

COMMITTEE ON LEGISLATIVE RESEARCH
OVERSIGHT DIVISION

FISCAL NOTE

L.R. No.: 3464S.01I
Bill No.: SB 943
Subject: Taxation and Revenue - Sales and Use
Type: Original
Date: January 6, 2022

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

FISCAL SUMMARY

ESTIMATED NET EFFECT ON GENERAL REVENUE FUND			
FUND AFFECTED	FY 2023	FY 2024	FY 2025
General Revenue	(\$50,400)	(\$60,480)	(\$60,480)
Total Estimated Net Effect on General Revenue	(\$50,400)	(\$60,480)	(\$60,480)

ESTIMATED NET EFFECT ON OTHER STATE FUNDS			
FUND AFFECTED	FY 2023	FY 2024	FY 2025
Park, Soil, and Water Fund (0614)	(\$1,680)	(\$2,016)	(\$2,016)
Conservation Commission Fund (0609)	(\$2,100)	(\$2,520)	(\$2,520)
School District Trust Fund (0688)	(\$16,800)	(\$20,160)	(\$20,160)
Total Estimated Net Effect on <u>Other</u> State Funds	(\$20,580)	(\$24,696)	(\$24,696)

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	(\$67,704)	(\$81,245)	(\$81,245)

FISCAL ANALYSIS

ASSUMPTION

Officials from the **Department of Revenue** 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.

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.

There are an estimated 240,000 patients annually with glioblastoma. Per the company website that makes this product, they have treated 15,000 patients with glioblastoma with their product. Therefore, only 6.3% of the eligible patients are using the product. The estimated cost per month per user is \$21,000 or \$252,000 annually.

Per the National Environmental Public Health Tracking Network, there are 454 patients in MO with brain cancer and 55 with mesothelioma. The American Association of Neurological Surgeons estimates that 17% of all brain cancer is glioblastoma. Therefore, in Missouri 78 patients with glioblastoma and 55 patients with mesothelioma could be eligible to use the qualified device. However, given that only 6.3% of all patients use the qualified device they assume that only 5 glioblastoma and 3 mesothelioma patients would use it.

Therefore, at a cost of \$252,000 per patient per year they assume that \$2,016,000 ($\$252,000 * 8$) in costs would be exempt from sales tax per this proposal. The sales tax rate is 4.225%. This would result in a loss to TSR of \$85,176.

This would require a change to the sales and use tax forms as well as the computer system. The estimated costs of the changes is \$8,386.

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 computer programming 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)** assume 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, 2022.

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 6.3% 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 6.3% found for glioblastoma patients.

Based on information published by the CDC, there were 458 individuals with brain and other nervous system cancers in Missouri during 2018, 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 78 individuals in Missouri (458 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 2018.

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 5 individuals with glioblastoma (78 Missouri glioblastoma patients x 6.3% device usage) and 3 individuals with mesothelioma (55 Missouri mesothelioma patients x 6.3% 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 \$2,016,000 [(5 glioblastoma patients x \$252,000 per year costs) + (3 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 \$85,176 and GR by \$60,480 per year. Using the population weighted local sales tax rate for 2020, B&P further estimates this proposal may reduce local sales tax collections by \$81,245 per year.

Oversight notes officials from B&P and DOR both assume the proposal will have direct fiscal impact on total state 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.

Officials from the **Missouri Department of Conservation (MDC)** assume the 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 Sales Tax Fund is derived from one-eighth of one percent sales and use tax pursuant to Article IV Section 43 (a) of the Missouri Constitution thus MDC=s sales taxes are constitutional mandates. The Park, Soil, and Water Sales Tax fund 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. Therefore, Oversight will reflect the B&P's and DOR's estimates on the fiscal note.

Officials from the **Department of Elementary and Secondary Education (DESE)** assume that the proposal will have no fiscal impact on their organization; however, the proposal would decrease Proposition C revenue sent to the state and distributed to Local Education Agencies in the state of Missouri, as well as, lower the St. Louis City school district sales tax revenue. DESE defers to the Department of Revenue for an estimated impact.

Officials from the **Missouri Department of Transportation, Department of Elementary and Secondary Education**, and the **Department of Economic Development** each assume the proposal will have no fiscal impact on their organization.

Oversight only reflects the responses that we have 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 our database is available upon request.

<u>FISCAL IMPACT – State Government</u>	FY 2023 (10 Mo.)	FY 2024	FY 2025
GENERAL REVENUE			
<u>Revenue Reduction - §144.813 Medical Device sales tax exemption</u>	<u>(\$50,400)</u>	<u>(\$60,480)</u>	<u>(\$60,480)</u>
ESTIMATED NET EFFECT ON GENERAL REVENUES	<u>(\$50,400)</u>	<u>(\$60,480)</u>	<u>(\$60,480)</u>
PARK, SOIL, WATER FUNDS (0614)			
<u>Revenue Reduction - §144.813 Medical Device sales tax exemption</u>	<u>(\$1,680)</u>	<u>(\$2,016)</u>	<u>(\$2,016)</u>
ESTIMATED NET EFFECT ON PARK , SOIL AND WATER FUNDS	<u>(\$1,680)</u>	<u>(\$2,016)</u>	<u>(\$2,016)</u>
CONSERVATION COMMISSION FUNDS (0609)			
<u>Revenue Reduction - §144.813 Medical Device sales tax exemption</u>	<u>(\$2,100)</u>	<u>(\$2,520)</u>	<u>(\$2,520)</u>
ESTIMATED NET EFFECT ON CONSERVATION COMMISSION FUNDS	<u>(\$2,100)</u>	<u>(\$2,520)</u>	<u>(\$2,520)</u>
SCHOOL DISTRICT TRUST FUND (0688)			
<u>Revenue Reduction - §144.813 Medical Device sales tax exemption</u>	<u>(\$16,800)</u>	<u>(\$20,160)</u>	<u>(\$20,160)</u>
ESTIMATED NET EFFECT ON SCHOOL DISTRICT TRUST FUND	<u>(\$16,800)</u>	<u>(\$20,160)</u>	<u>(\$20,160)</u>

<u>FISCAL IMPACT – Local Government</u>	FY 2023 (10 Mo.)	FY 2024	FY 2025
<u>Revenue Reduction</u> - §144.813 Medical Device sales tax exemption	<u>(\$67,704)</u>	<u>(\$81,245)</u>	<u>(\$81,245)</u>
NET ESTIMATED EFFECT ON LOCAL POLITICAL SUBDIVISIONS	<u>(\$67,704)</u>	<u>(\$81,245)</u>	<u>(\$81,245)</u>

FISCAL IMPACT – Small Business

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

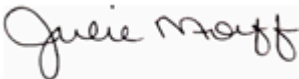
FISCAL DESCRIPTION

This act provides a sales tax exemption for sales of class III medical devices that use electric fields for the purposes of treatment of cancer, including components and repair parts and disposable or single patient use supplies required for the use of such supplies.

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 and Planning
Missouri Department of Transportation
Missouri Department of Conservation
Department of Economic Development
Department of Elementary and Secondary Education



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January 6, 2022



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