COMMITTEE ON LEGISLATIVE RESEARCH
OVERSIGHT DIVISION

FISCAL NOTE

L.R. No.: 0714-02
Bill No.: Perfected HCS for HB 374
Subject: Taxation and Revenue - General; Taxation and Revenue - Sales and Use
Type: Original
Date: March 12, 2019

Bill Summary: This proposal modifies provisions of sales tax law.

FISCAL SUMMARY

ESTIMATED NET EFFECT ON GENERAL REVENUE FUND			
FUND AFFECTED	FY 2020	FY 2021	FY 2022
General Revenue	($17,744,782 to $28,444,782)	($21,245,204 to $34,145,204)	($21,245,537 to $34,145,537)
Total Estimated Net Effect on General Revenue	**($17,744,782 to $28,444,782)**	**($21,245,204 to $34,145,204)**	**($21,245,537 to $34,145,537)**

ESTIMATED NET EFFECT ON OTHER STATE FUNDS			
FUND AFFECTED	FY 2020	FY 2021	FY 2022
Total Estimated Net Effect on Other State Funds	**$0**	**$0**	**$0**

Numbers within parentheses: ( ) indicate costs or losses.
This fiscal note contains 11 pages.

ESTIMATED NET EFFECT ON FEDERAL FUNDS			
FUND AFFECTED	FY 2020	FY 2021	FY 2022
Total Estimated Net Effect on All Federal Funds	**$0**	**$0**	**$0**

ESTIMATED NET EFFECT ON FULL TIME EQUIVALENT (FTE)			
FUND AFFECTED	FY 2020	FY 2021	FY 2022
General Revenue	1 FTE	1 FTE	1 FTE
Total Estimated Net Effect on FTE	**1 FTE**	**1 FTE**	**1 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
Local Government	**$0**	**$0**	**$0**

FISCAL ANALYSIS

ASSUMPTION

In response to the previous version, officials at the **Office of Administration Division of Budget and Planning** (**B&P**) assumed that Section 67.495 establishes a methodology that political subdivisions must use when presenting sales tax increases to the voters for approval. The provision has no impact on total state revenue or the calculation for Title X, Section 18(e).

Section 67.1300 codifies existing current taxing authority for local governments and makes technical clean-up changes to subdivision numbering. The rest of the provisions in this proposal make clean-up changes, and intersectional references to the new provision in section 67.495. BAP defers to DOR for any detailed explanations and estimates on this proposal.

In response to the previous version, officials at the **Department of Revenue** assumed there was no fiscal impact from this proposal.

In response to the previous version, officials at the **City of Kansas City** assumed this legislation would likely have a negative fiscal impact on the City of Kansas City, Missouri, because of the difficulties in implementing §67.495. This is because Kansas City is in four counties but this legislation would mandate non-uniform ballot language for all of Kansas City's voters. A Kansas City resident who is also a Cass County resident has a different sales tax than a Kansas City resident who is also a Clay County resident; and this situation would be the same for Kansas City residents living in Platte County or Jackson County. Kansas City residents would be voting on different versions of the same measure. The problem becomes even worse when all the various taxing jurisdictions, which vary within a county, are factored in.

In response to the previous version, officials at the **City of Liberty** assumed while difficult to calculate any fiscal impact this may have on the City, it creates a situation that makes local taxing jurisdictions to be in competition with one another. Who might be the political subdivision who causes the cumulative rate to be too much for the local voters? Further, the methodology used to calculate the average sales tax rate would require inclusion of any CID or TDD development district(s) rates.

The City has a ½ cent Transportation Sales Tax that sunsets in 2030. All of Missouri struggles to maintain its road infrastructure. If the proposed law's disclosures caused competition within the local taxing entities and provided an inflated cumulative rate due to the inclusion of any CID or TDD district rates, the City could well lose this important revenue source which provides $2.5 million in annual revenues for road maintenance and street improvements.

ASSUMPTION (continued)

Liberty always discloses its collective City rate within its voter education information prior to ballot questions. Some of our local sales taxes sunset. CID and TDD Districts do not require a city-wide vote to implement their sales taxes. Further to require the inclusion of CID and TDD rates in the calculation methodology could potentially harm economic development efforts.

In response to the previous version, officials at the **St. Louis County** assumed that the additional information required on future ballot language would not cause any significant increase in cost.

