

COMMITTEE ON LEGISLATIVE RESEARCH
OVERSIGHT DIVISION

FISCAL NOTE

L.R. No.: 1166H.011
 Bill No.: HB 406
 Subject: Taxation and Revenue - General; Taxation and Revenue - Sales And Use;
 Revenue, Department of; Health Care
 Type: Original
 Date: January 21, 2021

Bill Summary: The proposal changes the laws regarding the taxation of feminine hygiene products and diapers.

FISCAL SUMMARY

ESTIMATED NET EFFECT ON GENERAL REVENUE FUND			
FUND AFFECTED	FY 2022	FY 2023	FY 2024
General Revenue	(\$15,891,967) to (\$28,595,246)	(\$21,189,290) to (\$38,126,994)	(\$21,189,290) to (\$38,126,994)
Total Estimated Net Effect on General Revenue	(\$15,891,967) to (\$28,595,246)	(\$21,189,290) to (\$38,126,994)	(\$21,189,290) to (\$38,126,994)

ESTIMATED NET EFFECT ON OTHER STATE FUNDS			
FUND AFFECTED	FY 2022	FY 2023	FY 2024
Total Estimated Net Effect on <u>Other</u> State Funds	\$0	\$0	\$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.

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

FISCAL ANALYSIS

ASSUMPTION

Officials from the **Department of Revenue (DOR)** assume:

Section 144.016

Beginning October 1, 2021, 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. Therefore, General Revenue would lose its 3% sales tax.

DOR notes the food sales tax only includes the portion of the tax that goes to the School District Trust Fund (1%), the Conservation Commission Fund (0.125%) and the Parks, Soil and Water Funds (0.1%).

Feminine Hygiene Products

Information from numerous sources indicates that a women menstruates 500 times in her lifetime, usually between the ages of 13-51. The average length of a period is 3 -7 days. Sources indicate that a woman uses the following:

	Number per cycle	Number per year	Number in Box	Boxes per year
Tampons	20	260	36	7.2
Pads/Panty Liners	5	65	36	1.8

Note a woman has 13 cycles a year (28 day cycle)/352 days a year.

The price per tampons and pads vary. DOR used a low and high price when determining the fiscal impact.

	Price Low	Price High	Total Cost Low	Total Cost High
Tampons	\$ 7.00	\$10.00	\$ 50.56	\$72.22
Pads/Panty Liners	\$7.00	\$10.00	\$12.64	\$18.06
			\$ 63.19	\$ 90.28

Using information from the US Census Bureau, DOR calculated the number of women in Missouri as 1,684,371.

This would result in a loss of the 3% General Revenue portion of the state sales tax:

	Total Cost Low	Total Cost High
Total estimated cost per year	\$106,442,890	\$152,061,271
GR Portion	\$3,193,287	\$4,561,838

This proposal begins October 1, 2021 (FY 2022). The Department shows a lesser loss to General Revenue in Fiscal Year 2022 because there are three months in Fiscal Year 2022 in which feminine products would remain applicable to have the full amount of state sales tax collected.

Feminine Hygiene Impact

Fiscal Year	Low Impact	High Impact
FY 2022	(\$2,394,965)	(\$3,421,379)
FY 2023	(\$3,193,287)	(\$4,561,838)
FY 2024	(\$3,193,287)	(\$4,561,838)

Infant and Toddler Diapers

The Department notes that the average child wears diapers for three years before becoming fully toilet trained. DOR found the price of diapers vary from \$0.15 per diaper for generics to \$0.30 for name brand. Estimates by various children’s organizations indicate that an infant in the first year of life goes through 2,500 diapers. During the next two years as toddlers, they go through 1,500 diapers annually.

Wearing Diaper	How Many	Low Price per Diaper	High Price per Diaper	Total Cost Low	Total Cost High
First Year	2,500	0.15	0.30	375	750
Second Year	1,500	0.15	0.30	225	450
Third Year	1,500	0.15	0.30	225	450

Based on the Department of Health and Senior Services, the average number of resident births from 2015-2019 was 73,621. Given that 3 years’ worth of children are wearing diapers in any one year (1 set of infants and 2 sets of toddlers)

Births Annually	73,621
# of kids in Diapers Annually	220,863
# of Diapers Annually	
infant	184,052,500
toddler (2yrs)	220,863,000
total (kids * diapers)	404,915,500

The Department calculated the difference in the current amount paid in sales tax to the proposed amount. DOR assumes this would eliminate the 3% General Revenue portion of the state sales tax. DOR notes the food sales tax only includes the portion of the tax that goes to the School District Trust Fund, the Conservation Commission Fund and the Parks, Soil and Water Funds.

