	\$91.6	\$139.9	\$97.6	\$149.1	\$102.3	\$156.3
Income Tax Rate Reduction	(\$54.5)	(\$54.5)	(\$148.8)	(\$168.7)	(\$175.7)	(\$222.2)	(\$176.7)	(221.9)
Net GR Impact	(\$10.3)	\$13.0	(\$57.2)	(\$28.8)	(\$78.1)	(\$73.1)	(\$74.4)	(\$65.6)
Conservation	\$1.4	\$2.1	\$2.9	\$4.4	\$3.1	\$4.7	\$3.2	\$4.9
Parks, Soil & Water	\$1.1	\$1.7	\$2.3	\$3.5	\$2.4	\$3.7	\$2.6	\$3.9
Net TSR Impact	(\$7.9)	\$16.8	(\$52.0)	(\$20.9)	(\$72.6)	(\$64.7)	(\$68.7)	(\$56.8)

B&P notes that the online sales 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.

Article X, Section 18(e) Impact:

Sections 144.530 to 144.575 will not impact the calculation under Article X, Section 18(e) as this would not technically be a new tax. Much of the revenue from online retail sales should already be due under the existing use tax law.

Section 143.011 will impact the calculation under Article X, Section 18(e).

Therefore, this proposal will reduce the calculation under Article X, Section 18(e) by \$176.7 million to \$221.9 million annually, once fully implemented.

ASSUMPTION (continued)

Oversight notes that in §144.575, it allows marketplace facilitators to be eligible for any discount provided under Chapter 144. Section 144.140 allows those who remit their sales tax on or before the due date to retain an amount equal to 2% .

Officials at the **B&P** and **DOR** note that the sales tax is still due. Each business is required to file and remit the full sales tax amount. Those that timely file and qualify for the 2% discount are then allowed to retain a portion. They are unable to determine how many businesses would qualify for the discount, therefore the timely filing discount is **not** reflected in their response.

Oversight will show the fiscal note using the full amount of tax owed. Oversight notes the amounts paid may be less if a company qualifies for the discount.

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

Oversight assumes a positive unknown to negative unknown for revenue estimates until we are able to estimate revenue or verify the data and models provided. Oversight will also reflect B&P and DOR's revenue estimates.

<u>FISCAL IMPACT -</u> <u>State Government</u>	FY 2020 (10 Mo.)	FY 2021	FY 2022	Fully Implemented (FY 2023)
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**GENERAL
REVENUE**

Revenue - DOR

§144.021 Online Sales	\$44,200,000 to	\$91,600,000 to	\$97,600,000 to	\$102,300,000 to
Tax Collection page 8	\$67,500,000	\$139,900,000	\$149,100,000	\$156,300,000

Cost - DOR §144.021

- 6 RPT &

27- Auditors

Personal Service	(\$1,025,217)	(\$1,242,563)	(\$1,254,988)	(\$1,345,516)
Fringe Benefits	(\$659,214)	(\$794,805)	(\$798,591)	(\$826,175)
Equip & Exp	<u>(\$256,977)</u>	<u>(\$16,202)</u>	<u>(\$16,607)</u>	<u>(\$19,740)</u>
<u>Total Cost - page 9</u>	<u>(\$1,941,408)</u>	<u>(\$2,053,570)</u>	<u>(\$2,070,186)</u>	<u>(\$2,191,431)</u>
FTE Change	33 FTE	33 FTE	33 FTE	33 FTE

Cost - DOR §144.021

mailing costs page 9	(\$100,000)	\$0	\$0	\$0
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Revenue Reduction -

DOR §143.011

individual income tax

rate reduction* page

14	<u>(\$54,500,000)</u>	<u>(\$148,800,000 to</u>	<u>(\$175,700,000 to</u>	<u>(\$176,700,000 to</u>
		<u>\$168,700,000)</u>	<u>\$222,200,000)</u>	<u>\$221,900,000)</u>

ESTIMATED NET	<u>\$10,958,592 to</u>	<u>(\$30,853,570) to</u>	<u>(\$75,170,186) to</u>	<u>(\$67,791,431) to</u>
EFFECT ON GR	<u>(\$12,341,408)</u>	<u>(\$59,253,570)</u>	<u>(\$80,170,186)</u>	<u>(\$76,591,430)</u>

Estimated Net FTE

Change on General

Revenue	33 FTE	33 FTE	33 FTE	33 FTE
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*** Oversight assumes a positive unknown to negative unknown for revenue estimates until we are able to estimate revenue or verify the data and models provided. Oversight will also reflect B&P's revenue estimates for the changes to the tax rates.**

<u>FISCAL IMPACT -</u>				
<u>State Government</u>	FY 2020			Fully
(continued)	(10 Mo.)	FY 2021	FY 2022	Implemented
				(FY 2023)

**CONSERVATION
 COMMISSION
 FUNDS**

Revenue - DOR

§144.021 Online Sales

Tax Collection* page	<u>\$1,400,000 to</u>	<u>\$2,900,000 to</u>	<u>\$3,100,000 to</u>	<u>\$3,200,000 to</u>
8	<u>\$2,100,000</u>	<u>\$4,400,000</u>	<u>\$4,700,000</u>	<u>\$4,900,000</u>