In response to the previous version, officials at the **City of Columbia** assumed no direct impact at this time.

In response to the previous version, officials at **Ray County** assumed there was no fiscal impact from this proposal.

In response to the previous version, officials at the **Wellsville-Middletown R-1 School District** responded to Oversight's request but did not indicate a fiscal impact.

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 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. Therefore, Oversight will not show a fiscal impact from this proposal.

Oversight notes in §61.1300 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 §61.1300.2 and that currently no county or municipality is collecting this sales tax. Therefore, Oversight will not show a fiscal impact from this proposal.

Oversight only reflects the responses that we have received from state agencies and political subdivisions; however, other cities, counties and school districts were requested to respond to this proposed legislation but did not. For a general listing of political subdivisions included in our database, please refer to www.legislativeoversight.mo.gov.

ASSUMPTION (continued)

§144.016 Sales Tax Exemption (HA 1)
In response to similar legislation filed this year, HB 747, officials at the **Office of Administration Division of Budget and Planning** (**B&P**) assumed this proposal would reduce the state sales tax rate for diapers and feminine hygiene products from the current rate of 4.225% to the same rate as the levy on food beginning October, 1 2019. B&P notes that the state levy on food is equal to 1.225% and does not include the 3% tax that would otherwise be deposited into General Revenue.

Diaper (Child) Sales Tax Reduction
Based on research, B&P found that the average amount spent on diapers was $550 to $840 per year. Based on information from the University of Michigan Hospital, the average age until children are toilet trained is 2.5 years. Based on information provided by DHSS, the average number of births from 2015-2017 was 74,241. Therefore, B&P estimates total sales of $102.1 million (74,241 children x 2.5 years x $550) up to $155.9 million (74,241 children x 2.5 years x $840) may be impacted by this proposal. B&P estimates that eliminating the General Revenue portion of the state sales tax, would reduce Total State Revenue and General Revenue by $3.1 million to $4.7 million annually.

Diaper (Adult) Sales Tax Reduction
According to research completed by the CDC, approximately 25% of adults age 65 and up had moderate to severe urinary incontinence and 8% had moderate to severe bowel incontinence. B&P notes that according the United State Census 2017 population estimates there were approximately 956,032 individuals residing in Missouri age 65 and over. Therefore, B&P estimates that approximately 239,008 individual age 65 and over would utilize adult urinary incontinence diapers. B&P further estimates that approximately 76,483 individuals residing in Missouri age 65 and over would utilize adult bowel incontinence diapers.

Based on information from a budgeting website, the average cost for urinary incontinence diapers is $160 to $240 per month, for a yearly cost of $1,920 to $2,880. Further information from the budgeting website lists the average monthly bowel incontinence diapers is $60 to $180 per month, for a yearly cost of $720 to $2,160. Therefore, B&P estimates that total annual sales for urinary incontinence adult diapers would be approximately $458.9 million (239,008 people x $1,920 annual cost) up to $688.3 million (239,008 people x $2,880 annual cost). The total annual sales for bowel incontinence adult diapers would be $55.1 million (76,483 people x $720 annual cost) up to $165.2 million (76,483 people x $2,160 annual cost). B&P estimates that eliminating the General Revenue portion of the state sales tax, would reduce Total State Revenue and General Revenue by $15.4 million to $26.6 million annually.

ASSUMPTION (continued)

Feminine Hygiene Products
Based on information from multiple sites, B&P estimates that women purchase an average of 6.7 boxes of tampons and 1.7 boxes of pads and liners per year, with an average price of $7 to $10 per box. B&P was also able to determine that the average age for menstruation is 13-51, and based on data provided by the U.S. Census bureau, there are approximately 1.5 million woman between those ages residing in Missouri. Therefore, B&P estimates total sales of $89.0 million and $127.2 million may be impacted by this proposal. B&P estimates that reducing the sales tax rate on feminine hygiene products will reduce General Revenue and Total State Revenue by $2.7 million to $3.8 million annually.

Summary
B&P estimates that this proposal will reduce Total State Revenue and General Revenue by $17.7 million to $28.4 million during FY 2020. Once fully implemented in FY 2021, this proposal will reduce Total State Revenue and General Revenue by $21.2 million to $34.1 million annually.

