

COMMITTEE ON LEGISLATIVE RESEARCH
OVERSIGHT DIVISION

FISCAL NOTE

L.R. No.: 0400S.01I
Bill No.: SB 245
Subject: Taxation and Revenue - Sales and Use
Type: Original
Date: March 11, 2025

Bill Summary: This proposal authorizes a sales tax exemption for certain property sold at auction.

FISCAL SUMMARY

ESTIMATED NET EFFECT ON GENERAL REVENUE FUND			
FUND AFFECTED	FY 2026	FY 2027	FY 2028
General Revenue	Could exceed (\$2,214,984)	Could exceed (\$2,953,312)	Could exceed (\$2,953,312)
Total Estimated Net Effect on General Revenue	Could exceed (\$2,214,984)*	Could exceed (\$2,953,312)	Could exceed (\$2,953,312)

***Oversight** notes the fiscal impact for FY 2026 is lesser because FY 2026 is a partial year (9 months).

ESTIMATED NET EFFECT ON OTHER STATE FUNDS			
FUND AFFECTED	FY 2026	FY 2027	FY 2028
School District Trust Fund (0688)	Could exceed (\$738,328)	Could exceed (\$984,437)	Could exceed (\$984,437)
Conservation Commission Fund (0609)	Could exceed (\$92,291)	Could exceed (\$123,055)	Could exceed (\$123,055)
Parks and Soils State Sales Tax Fund(s) (0613 & 0614)	Could exceed (\$73,833)	Could exceed (\$98,444)	Could exceed (\$98,444)
Total Estimated Net Effect on <u>Other</u> State Funds	Could exceed (\$904,452)*	Could exceed (\$1,205,936)	Could exceed (\$1,205,936)

***Oversight** notes the fiscal impact for FY 2026 is lesser because FY 2026 is a partial year (9 months).

Numbers within parentheses: () indicate costs or losses.

ESTIMATED NET EFFECT ON FEDERAL FUNDS			
FUND AFFECTED	FY 2026	FY 2027	FY 2028
Total Estimated Net Effect on <u>All</u> Federal Funds	\$0	\$0	\$0

ESTIMATED NET EFFECT ON FULL TIME EQUIVALENT (FTE)			
FUND AFFECTED	FY 2026	FY 2027	FY 2028
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 2026	FY 2027	FY 2028
Local Government	Could exceed (\$3,292,943)*	Could exceed (\$4,390,590)	Could exceed (\$4,390,590)

***Oversight** notes the fiscal impact for FY 2026 is lesser because FY 2026 is a partial year (9 months).

FISCAL ANALYSIS

ASSUMPTION

Sections 144.030 & 144.813 - Sales Tax Exemptions

Officials from the **Department of Revenue (DOR)** note Section 144.030 outlines all the products that are exempt from sales tax. In Section 144.030.2(18) the sales of all durable medical equipment as defined on January 1, 1980 by the Medicare program is exempt. This current wording allows the state to have rolling compliance with the Medicare program however, it is limited to only as the Medicare program existed in 1980. Due to medical advances, new products have been brought on the market that are considered durable medical goods at the federal level but not at the state level. As of December 2022, the Department is aware of two such devices; one device used to treat glioblastoma, mesothelioma and non-small cell lung cancer (mNSCLC) and a second device is an embolization device used to prevent brain aneurysms.

This proposal would remove the limitation that the device have been covered as of January 1, 1980. This proposal may expand the sales tax exemption to new devices in the future and result in forgone revenue in the future. The Department is not able to estimate the impact from future devices being sales tax exempt. The Department will estimate the impact from the two devices DOR knows about.

Brain Cancer

This proposal would allow the sales of all class III medical devices that use electric fields for the purposes of the treatment of cancer to be exempt from all state and local sales and use taxes. This exemption would begin August 28, 2025. 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. 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 8.3% of all patients with these conditions use their product. According to the CDC approximately 470 individuals have brain and other nervous system cancers, and 54 individuals have mesothelioma in Missouri.

Since glioblastoma accounts for about 17% of all brain cancers, DOR will assume that 79 Missourians have glioblastoma and 54 have mesothelioma.

Applying the 8.3% percentage to the number of Missouri residents with these conditions DOR estimates that 7 Missourians are using it for glioblastoma and 4 are using it for mesothelioma and will qualify for the sales tax exemption annually.

