

COMMITTEE ON LEGISLATIVE RESEARCH  
OVERSIGHT DIVISION

**FISCAL NOTE**

L.R. No.: 4560-01  
Bill No.: HB 2065  
Subject: Taxation and Revenue - Sales and Use; Department of Revenue; Health Care  
Type: Original  
Date: January 21, 2020

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Bill Summary: Changes the laws regarding the taxation of feminine hygiene products and diapers.

**FISCAL SUMMARY**

<b>ESTIMATED NET EFFECT ON GENERAL REVENUE FUND</b>			
FUND AFFECTED	FY 2021	FY 2022	FY 2023
General Revenue	(\$16,998,289 up to \$27,411,550)	(\$22,664,386 up to \$36,548,732)	(\$22,664,386 up to \$36,548,732)
<b>Total Estimated Net Effect on General Revenue</b>	<b>(\$16,998,289 up to \$27,411,550)</b>	<b>(\$22,664,386 up to \$36,548,732)</b>	<b>(\$22,664,386 up to \$36,548,732)</b>

<b>ESTIMATED NET EFFECT ON OTHER STATE FUNDS</b>			
FUND AFFECTED	FY 2021	FY 2022	FY 2023
<b>Total Estimated Net Effect on <u>Other</u> State Funds</b>	<b>\$0</b>	<b>\$0</b>	<b>\$0</b>

Numbers within parentheses: ( ) indicate costs or losses.

This fiscal note contains 11 pages.

ESTIMATED NET EFFECT ON FEDERAL FUNDS			
FUND AFFECTED	FY 2021	FY 2022	FY 2023
<b>Total Estimated Net Effect on <u>All</u> Federal Funds</b>	<b>\$0</b>	<b>\$0</b>	<b>\$0</b>

ESTIMATED NET EFFECT ON FULL TIME EQUIVALENT (FTE)			
FUND AFFECTED	FY 2021	FY 2022	FY 2023
<b>Total Estimated Net Effect on FTE</b>	<b>0</b>	<b>0</b>	<b>0</b>

☒ 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 2021	FY 2022	FY 2023
<b>Local Government</b>	<b><u>\$0</u></b>	<b><u>\$0</u></b>	<b><u>\$0</u></b>

## **FISCAL ANALYSIS**

### **ASSUMPTION**

Officials from the **Department of Revenue** state:

#### **Section 144.016**

Beginning October 1, 2020, 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.

#### **Feminine Hygiene Products**

Information from numerous sources indicates that a woman 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:

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

Table 1. Note a woman has 13 cycles a year (28 day cycle)/365 days a year.

<b>Product</b>	<b>Price</b>	<b>Price High</b>	<b>Total Cost – Low</b>	<b>Total Cost - High</b>
Tampons	\$7.00	\$10.00	\$50.56	\$72.22
Pads / Panty Liners	\$7.00	\$10.00	\$12.64	\$18.06
<b>Total Cost</b>			<b>\$63.19</b>	<b>\$90.28</b>

Using information from the US Census Bureau, **DOR** calculated the number of women in Missouri between the ages of 13-51 as 1,556,248.

This would result in a cost of:

	<b>Total Cost Low</b>	<b>Total Cost High</b>
Total Estimated cost per year	\$98,346,228	\$140,494,611
GR Portion (3%)	\$ 2,950,387	\$ 4,214,838

ASSUMPTION (continued)

This proposal begins October 1, 2020 (FY 2021). The **DOR** shows a lesser loss to General Revenue in Fiscal Year 2021 because there are three months in Fiscal Year 2021 in which feminine products would have the full amount of state sales tax collected.

Fiscal Year	Low Impact	High Impact
2021 (9 months)	\$2,212,790	\$3,161,129
2022	\$2,950,387	\$4,214,838
2023	\$2,950,387	\$4,214,838

Child 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 generic 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. The next two years as toddlers they go through 1,500 diapers annually.

Wearing Diaper	How Many	Low price per each	High Price per each	Total Cost Low	Total Cost High
First Year	2,500	0.15	0.3	375	750
Second Year	1,500	0.15	0.3	225	450
Third Year	1,500	0.15	0.3	225	450

DOR notes, based on the information from the Department of Health and Senior Services, the average number of births from 2014-2016 was 74,937. Given that, 3 years' worth of children are wearing diapers in any one year (1 set of infants and 2 sets of toddlers)

Birth Annually	74,937
Number of kids in diapers annually	224,811
<b>Number of Diapers Annually</b>	
Infant	187,342,500
Toddler (2yrs)	224,811,000
Total	412,153,500

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

ASSUMPTION (continued)

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.