**ESTIMATED NET
 EFFECT ON
 CONSERVATION
 COMMISSION
 FUNDS**

<u>\$1,400,000 to</u>	<u>\$2,900,000 to</u>	<u>\$3,100,000 to</u>	<u>\$3,200,000 to</u>
<u>\$2,100,000</u>	<u>\$4,400,000</u>	<u>\$4,700,000</u>	<u>\$4,900,000</u>

**PARK, SOIL &
 WATER FUNDS**

Revenue - DOR

§144.021 Online Sales

Tax Collection* page	<u>\$1,100,000 to</u>	<u>\$2,300,000 to</u>	<u>\$2,400,000 to</u>	<u>\$2,600,000 to</u>
8	<u>\$1,700,000</u>	<u>\$3,500,000</u>	<u>\$3,700,000</u>	<u>\$3,900,000</u>

**ESTIMATED NET
 EFFECT ON PARK,
 SOIL & WATER
 FUNDS**

<u>\$1,100,000 to</u>	<u>\$2,300,000 to</u>	<u>\$2,400,000 to</u>	<u>\$2,600,000 to</u>
<u>\$1,700,000</u>	<u>\$3,500,000</u>	<u>\$3,700,000</u>	<u>\$3,900,000</u>

*** Oversight assumes a positive unknown to negative unknown for revenue estimates until we are able to estimate revenue or verify the data and models provided. Oversight will also reflect B&P's revenue estimates for the changes to the tax rates.**

FISCAL IMPACT -
Local Government

FY 2020
 (10 Mo.)

FY 2021

FY 2022

Fully
 Implemented
 (FY 2023)

**LOCAL
 POLITICAL
 SUBDIVISIONS**

Loss - potential loss
 of ability to collect
 all use tax

\$0 or (Unknown) \$0 or (Unknown) \$0 or (Unknown) \$0 or (Unknown)

**ESTIMATED NET
 EFFECT TO
 LOCAL
 POLITICAL
 SUBDIVISIONS**

\$0 or
(Unknown)

\$0 or
(Unknown)

\$0 or
(Unknown)

\$0 or
(Unknown)

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

INCOME TAX - Currently, the top rate of income tax will be reduced from 6% to 5.5%, with each cut becoming effective if net general revenue collections meet a certain trigger, with an additional reduction in the top rate of tax of 0.4% to take effect this calendar year. This bill reduces the top tax rate a further 0.14% on January 1, 2020. Additionally, this bill will adjust the top tax rate over a period of two years beginning with the 2021 calendar year. During this period of adjustment, for every additional \$40 million in sales tax revenue received in a tax year over a 4% increase in sales tax revenue received in the previous tax year, the top tax rate will be reduced 0.05%. For every \$40 million by which the sales tax revenue received in a tax year fails to equal a 4% increase in the amount of sales tax revenue collected in the previous tax year, the top rate will be increased 0.05%. Any adjustment will take effect on January 1 of the calendar year following the year in which a change in sales tax revenue triggered an adjustment (\$143.011).

FISCAL DESCRIPTION (continued)

SIMPLIFIED REMOTE SALES TAX - This bill defines an "eligible seller" as a person or business selling tangible personal property or services designated and defined as taxable under current law for delivery into Missouri who does not have a physical presence in the state but who meets either of the following criteria in the previous or current calendar year:

- (1) The seller's gross revenue from delivery of tangible personal property into this state in the previous or current calendar year exceeds \$100,000; or
- (2) The seller sold tangible personal property into this state in 200 or more separate transactions in the previous or current calendar year (§144.530).

This bill requires all eligible sellers in this state to participate in the "Simplified Remote Sales Tax Remittance Program," and shall collect, report, and remit the state sales tax authorized in this bill according to any rules of the program as may be promulgated by the Department of Revenue. This bill sets no obligation to collect and remit taxes until January 1, 2020 (§144.535).

The simplified remote sales tax due shall be 4.225% of the sales price on any tangible personal property other than motor vehicles, trailers, and other vehicles required to be titled. No other rate or sales or use tax shall be required to be collected, regardless of the actual combined tax rate that may be otherwise applicable at the location of the purchaser. The seller shall provide the purchaser with a statement or invoice showing that the simplified remote sales tax was collected and is to be remitted on the purchaser's behalf (§144.540).

Any purchaser who pays a simplified remote sales tax that is higher than the actual combined state and local sales tax levied in the locality where the sale was delivered may file for a refund of the excess amount paid. Such refund claims shall be filed according to procedures established by the department. Purchasers filing for a refund shall maintain records documenting the amount of simplified remote sales tax paid (§144.545).

MARKETPLACE FACILITATORS - By January 1, 2020, marketplace facilitators, as defined in the bill, that meet the sales tax economic nexus threshold established in the bill will register with the Department of Revenue to collect and remit sales 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. 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.

FISCAL DESCRIPTION (continued)

Marketplace facilitators required to collect and remit sales tax under this bill may do so under the provisions of the Simplified Remote Sales Tax Remittance Program established by the bill. Marketplace facilitators properly collecting and remitting sales 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 sales tax was collected and will be remitted on the purchaser's behalf (§144.575).

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

Boone County
City of Kansas City
City of Liberty
Department of Conservation
Department of Revenue
Department of Natural Resources
Joint Committee on Administrative Rules
Missouri Department of Transportation
Monroe County Assessor
Office of Administration Division of Budget and Planning
Office of the Secretary of State



Kyle Rieman
Director
March 11, 2019

Ross Strobe
Assistant Director
March 11, 2019