Fiscal Year	Low Impact	High Impact
FY 2022	(\$1,366,590)	(\$2,733,180)
FY 2023	(\$1,822,120)	(\$3,644,240)
FY 2024	(\$1,822,120)	(\$3,644,240)

Adult Diapers

Approximately one third of adults age 65 and older have moderate to severe urinary incontinence and 6 percent had moderate to severe bowel incontinence. According the United State Census Bureau 2019 population report, 1,006,725 individuals residing in Missouri were 65 or over. The Department notes that it is estimated that people with minor to moderate incontinence wear approximately 4 diapers per day while those with full urinary or fecal incontinence wear 6 diapers per day. The Department estimates that approximately 191,278 individuals aged 65 and over would utilize the four adult urinary incontinence diapers while 60,404 would wear 6 adult diapers daily.

The average cost for urinary incontinence diapers is \$1.31 per diaper

Number of people	# of Diapers	Days per year	Total Diapers per person	Price per diaper	Total Sales
191,278	4	365	1460	1.31	\$365,837,825
60,404	6	365	2190	1.31	\$173,291,601
					\$539,129,426

This is expected to result in a loss to General Revenue

Fiscal Year	Low Impact
FY 2022	(\$12,130,412)
FY 2023	(\$16,173,883)
FY 2024	(\$16,173,883)

Summary

This proposal says this sales tax exemption would begin October 1, 2021 which would result in a 9 month impact to FY 2022. The total fiscal impact is estimated to be:

Fiscal Year	Low Impact	High Impact
2022	(\$15,891,967)	(\$18,284,970)
2023	(\$21,189,289)	(\$24,379,960)
2024	(\$21,189,289)	(\$24,379,960)

Administrative Impact

DOR does not anticipate substantial administrative cost stemming from this proposal. DOR would be able to absorb any potential cost associated with administrative changes.

Officials from the **Office of Administration – Budget & Planning (B&P)** assume

This proposal would reduce the state sales tax rate for feminine hygiene products and diapers from the current rate of 4.225% to the same rate as the levy on food beginning October, 1 2021. 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 GR.

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 the United State Census 2019 population estimates, there were approximately 217,232 children living in Missouri ages 0-2 years old.

Therefore, B&P estimates total sales of \$119,477,600 (217,232 children x \$550) up to \$182,474,880 (217,232 children x \$840) may be impacted by this proposal. B&P estimates that eliminating the GR portion of the state sales tax, would reduce TSR and GR by \$3,584,328 to \$5,474,246 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 2019 population estimates there were approximately 1,062,037 individuals residing in Missouri age 65 and over.

Based on these numbers, B&P estimates that approximately 265,509 individual age 65 and over would utilize adult urinary incontinence diapers. B&P further estimates that approximately 84,963 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.

B&P estimates that total annual sales for urinary incontinence adult diapers would be approximately \$509,777,760 (265,509 people x \$1,920 annual cost) up to \$764,666,640 (265,509 people x \$2,880 annual cost).

B&P further estimates that the total annual sales for bowel incontinence adult diapers would be \$61,173,331 (84,963 people x \$720 annual cost) up to \$183,519,994 (84,963 people x \$2,160 annual cost).

Therefore, B&P estimates that eliminating the GR portion of the state sales tax on adult diapers, would reduce TSR and GR by \$17,128,533 to \$28,445,599 annually.

Feminine Hygiene Products

Based on information from multiple sites, B&P estimates that women purchase an average of 6.8 to 7.2 boxes of tampons and 1.7 to 1.8 boxes of pads and liners per year (using the average cycle length of 28 to 30 days), with an average price of \$7 to \$10 per box. B&P was also able to determine that the average age for menstruation is 12-51, and based on data provided by the United State Census 2019 population estimates, there are approximately 1,549,453 woman between those ages residing in Missouri.

Therefore, B&P estimates total sales of \$91,622,359 to \$140,238,305 may be impacted by this proposal. B&P estimates that reducing the sales tax rate on feminine hygiene products from 3.225% to 1.225% will reduce TSR and GR by \$2,748,671 to \$4,207,149 annually.