Non-small cell lung cancer

The Department is aware that one company makes a device for the treatment of non-small cell lung cancer. The device costs approximately \$21,000 a month each or \$252,000 annually. The manufacturer estimates that approximately 8.3% of all patients with these conditions use their product. According to the CDC approximately 5,309 individuals have lung cancer in Missouri.

Since mNSCLC accounts for about 85% of all lung cancers, DOR will assume that 5,309 Missourians have been diagnosed with it.

Applying the 8.3% percentage to the number of Missouri residents with these conditions DOR estimates that 376 Missourians are using it for lung cancer and will qualify for the sales tax exemption annually.

The brain and lung cancer device is estimated to cost of \$252,000 per year per person. Therefore, this would result in taxable sales of \$97,663,6500. This proposal removes both the state sales tax (4.225%) and the local sales tax (4.46% weighted average local tax rate). This would result in a loss to the state of \$4,126,289 in total state revenue.

		9/12 Year	Full Year
General Revenue	3.000%	(\$2,197,432)	(\$2,929,910)
School District Trust	1.000%	(\$732,477)	(\$976,637)
Conservation Commission	0.125%	(\$91,560)	(\$122,080)
Park, Soil & Water	0.100%	(\$73,248)	(\$97,664)
Total State Revenue		(\$3,094,717)	(\$4,126,289)
Local	4.460%	(\$3,266,849)	(\$4,355,799)

Embolization Devices

The Department is aware there is a device that is used to treat brain aneurysms. It is an embolization device that costs about \$1,199.

Approximately 300,000 people in the U.S., and 556 in Missouri have a ruptured brain aneurysm each year. Therefore, up to \$666,533 (556 patients * \$1,199 device) could be exempt from state and local taxes annually.

The Department estimates that this provision may reduce total state revenue by \$28,161 per year.

	Tax Rate	9/12 Year	Annual Loss
General Revenue	3.000%	(\$14,997)	(\$19,996)
School district	1.000%	(\$4,999)	(\$6,665)
Conservation	0.125%	(\$625)	(\$833)
Park, Soil & Water	0.100%	(\$500)	(\$667)
Total State Tax		(\$21,121)	(\$28,161)
Locals	4.460%	(\$22,296)	(\$29,727)

Wheelchair accessories

This proposal would add wheelchair accessories to the list of devices that will be considered tax exempt. Wheelchairs and some accessories are already tax exempt while other accessories are not. The Department notes that when most accessories are purchased with the wheelchair, such as a seatbelt or restraints those accessories are tax exempt. However, sometimes when a taxpayer buys those accessories later those accessories may be subject to sales tax. This proposal will make it clear that all the accessories are considered tax exempt regardless of when purchased. Due to the limited sales tax, the impact of this provision is unknown, but it is anticipated to be minimal.

These sales tax exemption provisions would require a modification to the department's forms (\$2,200), change to the to DOR's website and to the department's tax computer system (\$7,327). The estimated costs of these changes are \$9,527.

Oversight notes the DOR requests one-time cost for website income-tax changes and updates to comply with the proposed language; however, Oversight notes that DOR receives appropriation for routine website updates and will not show those costs in the fiscal note.

Officials from the **Office of Administration - Budget and Planning (B&P)** note the following:

Rolling Conformity with Social Security Act

This proposal would create a rolling sales tax exemption conformity for all medical equipment covered by Medicare. Currently, the Missouri sales tax exemption is limited to those items that were covered as of January 1, 1980. This proposal would expand the sales tax exemption to all devices covered by Medicare now and in the future. Therefore, this provision could result in forgone revenue in the future. B&P is unable to determine when or how much revenue may be forgone by creating the rolling conformity.

As of December 2022, B&P is aware of two potential devices that would become tax exempt as a result of this provision. One device is used to treat certain cancers, while the other device is used for brain aneurysm embolization. B&P will include cost estimates for the lost sales tax revenue from these devices.

Cancer Devices

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, 2025.

B&P notes that there are currently three such FDA devices approved. The first device is used to treat glioblastoma, the second device is used to treat mesothelioma, and the third device is used to treat non-small cell lung cancer. Based on data published by the manufacturer, B&P estimates that approximately 8.3% of patients use the qualifying device. For the purpose of this fiscal note, B&P will assume that the 8.3% usage is the same across all three cancer types.

Based on information published by the DHSS, there were 456 individuals with brain and other nervous system cancers in Missouri during 2021, 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 (456 brain and nervous system cancers x 17%) may have glioblastoma.

Based on further information published by DHSS, there were 45 cases of mesothelioma cancer in Missouri during 2021, the most recent year available.

