

COMMITTEE ON LEGISLATIVE RESEARCH
OVERSIGHT DIVISION

FISCAL NOTE

L.R. No.: 3888H.011
Bill No.: HB 1992
Subject: Taxation and Revenue - General; Taxation and Revenue - Sales and Use; Food;
Department of Revenue
Type: Original
Date: February 7, 2022

Bill Summary: This proposal repeals the statutory provisions imposing a sales tax on food.

FISCAL SUMMARY

ESTIMATED NET EFFECT ON GENERAL REVENUE FUND			
FUND AFFECTED	FY 2023	FY 2024	FY 2025
General Revenue	\$647,431	\$884,531	\$884,531
Total Estimated Net Effect on General Revenue	\$647,431	\$884,531	\$884,531

ESTIMATED NET EFFECT ON OTHER STATE FUNDS			
FUND AFFECTED	FY 2023	FY 2024	FY 2025
Park, Soil, and Water Fund (0614)	\$838,997	\$1,118,663	\$1,118,663
Conservation Commission Fund (0609)	\$1,048,746	\$1,398,328	\$1,398,328
School District Trust Fund (0688)	(\$108,312,091)	(\$144,416,121)	(\$144,416,121)
Total Estimated Net Effect on <u>Other</u> State Funds	(\$106,424,348)	(\$141,899,130)	(\$141,899,130)

Numbers within parentheses: () indicate costs or losses.

ESTIMATED NET EFFECT ON FEDERAL FUNDS			
FUND AFFECTED	FY 2023	FY 2024	FY 2025
Total Estimated Net Effect on <u>All</u> Federal Funds	\$0	\$0	\$0

ESTIMATED NET EFFECT ON FULL TIME EQUIVALENT (FTE)			
FUND AFFECTED	FY 2023	FY 2024	FY 2025
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 2023	FY 2024	FY 2025
Local Government	\$70,296,159	\$93,728,211	\$93,728,211

FISCAL ANALYSIS

ASSUMPTION

Officials from the **Office of Administration - Budget and Planning (B&P)** note this proposal will not impact the calculation under Article X, Section 18(e).

Section 144.014 Sales Tax Exemption

Officials from the **Department of Revenue (DOR)** state food is defined in statutes as items that can be purchased with food stamps. The current state sales tax rate on food is 1.225%. The state sales tax rate on food includes .225% that is distributed to the Conservation Commission and DNR's Park, Soil & Water Funds. This .225% is constitutionally created and is not impacted by this proposal.

DOR notes Section 144.014 besides defining food, established a 1% sales tax on food that is to be distributed to the School District Trust Fund. This proposal removes that 1% state sales tax that is distributed to the School District Trust Fund.

DOR notes that in FY 2021 there was \$14,441,612,081 in taxable sales on food. Since this proposal would go into effect on August 28, 2022 and the sales tax is distributed 1 month behind collections, this will result in a loss in FY 2023 of 9 months. Removing the 1% rate would result in a loss of the following:

		9 Months (FY 2023)	Full FY (FY24+)
Education	1%	(\$108,312,091)	(\$144,416,121)

Officials from the **Office of Administration - Budget and Planning (B&P)** note this section would exempt food from the 1% sales tax that is deposited into the School District Trust Fund (SDTF). B&P notes that "food" is defined as items that may be purchased with the Federal Food Stamp Program. B&P further notes that the federal food stamps program was replaced with the Supplemental Nutrition Assistance Program (SNAP). Therefore, this proposal will not impact the taxability of non-SNAP qualified items.

B&P notes that currently the state tax rate on SNAP qualified food is 1.225%; with 1% going to the SDTF, 0.125% going to Conservation, and 0.1% going to the Parks, Soil and Water Funds. This proposal will not impact the remaining 0.225% state tax (1.225% - 1%) nor will it eliminate local sales tax on food.

In FY21, there were \$14,441,612,081 in taxable food sales within Missouri. B&P estimates that approximately \$144,416,121 in food related sales taxes was distributed to the School District Trust Fund.

B&P notes that while this proposal would become effective August 28, 2022, sales tax distributions are one month behind collections. Therefore, B&P estimates that this provision may reduce TSR and the SDTF by \$108,312,091 in FY23. Once fully implemented, this proposal could reduce TSR and the SDTF by \$144,416,121 annually beginning in FY24.

Section 144.037 Sales Tax on SNAP purchases

DOR notes the purpose of Section 144.037 was to exempt from state and local tax food purchased with SNAP benefits. Repealing this section now makes the food purchased with SNAP benefits subject to tax.

Per the Department of Social Services' 2020 Annual Report the following amount of SNAP benefits have been distributed the last five years:

Year	SNAP Benefits
2016	\$1,215,939,101
2017	\$1,118,930,607
2018	\$1,079,320,336
2019	\$1,009,800,131
2020	\$1,169,322,638

Using the five-year average of \$1,118,662,563, this provision will result in the following additional income to the state.

