

COMMITTEE ON LEGISLATIVE RESEARCH
OVERSIGHT DIVISION

FISCAL NOTE

L.R. No.: 2654H.01I
Bill No.: HB 1307
Subject: Taxation and Revenue - General; Taxation and Revenue - Sales and Use;
Revenue, Department of; Entertainment, Sports and Amusements; Tax Incentives
Type: Original
Date: March 29, 2021

Bill Summary: This proposal provides for retention by the seller of certain state sales taxes due on transactions relating to entertainment.

FISCAL SUMMARY

ESTIMATED NET EFFECT ON GENERAL REVENUE FUND			
FUND AFFECTED	FY 2022	FY 2023	FY 2024
General Revenue	(\$8,664,714) to (\$10,782,752)	(\$10,397,657) to (\$12,939,303)	\$0
Total Estimated Net Effect on General Revenue	(\$8,664,714) to (\$10,782,752)	(\$10,397,657) to (\$12,939,303)	\$0

ESTIMATED NET EFFECT ON OTHER STATE FUNDS			
FUND AFFECTED	FY 2022	FY 2023	FY 2024
School District Trust Fund (0688)	(\$2,888,238) to (\$3,594,251)	(\$3,465,886) to (\$4,313,101)	\$0
Park, Soil, and Water Trust Fund (0613 and 0614)	(\$288,824) to (\$359,425)	(\$346,589) to (\$431,310)	\$0
Conservation Trust Fund (0609)	(\$361,030) to (\$449,281)	(\$433,236) to (\$539,138)	\$0
Total Estimated Net Effect on <u>Other</u> State Funds	(\$3,538,092) to (\$4,402,957)	(\$4,245,711) to (\$5,283,549)	\$0

Numbers within parentheses: () indicate costs or losses.

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

ESTIMATED NET EFFECT ON FULL TIME EQUIVALENT (FTE)			
FUND AFFECTED	FY 2022	FY 2023	FY 2024
Total Estimated Net Effect on FTE	0	0	0

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

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

ESTIMATED NET EFFECT ON LOCAL FUNDS			
FUND AFFECTED	FY 2022	FY 2023	FY 2024
Local Government	\$0	\$0	\$0

SCAL ANALYSIS

ASSUMPTION

Officials from the **Office of Administration – Budget & Planning (B&P)** assume this proposal would allow business to retain 100% of the sales and use taxes collected from August 28, 2021 through June 30, 2023 for tickets and concessions at movie theaters and music venues, or venues operating as music venues. This proposal would only allow for the retention of state sales and use taxes, not local taxes.

B&P notes that this would apply to movie theaters, concert venues, and performing arts theaters. Table 1 shows the estimated qualifying industries by NAICS code.

Table 1: Qualifying Businesses

Industry	NAICS	2019 Taxable Sales - Low Estimate	2019 Taxable Sales - High Estimate
Movie Theater	512131	\$222,876,355	\$222,876,355
Theater Companies	711110	n/a	\$68,391,030
Drive-in Theater	512132	\$0	\$0
Concert Venues	711310	\$123,712,223	\$123,712,223
DANCE COMPANIES*	711120	n/a	\$0
MUSICAL GROUPS AND ARTISTS*	711130	n/a	\$13,674,390
OTHER PERFORMING ARTS COMPANIES*	711190	n/a	\$2,656,092
Total Taxable Sales		\$346,588,578	\$431,310,089

*Not all sales would become exempt. Only sales where the companies and artists also operated the concert/theater venue would qualify.

Based on 2019 taxable sales, B&P estimates that this provision could exempt sales tax on \$346,588,578 to \$431,310,089 from the remittance of sales taxes. Therefore, B&P estimates that this provision could reduce TSR by \$12,202,806 to \$15,185,709 and GR by \$8,664,714 to \$10,782,752 in FY22. This proposal may reduce TSR by \$14,643,368 to \$18,222,852 and GR by \$10,397,657 to \$12,939,303 in FY23. This proposal will not impact TSR beyond FY23. Table 2 shows the estimated impact by fund.