	Tax Rate	Low Price Tax Collected	High Price Tax Collected
Current Rate	3.00%	\$1,854,691	\$3,709,382

Adult Diapers

Approximately one third of adults age 65 and older have moderate to severe urinary incontinence and 6 percent had moderate to severe bowl incontinence. According the United State Census 2018 population estimates, 1,035,074 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 those with full urinary or fecal incontinence wear 6 diapers per day. The Department estimates that approximately 196,665 individuals aged 65 and over would utilize the four adult urinary incontinence diapers while 62,104 would wear 6 adult diapers daily.

Number of people	Number of diapers	Days per year	Total diapers	Price per diaper	Total Sales
196,664	4	365	1460	\$1.31	\$376,139,566
62,104	6	365	2190	\$1.31	\$178,170,166
<b>Total</b>					\$554,309,732

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

	Tax Rate	Tax Collected
<b>Current Rate</b>	3.00%	\$16,629,292

Therefore this would result in a loss of \$16,629,292 annually to General Revenue.

ASSUMPTION (continued)

Summary

This proposal says this sales tax exemption would begin October 1, 2020 which would result in a 9 month impact to FY 2021.

Summary		
	Low	High
Feminine Hygeine	\$2,950,387	\$4,214,838
Child Diapers	\$1,854,691	\$3,709,382
Adult Diapers	\$16,629,292	\$16,629,292
Total	\$21,434,370	\$24,553,512
<b>9 mo</b>	<b>\$16,075,778</b>	<b>\$18,415,134</b>

Total Fiscal Impact (Reduction in Revenue) per FY 2021-2023

Fiscal Year	General Revenue Low Impact	General Revenue High Impact
FY 2021	\$16,075,778	\$18,415,134
FY 2022	\$21,343,370	\$24,553,512
FY 2023	\$21,434,370	\$24,553,512

Officials from the **Office of Administration Budget & Planning (B&P)** state 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 2020. **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 DHSS, the average number of births from 2016-2018 was 73,654.

Therefore, **B&P** estimates total sales of \$101,274,250 (73,654 children x 2.5 years x \$550) up to \$154,673,400 (73,654 children x 2.5 years 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 \$3,038,228 to \$4,640,202 annually.

ASSUMPTION (continued)

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 2018 population estimates there were approximately 1,033,964 individuals residing in Missouri age 65 and over.

Based on these numbers, **B&P** estimates that approximately 258,491 individual age 65 and over would utilize adult urinary incontinence diapers. B&P further estimates that approximately 82,717 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 \$496,302,720 (258,491 people x \$1,920 annual cost) up to \$744,454,080 (258,491 people x \$2,880 annual cost).

B&P further estimates that the total annual sales for bowel incontinence adult diapers would be \$59,556,326 (82,717 people x \$720 annual cost) up to \$178,668,979 (82,717 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 \$16,675,771 to \$27,693,692 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 13-51, and based on data provided by the U.S. Census bureau, there are approximately 1.5M woman between those ages residing in Missouri.

Therefore, B&P estimates total sales of \$90,279,092 to \$138,182,283 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 \$2,708,373 to \$4,145,468 annually.

ASSUMPTION (continued)

Summary

**B&P** estimates that this proposal will reduce TSR and GR by \$16,816,779 to \$27,359,522 during FY21. Once fully implemented in FY22, this proposal will reduce TSR and GR by \$22,422,372 to \$36,479,362 annually.

**Table 1: TSR/GR Reduction by Provision**

Provision	FY 21		FY22	
	Low	High	Low	High
Diapers - Child	(\$2,278,671)	(\$3,480,152)	(\$3,038,228)	(\$4,640,202)
Diapers - Adult	(\$12,506,828)	(\$20,770,269)	(\$16,675,771)	(\$27,693,692)
Feminine Hygiene	(\$2,031,280)	(\$3,109,101)	(\$2,708,373)	(\$4,145,468)
TSR/GR Loss	(\$16,816,779)	(\$27,359,522)	(\$22,422,372)	(\$36,479,362)

Officials from the **Department of Conservation** state this proposal creates 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.

Officials from the **Department of Natural Resources** state that this proposal creates 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 funding and would be a loss only to General Revenue of its 3%.

Oversight was unable to receive some of the responses from the local government agencies and schools in a timely manner & due to the short fiscal note request time. Oversight has presented this fiscal note on the best current information that we have. Upon the receipt of agency responses, Oversight will review to determine if an updated fiscal note should be prepared and seek the necessary approval of the chairperson of the Joint Committee on Legislative Research to publish a new fiscal note.