Table 1: TSR/GR Reduction by Provision (figures in Millions)

Provision	FY 2020		FY 2021	
	Low	High	Low	High
Diapers - Child	($2.6)	($3.9)	($3.1)	($4.7)
Diapers - Adult	($12.8)	($21.3)	($15.4)	($25.6)
Feminine Hygiene	($2.3)	($3.2)	($2.7)	($3.8)
TSR/GR Loss	($17.7)	($28.4)	($21.2)	($34.1)

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

In response to similar legislation filed this year, HB 747, officials at the **Department of Revenue** (**DOR**) assumed that in §144.016, beginning October 1, 2019, the tax levied and imposed under Chapter 144 on all retail sales of feminine hygiene products, diapers, and incontinence products shall be levied at a rate that shall not exceed the sales tax levied on the retail sale of food.

Based on a study done by TaxFoundation, if New York was to exempt feminine hygiene products from sales tax, the state would lose approximately $10 million each year. New York's sales tax rate is 4 percent. If the $10 million was divided by 4 percent, the estimated total amount of sales for feminine products in New York would be $250 million. Missouri's population is roughly 6 million while New York's population is roughly 19 million. Missouri has 31 percent of the population of New York. If the total sales in New York was multiplied by 31 percent, total sales

ASSUMPTION (continued)

in Missouri could be estimated at $77.5 million. These items are currently taxed at 4.225%; Missouri is receiving an estimated $3,274,375 in sales tax from the purchase of feminine products. If this proposed legislation was implemented and only 1 percent (plus required .225%) was collected in sales tax, the state would collect $949,375.

The Department believes that the average amount spent on diapers per year is $700. The average child, per "allgov.com" would wear diapers for 3 years before becoming fully toilet trained. Based on the Department of Health and Senior Services, the average number of births from 2014-2016 was 74,937. Subsequently, the Department estimates that total sales would amount to $157,367,700. Therefore, the Department estimates that General Revenue and Total State Revenue would be reduced by an estimated $1,927,754 each year.

According to the CDC, approximately 25 percent of adults within the age of 65 and up had moderate to severe urinary incontinence and 8 percent had moderate to severe bowl incontinence. According the United State Census 2016 population, 987,012 individuals residing in Missouri were 65 or over. Therefore, the Department estimates that approximately 244,503 individuals aged 65 and over would utilize adult urinary incontinence diapers. The Department estimates that approximately 78,241 individuals residing in Missouri and aged 65 and over would utilize adult bowl incontinence diapers. The average cost for urinary incontinence diapers is $200 per month for a yearly cost of $2,400. The average monthly bowl incontinence diapers is $120 per month for a yearly cost of $1,440. Subsequently, the Department estimates total sales of urinary incontinence diapers to amount to $586,807,200 and total sales of bowl incontinence diapers to be $112,667,040. The total sales of both incontinence diapers would amount to $699,474,240. At the proposed rate, the Department estimates that General Revenue and Total State Revenue would decrease by an estimated $8,568,559.44 each year.

The Department shows a lesser loss to General Revenue in Fiscal Year 2020 because there are three months in Fiscal Year 2020 in which feminine products would remain applicable to have the full amount of state sales tax collected.

FISCAL YEAR	IMPACT
FY 2020	($8,584,266)
FY 2021	($11,445,688)
FY 2022	($11,445,688)

DOR Sales Tax Section requires 1 Revenue Processing Technician I ($24,360) for the additional correspondence anticipated.

ASSUMPTION (continued)

Oversight will show the need the DOR FTE in the fiscal note.

In response to similar legislation filed this year, HB 747, officials at the **University of Missouri Economic & Policy Analysis Research Center** (**EPARC**) assumed this proposal would lower the sales tax rate for feminine hygiene products, diapers and incontinence products from 4.225% to 1.225%, the same sales tax rate as food. This response used data from the Census Bureau, Bureau of Economic Analysis and the Center for Disease Control.

We estimate there are 1,811,945 women between the ages of 12 and 54 in the state of Missouri. We estimate that these women on average spend $14.67 annually on feminine hygiene products. Multiplying 1,811,945 by $14.67 we estimate Missourians spend $26,583,222 in feminine hygiene products annually. Reducing the tax rate by 3% would reduce tax collections for these products by $797,497.

