

COMMITTEE ON LEGISLATIVE RESEARCH
OVERSIGHT DIVISION

FISCAL NOTE

L.R. No.: 0420H.011
 Bill No.: HB 154
 Subject: Taxation and Revenue - General; Taxation and Revenue - Sales and Use; Health Care; Department of Revenue
 Type: Original
 Date: January 3, 2023

Bill Summary: This proposal provides a sales tax exemption for sales of certain medical devices for the treatment of cancer.

FISCAL SUMMARY

ESTIMATED NET EFFECT ON GENERAL REVENUE FUND			
FUND AFFECTED	FY 2024	FY 2025	FY 2026
General Revenue Fund	(\$63,000)	(\$75,600)	(\$75,600)
Total Estimated Net Effect on General Revenue	(\$63,000)	(\$75,600)	(\$75,600)

ESTIMATED NET EFFECT ON OTHER STATE FUNDS			
FUND AFFECTED	FY 2024	FY 2025	FY 2026
Park, Soil, and Water Fund (0614)	(\$2,100)	(\$2,520)	(\$2,520)
Conservation Commission Fund (0609)	(\$2,625)	(\$3,150)	(\$3,150)
School District Trust Fund (0688)	(\$21,000)	(\$25,200)	(\$25,200)
Total Estimated Net Effect on <u>Other</u> State Funds	(\$25,725)	(\$30,870)	(\$30,870)

Numbers within parentheses: () indicate costs or losses.

ESTIMATED NET EFFECT ON FEDERAL FUNDS			
FUND AFFECTED	FY 2024	FY 2025	FY 2026
Total Estimated Net Effect on <u>All</u> Federal Funds	\$0	\$0	\$0

ESTIMATED NET EFFECT ON FULL TIME EQUIVALENT (FTE)			
FUND AFFECTED	FY 2024	FY 2025	FY 2026
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 2024	FY 2025	FY 2026
Local Government	(\$85,470)	(\$102,564)	(\$102,564)

FISCAL ANALYSIS

ASSUMPTION

Officials from the **Department of Revenue (DOR)** note this proposal would allow the sales of all class III medical devices identified under 21 U.S.C. 360c(a)(1)(C) that use electric fields for the purposes of the treatment of cancer including components and repair parts and the disposable or single patient use supplies required for the use of such devices would be exempt from all state and local sales and use taxes.

DOR notes class III medical devices are those devices that have a high risk to the patient and/or user. These devices usually sustain or support life, are implanted, or present potential unreasonable risk of illness or injury. They represent 10% of medical devices regulated by the FDA. Given this proposal requires the Class III device must use electric fields for the purpose of treating cancer, it appears this reduces the qualifying devices to two devices. These devices are used for treating glioblastoma and mesothelioma.

The Department is aware that one company makes two devices, one for glioblastoma and one that treats mesothelioma. These devices cost approximately \$21,000 a month each or \$252,000 annually. The manufacturer estimates that approximately 7.2% of all patients with these conditions use their product. According to the CDC, approximately 466 individuals have brain and other nervous system cancers and 55 individuals have mesothelioma in Missouri.

DOR notes since glioblastoma accounts for about 17% of all brain cancers, DOR will assume that 79 Missourians have glioblastoma and 55 have mesothelioma.

Applying the 7.2% percentage to the number of Missouri residents with these conditions, DOR estimates that six Missourians are using it for glioblastoma and four are using it for mesothelioma and will qualify for the sales tax exemption annually.

At a cost of \$252,000 per year per person, DOR notes that this would result in taxable sales of \$2,520,000. This proposal removes both the state sales tax (4.225%) and the local sales tax (4.07% weighted average local tax rate). This would result in a loss to the state of \$106,470 in total state revenue.

		10/12 Year	Full Year
General Revenue	3.000%	(\$63,000)	(\$75,600)
School District Trust	1.000%	(\$21,000)	(\$25,200)
Conservation Commission	0.125%	(\$2,625)	(\$3,150)
Park, Soil & Water	0.100%	(\$2,100)	(\$2,520)
Total State Revenue		(\$88,725)	(\$106,470)
Local	4.070%	(\$85,470)	(\$102,564)

The Department notes this proposal would become effective August 28, 2023, and so there would be two months in FY 2024 in which the tax would be collected.