In addition, there were 5,321 cases of lung cancer in Missouri during 2021, the most recent year available. Based on further research, approximately 85% of all lung cancers are non-small cell lung cancer. Therefore, B&P estimates 4,523 individuals in Missouri (5,321 lung cancers x 85%) may have non-small cell lung cancer.

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 7 individuals with glioblastoma (78 Missouri glioblastoma patients x 8.3% device usage), 4 individuals with mesothelioma (45 Missouri mesothelioma patients x 8.3% device usage), and 377 individuals with non-small cell lung cancer (4,523 patients x 8.3% 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 \$97,776,000 [(7 glioblastoma patients x \$252,000 per year costs) + (4 mesothelioma patients x \$252,000 per year costs) + (377 non-small cell lung cancer 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 provision may reduce TSR by \$4,131,036 and GR by \$2,933,280 per year. Using the location weighted average local sales tax rate of 4.46% for 2024, B&P further estimates this proposal may reduce local sales tax collections by \$4,360,810 per year.

Embolization Devices

Approximately 300,000 people in the U.S. have a ruptured brain aneurysm each year. B&P notes that there is a newly FDA approved device used to treat brain aneurysms. Assuming that the incidence of ruptured brain aneurysms is similar throughout the U.S., B&P assumes that 557 Missouri residents suffer from a ruptured brain aneurysm each year.

Based on data published by the manufacture, this new embolization device costs \$1,198.80. Therefore, B&P estimates that this proposal could exempt \$667,732 (557 patients x \$1,198.80 treatment) in sales from state and local taxation.

Based on the above information, B&P estimates that this provision may reduce TSR by \$28,212 and GR by \$20,032 per year. Using the location weighted average local sales tax rate of 4.46% for 2024, B&P further estimates this proposal may reduce local sales tax collections by \$29,781 per year.

Wheelchair accessories

This proposal would also exempt wheelchair accessories. B&P notes that some accessories may already be exempt if they are attached to the wheelchair when purchases. However, such accessory may be subject to tax if purchased separately from a wheelchair. Due the complex taxability and limited sales data, B&P is unable to determine a potential impact from this provision. However, B&P anticipates that state and local revenue loss would be minimal.

Summary

B&P estimates that this proposal may reduce TSR by an amount that could exceed \$4,159,248 and GR by an amount that could exceed \$2,953,312 per year. Using the 2024 location weighted local sales tax rate of 4.46%, B&P further estimates this proposal may reduce local sales tax collections by an amount that could exceed \$4,390,590 per year.

Table 1: Estimated Impact by Fund

	FY 2026		FY 2027+	
<u>State Funds</u>				
General Revenue	Could exceed	(\$2,214,984)	Could exceed	(\$2,953,312)
Education (SDTF)	Could exceed	(\$738,328)	Could exceed	(\$984,437)
Conservation	Could exceed	(\$92,291)	Could exceed	(\$123,055)
DNR	Could exceed	(\$73,833)	Could exceed	(\$98,444)
Total State Revenues	Could exceed	(\$3,119,436)	Could exceed	(\$4,159,248)
<u>Local Impact</u>				
Local Sales Tax	Could exceed	(\$3,292,943)	Could exceed	(\$4,390,590)

Oversight notes according to the [Wheelchair Foundation](#), about 1% of people require a wheelchair. Using the US Census Missouri population of [6,196,156](#), Oversight estimates there could be about 61,962 wheelchair users in Missouri.

Oversight notes there are a wide range of products available to assist wheelchair users, including but not limited to: seat cushions, arm rests, head rests, storage pouches, gloves, cupholders, trays, and phone holders. Oversight is unable to determine which of these, if any, are considered wheelchair parts and are already exempt under current law. Therefore, Oversight will show an unknown impact for this provision.

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 B&P's estimated impact in the fiscal note.

Sections 140.030 & 144.615 – Sales/Use Tax Exemption for Used Tangible Personal Property

Officials from the **Department of Revenue (DOR)** note this proposal attempts to exempt from sales and use tax items that are considered used tangible personal property. It defines “used tangible personal property” as an item that is sold a second time or another consecutive time at an auction.

Currently when an item is purchased the customer owes sales or use tax on the item and each time it is resold, sales or use tax is owed. Whether you pay sales or use tax on the item depends on the business' nexus with the state. This proposal will exempt from sales tax an item that is used and sold at a second auction. Therefore, when it was purchased the item would have been subject to tax and the first time it is auctioned off it would be subject to tax and then if it is auctioned off a second time then it would be tax exempt.