Table 2: Sales Tax Retention by Fiscal Year

Fund	2022		2023	
	Low Estimate	High Estimate	Low Estimate	High Estimate
GR	(\$8,664,714)	(\$10,782,752)	(\$10,397,657)	(\$12,939,303)
Education	(\$2,888,238)	(\$3,594,251)	(\$3,465,886)	(\$4,313,101)
Conservation	(\$361,030)	(\$449,281)	(\$433,236)	(\$539,138)
DNR	(\$288,824)	(\$359,425)	(\$346,589)	(\$431,310)
TSR	(\$12,202,806)	(\$15,185,709)	(\$14,643,368)	(\$18,222,852)

Officials from the **Department of Revenue (DOR)** assume beginning on August 28, 2021, this proposal would allow certain taxpayers currently required to remit state sales and use taxes to retain those state sales tax amounts. Specifically, this proposal addresses all sales of tickets for admission and seating accommodations for the viewing of movies, films, and live concerts, and on all sales of concessions sold onsite at such seller's place of business. This section would expire on June 30, 2023.

Allowing taxpayers to retain these amounts would effectively repeal a portion of Section 144.020.1(2) and create an additional sales tax exemption for certain concessions – eliminating a source of income for the state.

The Current Sales and Use tax rate is 4.225%

General Revenue is 3%

School District Trust Fund is 1%

Conservation Commission Fund is .125%

Parks, Soil & Water Funds .1%

In order to calculate the impact of this proposal, the Department looked at the NAICS codes that are associated with these types of businesses. These include movie theaters (512131), drive-in theaters (512132) and performing arts facilities (711310). In tax year 2019, these NAICS codes had taxable sales in Missouri of \$415,087,944.04. Therefore, this would result in a loss to the state of the following amounts.

	FY 2022	FY 2023
General Revenue	(\$10,377,199)	(\$12,452,638)
School	(\$3,459,066)	(\$4,150,879)
Conservation	(\$432,383)	(\$518,860)
Park Soil	(\$345,907)	(\$415,088)

DOR notes this exemption begins September 1, 2021 so there will be 10 months of impact in FY 2022 and ends on June 30, 2023.

It should be noted that this tax is still required to be paid by the consumer and collected by the seller. However, the seller gets to retain it and the consumers do not benefit.

Oversight notes that DOR does anticipate administrative impact resulting in one time form and system update to comply with the statute; however DOR did not provide an estimate.

Oversight assumes a minimal amount of administrative costs for DOR; therefore, Oversight will reflect a zero additional cost for administrative expenses on the fiscal note.

Oversight notes the DOR and B&P both provided estimated impacts for certain taxpayers currently required to remit state sales and use taxes from venue and concession sales. This proposal allows for the taxpayer retain the tax amounts, even though the seller is required to collect the amount of tax due.

Oversight notes that B&P estimates range from low to high sales tax loss from venues that are now able to retain sales tax collected. The low estimate represents sellers who provide concession sales, but not ticket sales (due to the tickets being sold by third party sellers). As an example, Fox Theater would be able to keep all sales tax collected for sales of tickets sold by Fox Theater (the venue); however, Fox Theater would not retain the sales taxes for tickets sold by third party companies (i.e. Ticket Master, etc.). Conversely, the high range represents the assumption that venues would provide 100% of the concession and tickets sales at the place of the venue rather than third party vendors. Because B&P and DOR do not have granular sales tax information of all venue places in Missouri and its sales tax collection mechanisms; therefore, Oversight will use the ranged estimates provided by B&P for fiscal note purposes.

Officials from the **Department of Natural Resources (DNR)** assume the proposal will have an Unknown fiscal impact on their organization.

Allowing retention of sales tax by the seller of certain state sales taxes due on transactions relating to entertainment as defined in this proposal, could decrease the amount of funding available in the Parks and Soils Sales Tax Funds for long term operation of Missouri's state parks and historic sites and assistance to agricultural landowners through volunteer programs.

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. Therefore, the sales tax exemption could result in an unknown loss to the Parks and Soils Sales Tax Funds.

