

COMMITTEE ON LEGISLATIVE RESEARCH
OVERSIGHT DIVISION

FISCAL NOTE

L.R. No.: 1235-07
Bill No.: HCS#2 for HB 548
Subject: Taxation and Revenue - General; Taxation and Revenue - Sales and Use;
Department of Revenue
Type: Original
Date: May 7, 2019

Bill Summary: This proposal modifies provisions relating to taxation.

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 (\$5,641,408) to \$17,658,592	Unknown to (Unknown) or (\$21,553,570) to \$26,746,430	Unknown to (Unknown) or (\$15,170,186) to \$16,529,814	Unknown to (Unknown) or (\$3,891,431 to \$10,791,431)
Total Estimated Net Effect on General Revenue	Unknown to (Unknown) or (\$5,641,408) to \$17,658,592	Unknown to (Unknown) or (\$21,553,570) to \$26,746,430	Unknown to (Unknown) or (\$15,170,186) to \$16,529,814	Unknown to (Unknown) or (\$3,891,431 to \$10,791,431)

*** 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 sales and use tax.**

Numbers within parentheses: () indicate costs or losses.
This fiscal note contains 26 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 sales and use tax.**

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	Unknown or (Unknown) to \$0 or \$17,200,000 to \$26,200,000	Unknown or (Unknown) to \$0 or \$35,600,000 to \$54,400,000	Unknown or (Unknown) to \$0 or \$37,900,000 to \$57,900,000	Unknown or (Unknown) to \$0 or \$42,800,000 to \$65,400,000

*** 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 sales and use tax.**

FISCAL ANALYSIS

ASSUMPTION

INDIVIDUAL SECTION CALCULATIONS

§32.310 DOR Mapping System

Officials at the **Office of Administration Division of Budget and Planning (B&P)** assume this would add use tax information to the DOR mapping system. This section will not impact Total State Revenue or the calculation under Article X, Section 18(e).

Oversight notes that HB 1858 of the 2018 session created the requirement for the DOR mapping system for sales tax. This proposal is clarifying that the map is also to include use tax. Oversight assumes this would not have any additional fiscal impact.

§32.350 Local Sales and Use Tax

Officials at the **B&P** assume this section states that local sales and use taxes shall not be increased by greater than 1.5% above the rate in place on August 28, 2019. This may impact the calculation under Article X, Section 18(e), as a cap on local tax rates could limit local tax revenues. B&P defers to the DOR for more specific estimates on any revenue impact.

Officials at the **City of Kansas City** assume the language in the sales tax cap in 32.350 of this legislation could have a negative fiscal impact on Kansas City where it states "no county, municipality, other political subdivision, or special taxing district shall increase any sales or use tax to a rate that is greater than one and one-half percent above the rate of such tax on the effective date of this section." This provision could cost Kansas City \$150 million.

Oversight notes this proposal would not have any additional impact on political subdivisions until they hold an election to increase their sales or use tax. This proposal would restrict the amount of sales or use taxes that could be authorized in the future. Oversight will not show an impact from this provision.

§67.495 Political Subdivision Ballot Language

Officials at the **B&P** assume this section states that when any political subdivision is requesting voter approval of a sales tax the ballot shall include the highest cumulative sales tax rate, the lowest cumulative sales tax rate, and the average cumulative sales tax rate within the political jurisdiction. The rates shown shall include the amount being requested on the ballot. This section will not impact Total State Revenue or the calculation under Article X, Section 18(e).

Oversight notes this proposal would require all ballot language proposing sales and use tax increases to include certain information about the current sales and use tax rates of that taxing

ASSUMPTION (continued)

jurisdiction. Oversight notes this proposal would not have a fiscal impact until such time as a local political subdivision would want to place a tax increase/decrease on the ballot. Oversight notes this could increase ballot and publication costs to locals and will show the impact as \$0 to Unknown.

§67.1300 Economic Development Sales Tax

Officials at the **B&P** assume this section codifies existing current taxing authority for local governments and makes technical clean-up changes to subdivision numbering. This section will not impact Total State Revenue or the calculation under Article X, Section 18(e).

Oversight notes in §67.1300 it appears to add language clarifying that counties and municipalities can collect an economic development sales tax. Oversight confirmed with the Department of Revenue that counties and municipalities can already collect this sales tax under §67.1300.2 and that currently no county or municipality is collecting this sales tax. Therefore, Oversight will not show a fiscal impact from this proposal.

§144.605 and §144.752 Online Sales Tax

Officials at the **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.

§144.605 and §144.752 Online Use Tax Collections

Officials at the **B&P** assume §144.605 and §144.144.752 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, 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.