This would require a change to the sales and use tax forms, to the website and to their tax computer system. The estimated costs of these changes is \$7,193.

Oversight assumes the Department of Revenue is provided with core funding to handle a certain amount of activity each year. Oversight assumes DOR could absorb the programming and form costs related to this proposal. If multiple bills pass which require additional staffing and duties at substantial costs, DOR could request funding through the appropriation process.

Officials from the **Office of Administration - Budget and Planning (B&P)** note this proposal would exempt class III medical devices that use electric fields in the treatment of cancer from state and local sales and use taxes. This would also exempt the components, repair, and disposable patient supplies used with such devices. This exemption would begin August 28, 2023.

B&P notes that there are currently two such FDA devices approved. The first device is used to treat glioblastoma and the second device is used to treat mesothelioma. Based on data published by the manufacturer, B&P estimates that approximately 7.2% of glioblastoma patients use the qualifying device. B&P was unable to estimate the usage rate for mesothelioma. For the purpose of this fiscal note, B&P will assume that the usage rate is the same 7.2% found for glioblastoma patients.

Based on information published by the CDC, there were 466 individuals with brain and other nervous system cancers in Missouri during 2019, the most recent year available. Based on further research, B&P determined that glioblastoma cancer accounts for 17% of all brain and nervous system cancers. Therefore, B&P estimates that approximately 79 individuals in Missouri (466 brain and nervous system cancers x 17%) may have glioblastoma. Based on further information published by the CDC, there were 55 cases of mesothelioma in Missouri during 2019.

Assuming that Missouri cancer patients use the qualifying class III medical devices at the same rate as patients outside of Missouri, B&P estimates that approximately 6 individuals with glioblastoma (79 Missouri glioblastoma patients x 7.2% device usage) and 4 individuals with mesothelioma (55 Missouri mesothelioma patients x 7.2% device usage) per year may qualify for this sales tax exemption.

Based on additional research, B&P determined that the average cost of using the qualifying class III medical device is approximately \$21,000 per month, or \$252,000 per year (\$21,000 per month x 12). Therefore, B&P estimates that this proposal may exempt \$2,520,000 [(6 glioblastoma patients x \$252,000 per year costs) + (4 mesothelioma patients x \$252,000 per year costs)] in sales from state and local sales taxes.

Based on the above information, B&P estimates that this proposal may reduce TSR by \$106,470 and GR by \$75,600 per year. Using the 2022 population weighted local sales tax rate of 4.07%, B&P further estimates this proposal may reduce local sales tax collections by \$102,564 per year.

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

Oversight notes the Park, Soil, and Water Sales Tax funds are derived from the one-tenth of one percent sales and use tax pursuant to Article IV Section 47 (a) thus DNR's sales taxes are constitutional mandates. Oversight notes the proposed sales tax exemption would reduce the sales tax revenue distributed to the Park, Soil, and Water Sales Tax fund. Therefore, Oversight will reflect B&P's and DOR's fiscal impact estimates for DNR's funds.

Officials from the **Missouri Department of Conservation** note this proposal would have an unknown fiscal impact. 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 defers to the Department of Revenue as it is responsible for tax collection and would be better able to estimate the anticipated fiscal impact that would result from this proposal.

Oversight notes that the Conservation Sales Tax funds are derived from one-eighth of one percent sales and use tax of the Missouri Constitution, thus MDC's sales taxes are constitutional mandates. Oversight notes the proposed sales tax exemption would reduce the sales tax revenue distributed to the Conservation Sales Tax fund. Therefore, Oversight will reflect B&P's and DOR's fiscal impact estimates for MDC's funds.

Officials from both the **City of Kansas City** and the **City of Springfield** each assume this legislation would have a negative fiscal impact on their respective city of an indeterminate amount.

Officials from the **City of O'Fallon** assume the proposal will have no fiscal impact on their organization. **Oversight** notes the proposed sales tax exemption of certain medical devices may impact the amount of sales tax revenue collected by local political subdivisions. Therefore, Oversight will note B&P and DOR's estimates for all local political subdivisions on the fiscal note.