**Oversight** notes this proposed legislation would reduce the sales tax rate imposed on feminine hygiene products beginning October 1, 2020 (Fiscal Year 2021). Oversight notes for three months of Fiscal Year 2021, feminine products would remain taxable at the current rate of 4.225%. Therefore, the first fiscal year (Fiscal Year 2021) would experience revenue reductions equal to 9/12s of the total estimated fiscal impact.

Oversight notes that one source indicates that a woman who uses such products spends approximately \$443 on panty liners and \$1,773 on tampons within her lifetime. This would indicate that a woman who uses such products would spend a total of \$2,216 (\$443 + \$1,773) on feminine hygiene products in her lifetime.

The same source indicated that women who use these products do so between the ages of 13 and 51, or for a total of 38 years. Furthermore, the Missouri Census Data Center assumes there is approximately 1,510,729 women between the ages of 13 and 51 residing in Missouri.

Oversight estimates that if a woman spends \$2,216 on feminine hygiene products within their lifetime (38 years), she would spend approximately \$58.32 ( $\$2,216 / 38$ ) each year. If each woman spends \$58.32 on feminine hygiene products, the total spent on such products in Missouri each year would average \$88,099,354 ( $\$58.32 * 1,510,729$ ). Based on the estimated total spent on feminine hygiene products each year, Oversight estimates that the State of Missouri collects \$3,722,198 ( $\$88,099,354 * 4.225\%$ ) on feminine hygiene products annually at a rate of 4.225%. If reduced to a rate of 1.225%, the State of Missouri would collect approximately \$1,079,217 ( $\$88,099,354 * 1.225\%$ ). Therefore, Oversight estimates that GR could be reduced by \$2,642,981 each year ( $\$3,722,198 - \$1,079,217$ ) when fully implemented.

Oversight notes another source indicated women spend approximately \$120 per year on pads and tampons. If each woman between the ages of 13 and 51 spent \$120 per year on pads and tampons, a total of \$181,287,480 would be spent on such products ( $\$120 * 1,510,729$ ). Based on

ASSUMPTION (continued)

the estimated total spent on feminine hygiene products per year, Oversight estimates that the State of Missouri collects \$7,659,396 ( $181,287,480 * 4.225\%$ ) on feminine hygiene products annually at a rate of 4.225%. If reduced to a rate of 1.225%, the State of Missouri would collect approximately \$2,220,772 ( $181,287,480 * 1.225\%$ ). Therefore, Oversight estimates that GR could be reduced by \$5,438,624 each year ( $\$7,659,396 - \$2,220,772$ ) when fully implemented.

For the purposes of this fiscal note, Oversight will use DOR's ranged fiscal impact for the reduction in sales tax revenue on feminine hygiene products.

To give a better possible range of the fiscal impact of the proposal, Oversight will utilize B&P's estimate for reduction in sales tax revenue on diapers.

<u>FISCAL IMPACT - State Government</u>	FY 2021 (10 Mo.)	FY 2022	FY 2023
<b>GENERAL REVENUE FUND</b>			
<u>Revenue Reduction</u> - Section 144.016 - Reduction of sales tax rate on feminine hygiene products p. 6	(\$2,212,790 up to \$3,161,129)	(\$2,950,387 up to \$4,214,838)	(\$2,950,387 up to \$4,214,838)
<u>Revenue Reduction</u> - Section 144.016 - Reduction of sales tax rate on child diapers p. 8	(\$2,278,671 up to \$3,480,152)	(\$3,038,228 up to \$4,640,202)	(\$3,038,228 up to \$4,640,202)
<u>Revenue Reduction</u> - Section 144.016 - Reduction of sales tax rate on adult diapers p. 8	(\$12,506,828 up to \$20,770,269)	(\$16,675,771 up to \$27,693,692)	(\$16,675,771 up to \$27,693,692)
<b>ESTIMATED NET EFFECT ON GENERAL REVENUE FUND</b>	<b>(\$16,998,289 up <u>to \$27,411,550</u>)</b>	<b>(\$22,664,386 up <u>to \$36,548,732</u>)</b>	<b>(\$22,664,386 up <u>to \$36,548,732</u>)</b>

<u>FISCAL IMPACT - Local Government</u>	FY 2021 (10 Mo.)	FY 2022	FY 2023
	<b><u>\$0</u></b>	<b><u>\$0</u></b>	<b><u>\$0</u></b>

### 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, 2019, 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.

### SOURCES OF INFORMATION

Department of Revenue  
Office of Administration Budget & Planning  
Department of Natural Resources  
Department of Conservation



Julie Morff  
Director  
January 21, 2020



Ross Strobe  
Acting Director  
January 21, 2020