	Tax Rate	New Tax
Conservation	0.00125	\$1,398,328
Park, Soil & Water	0.001	\$1,118,663

To determine the amount of sales tax on food for locals DOR used the amount collected by each type of political subdivision and calculated their estimated tax rate.

City	\$617,831,600
City - TIF	\$14,201,933
County	\$466,285,202
CID	\$35,306,762
TDD	\$32,784,758
Ambulance	\$22,503,434
Fire	\$8,445,313
Emergency	\$5,636,207
Other	\$7,009,040

Then DOR used the SNAP five-year average and the estimated tax rate to determine the following increase in food sales tax collected.

<u>Local Funds</u>	FY 2023 (9 Months)	FY 2024	FY 2025
City	\$35,893,418	\$47,857,890	\$47,857,890
City - TIF	\$825,073	\$1,100,097	\$1,100,097
County	\$27,089,209	\$36,118,945	\$36,118,945
CID	\$2,051,174	\$2,734,899	\$2,734,899
TDD	\$1,904,657	\$2,539,542	\$2,539,542
Ambulance	\$1,307,355	\$1,743,140	\$1,743,140
Fire	\$490,637	\$654,183	\$654,183
Emergency	\$327,440	\$436,587	\$436,587
Other	\$407,196	\$542,928	\$542,928
Total Local Impact	\$70,296,159	\$93,728,211	\$93,728,211

When DOR collects sales tax for the local political subdivisions, they collect a 1% fee that is transferred to general revenue to reimburse the Department for administrative costs. Collecting this tax on SNAP benefits will result in an increase of general revenue from the collection of the 1% fee.

<u>State Fund</u>	FY 2023	FY 2024	FY 2025
	Low	Low	
GR (1% fee)	\$663,398	\$884,531	\$884,531

The Department of Revenue will need to modify their sales and use tax system. These changes are estimated to cost \$15,967.

Oversight notes officials from the **Department of Revenue** assume modifications to the sales and use tax system would be required. The total system upgrades will cost \$ \$15,967 in FY 23 exclusively.

Officials from **B&P** note this section would end the sales tax exemption for purchases made with federal food stamps. B&P notes that this exemption also applies to the federal SNAP program, which replaced the food stamps program.

B&P notes that the repeal of this section would subject food purchased with SNAP benefits to the 0.225% state rate (0.125% Conservation and 0.1% DNR). This would not subject food sales to the 1% state rate for the School District Trust Fund, as food is becoming fully sales tax exempt under Section 144.014 of this proposal.

The repeal of this section would also subject food purchased with SNAP benefits to local sales tax.

Per the Department of Social Services (DSS) 2020 Annual Report, the five-year average of SNAP benefits was \$1,118,662,638 per year from 2016 through 2020. Therefore, B&P estimates that the repeal of this provision could increase TSR by \$1,887,743 in FY23. Once fully implemented, the repeal of this provision could increase TSR by \$2,516,991 annually. The repeal of this provision could also increase local collections by \$93,728,211 annually once fully implemented. Table 1 shows the estimated impact by fund.

Table 1: Impact from repealing SNAP sales tax exemption

State Fund	FY 2023	FY 2024	FY 2025
	Low	Low	
- GR (1% local collection fee)	\$663,398	\$884,531	\$884,531
Education	\$0	\$0	\$0
Conservation	\$1,048,746	\$1,398,328	\$1,398,328
DNR	\$838,997	\$1,118,663	\$1,118,663
Total State Impact	\$1,887,743	\$2,516,991	\$2,516,991
Local Funds			
City	\$35,893,418	\$47,857,890	\$47,857,890
City - TIF	\$825,073	\$1,100,097	\$1,100,097
County	\$27,089,209	\$36,118,945	\$36,118,945
CID	\$2,051,174	\$2,734,899	\$2,734,899
TDD	\$1,904,657	\$2,539,542	\$2,539,542
Ambulance	\$1,307,355	\$1,743,140	\$1,743,140
Fire	\$490,637	\$654,183	\$654,183
Emergency	\$327,440	\$436,587	\$436,587
Other	\$407,196	\$542,928	\$542,928
Total Local Impact	\$70,296,159	\$93,728,211	\$93,728,211

Proposal as a Whole

B&P estimates that this proposal could reduce TSR by \$105,760,950 in FY23. Once fully implemented in FY24, this proposal could reduce TSR by \$141,014,599 annually. Table 2 shows the summary impact by fund.