We estimate there are 27.4 billion disposable diapers used in the United States. At an average of $0.21 per diaper, this amounts to $5.72 billion. Using population statistics we estimate Missourians purchase approximately $107,441,430 in diapers. Reducing the tax rate by 3% would reduce tax collections for these products by $3,223,243.

We estimate there are 244,000 Missourians who suffer from incontinence. At an annual average cost of $473.20, we estimate these Missourians spend a total of $115,461,434. Reducing the tax rate by 3% would reduce tax collections for these products by $3,463,843.

Conclusion: We estimate a sales tax reduction of 3% for feminine hygiene products, diapers and incontinence products will reduce Net General Revenue by $7,484,582.

In response to similar legislation filed this year, HB 747, officials at the **Department of Conservation** (**MDC**) assumed that 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 change in sales and use tax collected would affect revenue to the Conservation Sales Tax funds.

However, the initiative is very complex and may require adjustments to Missouri sales tax law which could cause some downside risk to the Conservation Sales Tax. The Department assumes the Department of Revenue would be better able to estimate the anticipated fiscal impact that would result from this proposal.

ASSUMPTION (continued)

In response to similar legislation filed this year, HB 747, officials at the **Department of Natural Resources** (**DNR**) assumed that creating a change in the taxation of feminine hygiene products, diapers, and incontinence products at a rate not to exceed the sales tax levied on the retail sale of food 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.

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.

Oversight notes this proposal would reduce the tax rate from 4.225% to 1.225% on diapers, feminine hygiene products and incontinence products. Therefore, it would allows DNR and MDC to retain their funding and would be a loss only to General Revenue of its 3%.

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 collections 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.

ASSUMPTION (continued)

§144.088 Sales Tax Receipts (HA 2)
In response to similar legislation filed this year, HB 579, officials at the **Office of Administration Division of Budget and Planning** (**B&P**) assumed there was no direct impact on B&P, no direct impact on General Revenue and Total State Revenue and will not impact the calculation under Article X, Section 18(e).

In response to similar legislation filed this year, HB 579, officials at the **Department of Conservation**, **Department of Economic Development**, **Department of Natural Resources**, **Department of Revenue** and the **Office of Administration** each assumed there was no fiscal impact from this proposal.

Oversight notes this proposal requires the posting of sales tax rates on receipts beginning January 1, 2021. Oversight assumes this will not have a fiscal impact.

FISCAL IMPACT - State Government	FY 2020 (10 Mo.)	FY 2021	FY 2022
GENERAL REVENUE			
Revenue Reduction - DOR §144.016 sales tax reduction on diapers, feminine hygiene and incontinence products	($17,700,000 to $28,400,000)	($21,200,000 to $34,100,000)	($21,200,000 to $34,100,000)
Cost - DOR §144.016			
Personal Service	($20,300)	($24,604)	($24,850)
Fringe Benefits	($16,695)	($20,109)	($20,184)
Equip & Exp	($7,787)	($491)	($503)
Total Cost -	($44,782)	($45,204)	($45,537)
FTE Change - 1	1 FTE	1 FTE	1 FTE
ESTIMATED NET EFFECT ON GENERAL REVENUE	**($17,744,782 to $28,444,782)**	**($21,245,204 to $34,145,204)**	**($21,245,537 to $34,145,537)**
Estimated Net FTE Change on General Revenue	1 FTE	1 FTE	1 FTE

FISCAL IMPACT - Local Government	FY 2020 (10 Mo.)	FY 2021	FY 2022
	$0	**$0**	**$0**

FISCAL IMPACT - Small Business

Small businesses that sell feminine hygiene products, diapers, and incontinence products could be impacted by this proposal. Also, small businesses that do not currently provide customers with receipts that clearly reflect the sales tax could be impacted by this proposal.

FISCAL DESCRIPTION

Beginning October 1, 2019, this bill reduces the state sales and use tax rate on retail sales of feminine hygiene products, diapers, and incontinence products to equal the reduced state sales tax rate imposed on the retail sale of 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

City of Columbia
City of Kansas City
City of Liberty
Department of Conservation
Department of Natural Resources
Department of Revenue
Office of Administration Division of Budget and Planning
Ray County
St. Louis County
Wellsville-Middletown R-1 School District
University of Missouri Economic & Policy Analysis Research Center

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March 12, 2019	March 12, 2019

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