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 §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 shall instead remit the sales taxes collected to Department of Revenue (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 Department

ASSUMPTION (continued)

of Natural Resources (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 §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.

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, 2020 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 144.790 includes the ballot language to be used for voter approval of the use tax expansion. Therefore, B&P will show potential local revenues from §144.605 and §144.752 as \$0 (no local expansion approved) to \$X (the full amount, all local jurisdictions approved expansion).

Section 144.701.2 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.

Section 144.752 defines marketplace 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 144.605(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.

Officials at the **Missouri Department of Transportation** assume there is no fiscal impact from this proposal.

ASSUMPTION (continued)

Online Use 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 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.

ASSUMPTION (continued)

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 use tax sections could increase Total State Revenue by \$93.3 million to \$142.5 million in calendar year 2020 of which \$88.3 million to \$134.9 million would be General Revenue. By calendar year 2023, these sections could increase Total State Revenue by \$110.2 million to \$168.3 million of which \$104.3 million to \$159.4 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 use tax Sections by calendar year and fiscal year.

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 (1.385% pop. Weighted rate)	\$0.0 or \$34.3	\$0.0 or \$52.4	\$0.0 or \$36.8	\$0.0 or \$56.3	\$0.0 or \$38.9	\$0.0 or \$59.5	\$0.0 or \$46.7	\$0.0 or \$71.3

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

ASSUMPTION (continued)

B&P and DOR estimate that the online use tax sections could increase Total State Revenue by \$46.6 million to \$71.3 million in fiscal year 2020 of which \$44.2 million to \$67.5 million would be deposited into General Revenue. By fiscal year 2023, these sections could increase Total State Revenue by \$108.1 million to \$165.1 million of which \$102.3 million to \$156.3 million would be deposited into 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. Table 2 shows the estimated revenue from the online use tax Sections by fiscal year.

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 (1.385% pol weighted rate)	\$0.0 or \$17.2	\$0.0 or \$26.2	\$0.0 or \$35.6	\$0.0 or \$54.4	\$0.0 or \$37.9	\$0.0 or \$57.9	\$0.0 or \$42.8	\$0.0 or \$65.4

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

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

ASSUMPTION (continued)

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.

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.

ASSUMPTION (continued)

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 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 at the **St. Louis County** assume there is no fiscal impact from this proposal.

Officials at the **City of Columbia** assume they do not have a use tax and they believe the bill does not prohibit them from seeking voter approval in the future. However, it is not possible to accurately estimate the fiscal impact of this proposal.

Officials at the **City of Kansas City** assume §144.605 states that online retailers don't have to collect local use tax, even if the political subdivision has authorized collection until the political subdivision expands the prior authorization. This legislation then provides a new 144.710 that requires a new election to install a local use tax. This legislation requires a political subdivision to have an election if it wants to collect the use tax, so the fiscal impact would be loss of new revenue without a use tax election and the cost of such an election. An election costs Kansas City approximately \$500,000 therefore, this provision in the legislation could have a negative

ASSUMPTION (continued)

fiscal impact on Kansas City of at least \$500,000.

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.

§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 0.12% 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 during tax year 2021 and tax year 2022.

ASSUMPTION (continued)

Beginning with tax year 2021 a reduction of 0.05% may occur for every \$46 million collected in total state sales and use tax collected from October 1, 2019 to September 30, 2020 over a four percent increase in total state sales and use tax revenue received from October 1, 2018 to September 30, 2019. An increase of 0.05% in the top tax rate may occur for every \$46 million collected in total state sales and use tax that collections failed to equal a four percent increase in total state sales and use tax revenue received during the same time period.

Beginning with tax year 2022 a reduction of 0.05% may occur for every \$46 million collected in total state sales and use tax collected from October 1, 2019 to September 30, 2020 over an eight percent increase in total state sales and use tax revenue received from October 1, 2018 to September 30, 2019. An increase of 0.05% in the top tax rate may occur for every \$46 million collected in total state sales and use tax that collections failed to equal an eight percent 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 the Consensus Revenue Estimate (CRE) forecasted General Revenue sales and use tax growth for FY 2019 and FY 2020. 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 FY 2021.

B&P then combined the forecasted growth with the estimated online sales and use 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 if online sales tax collections were low, no additional rate reductions would be triggered. However, if online sales taxes were high one 0.5% reduction would be triggered for 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%	0.12%	5.18%	0.12%	5.18%
2021	5.20%	0.00%	5.08%	0.00%	5.08%
2022	5.10%	0.00%	4.98%	0.05%	4.93%

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

ASSUMPTION (continued)

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 \$111.4 million in FY 2020. Once fully implemented in FY 2023, this section could reduce income taxes by \$110.8 million to \$157.9 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	(\$111.4)	(\$111.4)
2021	(\$110.5)	(\$110.5)
2022	(\$110.8)	(\$157.9)

However, because this proposal would take effect January 1, 2020 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 Total State Revenue and General Revenue by \$46.8 million in FY 2020. Once fully implemented in FY 2023, this section could reduce income taxes by \$110.8 million to \$157.9 million annually, depending on the amount of future sales tax growth. The following tables show the estimated impacts by fiscal year.