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

Officials from the **Missouri Department of Conservation (MDC)** assume the proposal will have an Unknown negative fiscal impact but greater than \$250,000.

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. 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 the officials from DNR and MDC both defer to the DOR for the potential fiscal impact of this proposal.

Oversight has no way to test the estimates provided by B&P and DOR. Oversight for fiscal note purposes, will shows the range from low to full potential (worst case scenario) fiscal impact on the note. Given the variance in the scope of this exemption depending on venue ability of ticket sales, Oversight will use the estimates provided by B&P and its fiscal impact for MDC and DNR organizations.

<u>FISCAL IMPACT – State Government</u>	FY 2022 (10 Mo.)	FY 2023	FY 2024
GENERAL REVENUE FUND			
<u>Forgone Revenue – 144.140 2. – sales tax revenue collection from entertainment venues p. 4</u>	(\$8,664,714) to <u>(\$10,782,752)</u>	(\$10,397,657) to <u>(\$12,939,303)</u>	<u>\$0</u>
NET ESTIMATED EFFECT ON GENERAL REVENUE FUND	(\$8,664,714) to <u>(\$10,782,752)</u>	(\$10,397,657) to <u>(\$12,939,303)</u>	<u>\$0</u>
<u>FISCAL IMPACT – State Government (continued)</u>	FY 2022 (10 Mo.)	FY 2023	FY 2024
SCHOOL DISTRICT TRUST FUND (0688)			
<u>Forgone Revenue – 144.140 2. – sales tax revenue collection from entertainment venues p. 4</u>	(\$2,888,238) to <u>(\$3,594,251)</u>	(\$3,465,886) to <u>(\$4,313,101)</u>	<u>\$0</u>
NET ESTIMATED EFFECT ON SCHOOL DISTRICT TRUST FUND	(\$2,888,238) to <u>(\$3,594,251)</u>	(\$3,465,886) to <u>(\$4,313,101)</u>	<u>\$0</u>

PARK, SOIL, WATER TRUST FUNDS (0613, 0614)			
<u>Forgone Revenue –</u> 144.140 2. – sales tax revenue collection from entertainment venues p. 4	(\$288,824) to <u>(\$359,425)</u>	(\$346,589) to <u>(\$431,310)</u>	<u>\$0</u>
NET ESTIMATED EFFECT ON PARK, SOIL, WATER TRUST FUND	(\$288,824) to <u>(\$359,425)</u>	(\$346,589) to <u>(\$431,310)</u>	<u>\$0</u>
<u>FISCAL IMPACT –</u> <u>State Government</u> (continued)	FY 2022 (10 Mo.)	FY 2023	FY 2024
CONSERVATION COMMISSION TRUST FUND (0609)			
<u>Forgone Revenue –</u> 144.140 2. – sales tax revenue collection from entertainment venues p. 4	(\$361,030) to <u>(\$449,281)</u>	(\$433,236) to <u>(\$539,138)</u>	<u>\$0</u>
NET ESTIMATED EFFECT ON CONSERVATION	(\$361,030) to <u>(\$449,281)</u>	(\$433,236) to <u>(\$539,138)</u>	<u>\$0</u>

COMMISSION TRUST FUND			

<u>FISCAL IMPACT – Local Government</u>	FY 2022 (10 Mo.)	FY 2023	FY 2024
	<u>\$0</u>	<u>\$0</u>	<u>\$0</u>

FISCAL IMPACT – Small Business

Certain small business theaters and entertainment venues will get to retain the state sales tax.

FISCAL DESCRIPTION

This bill provides that, from August 28, 2021 to June 30, 2023, a retailer may retain the full amount of state sales or use tax on any sales of admission tickets to movies, films, concerts or other musical performances, and the concessions sold at those events.

This legislation is not federally mandated, would not duplicate any other program and would not require additional capital improvements or rental space.

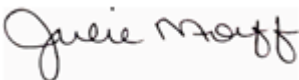
SOURCES OF INFORMATION

Office of Administration – Budget & Planning


Department of Revenue

Department of Natural Resources

Missouri Department of Conservation



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March 29, 2021



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