Table 2: Summary of Impact by Fund

State Fund	FY 2023	FY 2024	FY 2025
GR (1% local collection fee)	\$663,398	\$884,531	\$884,531
School District Trust Fund			
Sales Tax Loss	(\$108,312,091)	(\$144,416,121)	(\$144,416,121)
SNAP Repeal	\$0	\$0	\$0
Net SDTF	(\$108,312,091)	(\$144,416,121)	(\$144,416,121)
Conservation DNR	\$1,048,746 \$838,997	\$1,398,328 \$1,118,663	\$1,398,328 \$1,118,663
Total State Impact	(\$105,760,950)	(\$141,014,599)	(\$141,014,599)
Local Funds			
City	\$35,893,418	\$47,857,890	\$47,857,890
City - TIF	\$825,073	\$1,100,097	\$1,100,097
County	\$27,089,209	\$36,118,945	\$36,118,945
CID	\$2,051,174	\$2,734,899	\$2,734,899
TDD	\$1,904,657	\$2,539,542	\$2,539,542
Ambulance	\$1,307,355	\$1,743,140	\$1,743,140
Fire	\$490,637	\$654,183	\$654,183
Emergency	\$327,440	\$436,587	\$436,587
Other	\$407,196	\$542,928	\$542,928
Total Local Impact	\$70,296,159	\$93,728,211	\$93,728,211

Oversight notes this proposal would go into effect on August 28, 2022 and the sales tax is distributed 1 month behind collections. Therefore, Oversight will show the fiscal impacts estimated by B&P and DOR in FY 2023 for 9 months.

Officials from the **Missouri Department of Conservation** assume this proposal will have an unknown 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. Any decrease in sales and use tax collected would decrease revenue to the Conservation Sales Tax funds. However, the initiative is very complex and may require adjustments to Missouri sales tax law, which could cause some downside risk to the

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

Oversight notes that the Conservation and Park, Soil, and Water 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 and the one-tenth percent sales and use tax pursuant to Article IV Section 47 (a) of the Missouri Constitution thus MDC and DNR sales taxes are constitutional mandates and are not impacted by this proposal.

Officials from the **Department of Natural Resources** defer to the **Department of Revenue** for the potential fiscal impact of this proposal.

Officials from the **Department of Elementary and Secondary Education, Missouri Department of Transportation**, and the **City of Springfield** each assume the proposal will have no fiscal impact on their respective organizations. **Oversight** does not have any information to the contrary.

Oversight only reflects the responses received from state agencies and political subdivisions; however, other cities and counties were requested to respond to this proposed legislation but did not. A general listing of political subdivisions included in Oversight's database is available upon request.

<u>Revenue Gain</u> – Sales tax on SNAP purchases §144.037 p. 4-6	<u>\$838,997</u>	<u>\$1,118,663</u>	<u>\$1,118,663</u>
ESTIMATED NET EFFECT ON PARKS AND SOILS STATE SALES TAX FUNDS (0613 & 0614)	<u>\$838,997</u>	<u>\$1,118,663</u>	<u>\$1,118,663</u>
CONSERVATION COMMISSION FUNDS (0609)			
<u>Revenue Gain</u> – Sales tax on SNAP purchases §144.037 p. 4-6	<u>\$1,048,746</u>	<u>\$1,398,328</u>	<u>\$1,398,328</u>
ESTIMATED NET EFFECT ON CONSERVATION COMMISSION FUND (0609)	<u>\$1,048,746</u>	<u>\$1,398,328</u>	<u>\$1,398,328</u>

<u>FISCAL IMPACT – Local Government</u>	FY 2023 (10 Mo.)	FY 2024	FY 2025
LOCAL POLITICAL SUBDIVISIONS			
<u>Revenue Gain</u> – Sales tax on SNAP purchases §144.037 p. 6-7	<u>\$70,296,159</u>	<u>\$93,728,211</u>	<u>\$93,728,211</u>
NET ESTIMATED EFFECT ON LOCAL POLITICAL SUBDIVISIONS	<u>\$70,296,159</u>	<u>\$93,728,211</u>	<u>\$93,728,211</u>

FISCAL IMPACT – Small Business

Small businesses that sell food, as defined in the legislation, could be impacted by this proposal.

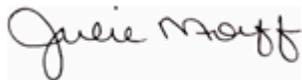
FISCAL DESCRIPTION

The proposed legislation repeals the statutory provisions imposing a sales tax on food.

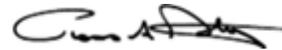
This legislation is not federally mandated, would not duplicate any other program and would not require additional capital improvements or rental space.

SOURCES OF INFORMATION

Department of Elementary and Secondary Education
Missouri Department of Transportation
Missouri Department of Conservation
Department of Revenue
Department of Natural Resources
Office of Administration - Budget and Planning
City of Springfield



Julie Morff
Director
February 7, 2022



Ross Strobe
Assistant Director
February 7, 2022