ASSUMPTION (continued)

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

Fiscal Year	Proposals - Low Sales	Proposal- High Sales
2020	(\$46.8)	(\$46.8)
2021	(\$111.0)	(\$111.0)
2022	(\$110.6)	(\$130.4)
2023	(\$110.8)	(\$157.9)

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 proposed section states, that beginning with the 2020 calendar year, the top rate of tax under subsection 1 of this section shall be reduced by twelve-hundredths of one percent (0.12%). Such reduction in the rate of tax shall take effect on January first of the 2020 calendar year.

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-six million dollars in state sales and use tax revenue received from October 2019 through September 2020 over a four percent increase in state sales and use tax revenue from October 2018 through September 2019, the top rate of tax shall be reduced by five-hundredths of one percent (0.05%) in tax year 2021. For every additional forty-six million dollars in state sales and use tax revenue received from October 2020 through September 2021 over an eight percent increase in sales tax revenue received from October 2018 through September 2019, the top rate of tax under subsection 1 of this section shall be reduced by five-hundredths of one percent (0.05%) in tax year 2022. For every forty-six million dollars that sales tax collections fail to reach the four or eight percent growth triggers, the top rate of tax shall be increased by five-hundredths of once percent (0.05%) during tax year 2021 and 2022 respectively.

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.

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

ASSUMPTION (continued)

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	0	0
TY 22	0	1

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	5.18%	5.18%
TY21	5.08%	5.08%
TY22	4.98%	4.93%

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	(\$46.6)	(\$46.6)
TY 21	(\$110.5)	(\$121.5)
TY 22	(\$110.1)	(\$129.8)
TY 23	(\$110.3)	(\$157.2)

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.

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

ASSUMPTION (continued)

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.

§144.637 DOR Sales and Use Tax Database

Officials at the **B&P** assume this 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. Once DOR has created a zip code level database, they may also certify address-based databases provided by third party vendors. Vendors may then choose whether to use the DOR provided zip code database or the third party certified address-based database.

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 Total State Revenue or the calculation under Article X, Section 18(e). B&P defers to DOR for the estimated cost to the agency from this section.

In response to similar legislation filed this year, officials at the **DOR** assumed this 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 §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 director shall provide and maintain a database that assigns each five- and nine-digit zip code to the proper rates and taxing jurisdictions. The lowest combined tax rate imposed in the zip code area shall apply if the area includes more than one tax rate in any level of taxing jurisdiction. If a nine-digit zip code designation is not available for a

ASSUMPTION (continued)

street address, or if a vendor is unable to determine the nine-digit zip code designation applicable to a purchase after exercising due diligence to determine the designation, the vendor may apply the rate for the five-digit zip code area. There shall be a rebuttable presumption that a vendor has exercised due diligence if the vendor has attempted to determine the nine-digit zip code designation by utilizing software approved by the director that make this designation from the street address and the five-digit zip code applicable to a purchase.

This proposed section states that the director may provide address-based boundary database records for assigning taxing jurisdictions and associated rates which shall be in addition to the requirements of subsection 3 of this section. The database records shall be in the same approved format as the database records required under subsection 3 of this section. If the director develops address-based assignment database records, vendors shall be required to use such database. A vendor shall use such database records in place of the five- and nine- digit zip code database records provided for in subsection 3 of this section. If a vendor is unable to determine the applicable rate and jurisdiction using an address' based database record after exercising due diligence, the vendor may apply the nine - digit zip code designation applicable to a purchase. If the director has met the requirements of subsection 3 of this section, the director may also elect to certify address-based databases provided by third parties for assigning tax rates and jurisdictions.

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.

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.

Oversight will show DOR's estimate of the computer costs in the fiscal note. Oversight notes that the database will need updating annually and will show the updates as Could exceed \$100,000 annually.

ASSUMPTION (continued)

§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.

§144.790 Political Subdivisions

Officials at the **B&P** assume 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, 2020. 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, 2020.

Officials at the **B&P** assume this proposed section will allow for local jurisdictions to opt in by a vote of their people to collect the online use taxes. The Department believes the earliest a locality could have this on the ballot would be April 2020, and the implementation of the tax would take place no earlier than July 2020.