Summary

B&P estimates that this proposal will reduce TSR and GR by \$17,596,149 to \$28,595,246 during FY22. Once fully implemented in FY23, this proposal will reduce TSR and GR by \$23,461,532 to \$38,126,994 annually.

Provision	2022		2023	
	Low	High	Low	High
Diapers - Child	(\$2,688,246)	(\$4,105,685)	(\$3,584,328)	(\$5,474,246)
Diapers - Adult	(\$12,846,400)	(\$21,334,199)	(\$17,128,533)	(\$28,445,599)
Feminine Hygiene	(\$2,061,503)	(\$3,155,362)	(\$2,748,671)	(\$4,207,149)
TSR/GR Loss	(\$17,596,149)	(\$28,595,246)	(\$23,461,532)	(\$38,126,994)

Oversight notes that B&P and DOR both assume the proposal would have a negative fiscal impact on General Revenues. Oversight conducted independent review of B&P’s and DOR’s assumption and agree with the provided range of impact presented by both organizations. Therefore, Oversight will reflect a B&P’s and DOR estimate and range the DOR’s low to B&P high impact on the fiscal note as summarized in table below.

Provision	2022		2023		2024	
	Low	High	Low	High	Low	High
Diapers - Child	(\$1,366,590)	(\$4,105,685)	(\$1,822,120)	(\$5,474,246)	(\$1,822,120)	(\$5,474,246)
Diapers - Adult	(\$12,130,412)	(\$21,334,199)	(\$16,173,883)	(\$28,445,599)	(\$16,173,883)	(\$28,445,599)
Feminine Hygiene	(\$2,394,965)	(\$3,155,362)	(\$3,193,287)	(\$4,207,149)	(\$3,193,287)	(\$4,207,149)
TSR/GR Loss	(\$15,891,967)	(\$28,595,246)	(\$21,189,290)	(\$38,126,994)	(\$21,189,290)	(\$38,126,994)

B&P’s high and DOR’s low estimates

Officials from the **Missouri Department of Conservation (MDC)** assume the proposal would have an “Unknown” fiscal impact but greater than \$100,000. 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 adjustment in the sales and use tax collected could have an effect on the Conservation Sales Tax funds.

Officials from the **Department of Natural Resources (DNR)** assume creating a change in the taxation of feminine hygiene products and diapers 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 allow DNR and MDC to retain their current funding and would be a loss only to General Revenue of its 3%.

Officials from the **City of Ballwin, City of Springfield, Missouri State University, Northwest Missouri State University, State Technical College of Missouri, University Of Central Missouri,** and **High Point R-III School** each assume the proposal would not have a direct fiscal impact on their respective organization.

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

<u>FISCAL IMPACT – State Government</u>	FY 2022 (10 Mo.)	FY 2023	FY 2024
Revenue Reduction - Section 144.016 - Reduction of sales tax rate on feminine hygiene products p.8	(\$2,394,965) to (\$3,155,362)	(\$3,193,287) to (\$4,207,149)	(\$3,193,287) to (\$4,207,149)
Revenue Reduction - Section 144.016 - Reduction of sales tax rate on child diapers p.8	(\$1,366,590) to (\$4,105,685)	(\$1,822,120) to (\$5,474,246)	(\$1,822,120) to (\$5,474,246)
Revenue Reduction - Section 144.016 - Reduction of sales tax rate on adult diapers p.8	(\$12,130,412) to (\$21,334,199)	(\$16,173,883) to (\$28,445,599)	(\$16,173,883) to (\$28,445,599)
ESTIMATED NET EFFECT ON GENERAL REVENUE FUND	(\$15,891,967) to (\$28,595,246)	(\$21,189,290) to (\$38,126,994)	(\$21,189,290) to (\$38,126,994)

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

FISCAL IMPACT – Small Business

Small business that sells feminine hygiene products or diapers would have to collect a different sales tax rate on these items.

FISCAL DESCRIPTION

Beginning October 1, 2021, this bill reduces the state sales and use tax rate on retail sales of feminine hygiene products and diapers 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.

L.R. No. 1166H.011

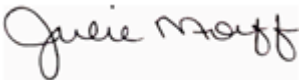
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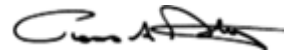
January 21, 2021

SOURCES OF INFORMATION

Department of Revenue
Office of Administration – Budget & Planning
Missouri Department of Conservation
Department of Natural Resources
City of Ballwin
City of Springfield
Missouri State University
Northwest Missouri State University
State Technical College of Missouri
University Of Central Missouri
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