Oversight notes the above local political subdivisions stated this proposal would have a negative fiscal impact on their respective cities of an indeterminate amount. Oversight notes the proposed sales tax exemption would reduce the sales tax revenue collected by local political subdivisions. Therefore, Oversight will note B&P and DOR's estimates for all local political subdivisions on the fiscal note.

Oversight notes officials from B&P and DOR both assume the proposal will have a negative fiscal impact on state and local revenues. Oversight does not have any information to the contrary. Therefore, Oversight will reflect DOR's and B&P's estimated impact in the fiscal note

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 listing of political subdivisions included in the MOLIS database is available upon request.

<u>FISCAL IMPACT – State Government</u>	FY 2024 (10 Mo.)	FY 2025	FY 2026
GENERAL REVENUE			
<u>Revenue Reduction</u> - §144.813 Medical Device sales tax exemption p. 3-6	<u>(\$63,000)</u>	<u>(\$75,600)</u>	<u>(\$75,600)</u>
ESTIMATED NET EFFECT ON GENERAL REVENUES	<u>(\$63,000)</u>	<u>(\$75,600)</u>	<u>(\$75,600)</u>
PARK, SOIL, WATER FUNDS (0614)			
<u>Revenue Reduction</u> - §144.813 Medical Device sales tax exemption p. 3-6	<u>(\$2,100)</u>	<u>(\$2,520)</u>	<u>(\$2,520)</u>
ESTIMATED NET EFFECT ON PARK , SOIL AND WATER FUNDS	<u>(\$2,100)</u>	<u>(\$2,520)</u>	<u>(\$2,520)</u>
CONSERVATION COMMISSION FUNDS (0609)			
<u>Revenue Reduction</u> - §144.813 Medical Device sales tax exemption p. 3-6	<u>(\$2,625)</u>	<u>(\$3,150)</u>	<u>(\$3,150)</u>
ESTIMATED NET EFFECT ON CONSERVATION COMMISSION FUNDS	<u>(\$2,625)</u>	<u>(\$3,150)</u>	<u>(\$3,150)</u>

<u>FISCAL IMPACT – State Government</u> <u>(continued)</u>	FY 2024 (10 Mo.)	FY 2025	FY 2026
SCHOOL DISTRICT TRUST FUND (0688)			
<u>Revenue Reduction</u> - §144.813 Medical Device sales tax exemption p. 3-6	<u>(\$21,000)</u>	<u>(\$25,200)</u>	<u>(\$25,200)</u>
ESTIMATED NET EFFECT ON SCHOOL DISTRICT TRUST FUND	<u>(\$21,000)</u>	<u>(\$25,200)</u>	<u>(\$25,200)</u>

<u>FISCAL IMPACT – Local Government</u>	FY 2024 (10 Mo.)	FY 2025	FY 2026
LOCAL POLITICAL SUBDIVISIONS			
<u>Revenue Reduction</u> - §144.813 Medical Device sales tax exemption	<u>(\$85,470)</u>	<u>(\$102,564)</u>	<u>(\$102,564)</u>
NET ESTIMATED EFFECT ON LOCAL POLITICAL SUBDIVISIONS	<u>(\$85,470)</u>	<u>(\$102,564)</u>	<u>(\$102,564)</u>

FISCAL IMPACT – Small Business

Businesses that purchase qualified medical devices could be positively impacted by this proposal.

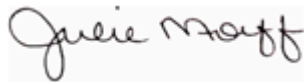
FISCAL DESCRIPTION

This proposal provides a sales tax exemption for sales of medical devices for the treatment of cancer.

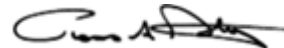
This legislation is not federally mandated, would not duplicate any other program and would not require additional capital improvements or rental space.

SOURCES OF INFORMATION

Department of Natural Resources
Office of Administration - Budget and Planning
Missouri Department of Conservation
Department of Revenue
City of Kansas City
City of O'Fallon
City of Springfield



Julie Morff
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January 3, 2023



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January 3, 2023