§92.338.05 KC Convention and Tourism Tax

Officials at the **City of Kansas City** assume this may have a negative impact on their Convention and Tourism Tax.

Oversight notes this proposal only affects Kansas City if it raises the tourism Tax. Oversight will not show an impact from this provision.

SUMMARY

B&P estimates that this proposal could decrease Total State Revenue by \$0.2 million and General Revenue by \$2.6 million during FY 2020 if online use tax collections are low. If online use tax collections are high, this proposal could increase Total State Revenue by \$24.5 million and General Revenue by \$2.7 million in FY 2020.

Once fully implemented (FY 2023), this proposal could decrease Total State Revenue by \$2.7 million and General Revenue by \$8.5 million annually, if online use tax collections are low. If online use tax collections are high, this proposal could increase Total State Revenue by \$7.2 million and decrease General Revenue by \$1.6 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	(\$46.8)	(\$46.8)	(\$111.0)	(\$111.0)	(\$110.6)	(\$130.4)	(\$110.8)	(\$157.9)
Net GR Impact	(\$2.6)	\$20.7	(\$19.4)	\$28.9	(\$13.0)	\$18.7	(\$8.5)	(\$1.6)
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	(\$0.2)	\$24.5	(\$14.2)	\$36.8	(\$7.5)	\$27.1	(\$2.7)	\$7.2
Local 1.385% Pop Weighted Rate	\$0.0 or \$17.2	\$0.0 or \$26.2	\$0.0 or \$35.6	\$0.0 or \$54.4	\$0.0 or \$37.9	\$0.0 or \$57.9	\$0.0 or \$42.8	\$0.0 or \$65.4

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

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.

Article X, Section 18(e) Impact:

Sections 144.605 to 144.752 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).

ASSUMPTION (continued)

Therefore, this proposal will reduce the calculation under Article X, Section 18(e) by \$110.8 million to \$157.9 million annually, once fully implemented.

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% .

In response to the previous version, officials at the **B&P** and **DOR** noted 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)
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 9	\$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 10</u>	(\$1,941,408)	(\$2,053,570)	(\$2,070,186)	(\$2,191,431)
FTE Change	33 FTE	33 FTE	33 FTE	33 FTE

Cost - DOR §144.021

mailing costs page 10	(\$100,000)	\$0	\$0	\$0
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Revenue Reduction -

DOR §143.011

individual income tax			(\$110,600,000 to	(\$110,800,000 to
rate reduction* p. 15	(\$46,800,000)	(\$111,000,000)	\$130,400,000)	\$157,900,000)

<u>Cost - DOR §144.637</u>	(Greater than	(Could exceed	(Could exceed	(Could exceed
tax rate database p 18	<u>\$1,000,000)</u>	<u>\$100,000)</u>	<u>\$100,000)</u>	<u>\$100,000)</u>

ESTIMATED NET	<u>(\$5,641,408) to</u>	<u>(\$21,553,570) to</u>	<u>(\$15,170,186) to</u>	<u>(\$3,891,431 to</u>
EFFECT ON GR	<u>\$17,658,592</u>	<u>\$26,746,430</u>	<u>\$16,529,814</u>	<u>\$10,791,431)</u>

Estimated Net FTE

Change on GR	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 sales and use tax.**

<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>
9	<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>
9	<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 sales and use tax.**

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

**LOCAL
 POLITICAL
 SUBDIVISIONS**

Cost- \$67.495
 Locals for additional
 election costs p.4 \$0 or (Unknown) \$0 or (Unknown) \$0 or (Unknown) \$0 or (Unknown)

Revenue - DOR
 \$144.021 Online \$0 or \$0 or \$0 or \$0 or
 Sales Tax \$17,200,000 to \$35,600,000 to \$37,900,000 to \$42,800,000 to
 Collection* page 9 \$26,200,000 \$54,400,000 \$57,900,000 \$65,400,000

**ESTIMATED NET
 EFFECT TO
 LOCAL
 POLITICAL
 SUBDIVISIONS**

\$0 or \$0 or \$0 or \$0 or
\$17,200,000 to \$35,600,000 to \$37,900,000 to \$42,800,000 to
\$26,200,000 \$54,400,000 \$57,900,000 \$65,400,000

*** 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 sales and use tax.**

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

FISCAL DESCRIPTION (continued)

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).

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.

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

City of Columbia
City of Kansas City
Department of Conservation
Department of Revenue
Department of Natural Resources
Joint Committee on Administrative Rules
Missouri Department of Transportation
Office of Administration Division of Budget and Planning
Office of the Secretary of State
St. Louis County



Kyle Rieman
Director
May 7, 2019

Ross Strobe
Assistant Director
May 7, 2019