The Department is unsure how auction houses would know if an item was previously auctioned off so they won't have to collect the sales tax in their second auction. If they are able to track such information, then this could result in an unknown minimal loss to the state and local sales tax funds.

Officials from the **Office of Administration - Budget and Planning (B&P)** note this proposal would exempt items sold at an auction for the second or more time from state and local sales and use tax. B&P notes that as written, the language would only exempt used property that has been sold at auctions multiple times. This proposal would not exempt the first sale at auction or other, non-auction, sales from state and local sales and use tax.

B&P is unsure how taxpayers would be able to verify that items have been sold at least one prior auction in order to determine whether that item is exempt from tax. Therefore, B&P estimates that this proposal could have an unknown, likely minimal, impact on state and local sales tax collections.

Oversight notes officials from B&P and DOR both assume the proposal will have an unknown, likely minimal, impact on state and local sales tax collections. 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.

Responses regarding the proposed legislation as a whole

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 assumes the proposed sales tax exemption may decrease the amount of sales tax revenue distributed to this fund. Therefore, Oversight will reflect the B&P's and DOR's fiscal impact estimates for DNR's funds.

Officials from the **Missouri Department of Conservation** assume 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 assumes the proposed sales tax exemption may decrease the amount of sales tax revenue distributed to this fund. Therefore, Oversight will reflect the B&P's and DOR's fiscal impact estimates for MDC's funds.

Officials from the **City of Kansas City** assume the proposed legislation has a negative fiscal impact of an indeterminate amount

Oversight only reflects the responses received from state agencies and political subdivisions; however, other local political subdivisions were requested to respond to this proposed legislation but did not. A listing of political subdivisions included in the Missouri Legislative Information System (MOLIS) database is available upon request.

<u>FISCAL IMPACT – State Government</u>	FY 2026 (9 Mo.)	FY 2027	FY 2028
GENERAL REVENUE			
<u>Revenue Reduction</u> - §144.030 & §144.813 - brain cancer device sales tax exemption - p. (6)	Could exceed (\$2,199,960)	Could exceed (\$2,933,280)	Could exceed (\$2,933,280)

<u>FISCAL IMPACT – State Government</u>	FY 2026 (9 Mo.)	FY 2027	FY 2028
<u>Revenue Reduction</u> - §144.030 & §144.813 - embolization device sales tax exemption - p. (7)	Could exceed (\$15,024)	Could exceed (\$20,032)	Could exceed (\$20,032)
<u>Revenue Reduction</u> - §144.030 & §144.813 - wheelchair accessories sales tax exemption - p. (7)	(Unknown)	(Unknown)	(Unknown)
<u>Revenue Reduction</u> - §144.030 & §144.615 - Sales /Use tax exemption on certain used goods - p. (8)	(Unknown)	(Unknown)	(Unknown)
ESTIMATED NET EFFECT ON GENERAL REVENUE	<u>Could exceed (\$2,214,984)</u>	<u>Could exceed (\$2,953,312)</u>	<u>Could exceed (\$2,953,312)</u>
SCHOOL DISTRICT TRUST FUND			
<u>Revenue Reduction</u> - §144.030 & §144.813 - brain cancer device sales tax exemption - p. (6)	Could exceed (\$733,320)	Could exceed (\$977,760)	Could exceed (\$977,760)
<u>Revenue Reduction</u> - §144.030 & §144.813 - embolization device sales tax exemption - p. (7)	Could exceed (\$5,008)	Could exceed (\$6,677)	Could exceed (\$6,677)
<u>Revenue Reduction</u> - §144.030 & §144.813 - wheelchair accessories sales tax exemption - p. (7)	(Unknown)	(Unknown)	(Unknown)
<u>Revenue Reduction</u> - §144.030 & §144.615 - Sales /Use tax exemption on certain used goods - p. (8)	(Unknown)	(Unknown)	(Unknown)
ESTIMATED NET EFFECT ON SCHOOL DISTRICT TRUST FUND	<u>Could exceed (\$738,328)</u>	<u>Could exceed (\$984,437)</u>	<u>Could exceed (\$984,437)</u>

<u>FISCAL IMPACT – State Government</u>	FY 2026 (9 Mo.)	FY 2027	FY 2028
CONSERVATION COMMISSION FUND			
<u>Revenue Reduction</u> - §144.030 & §144.813 - brain cancer device sales tax exemption - p. (6)	Could exceed (\$91,665)	Could exceed (\$122,220)	Could exceed (\$122,220)
<u>Revenue Reduction</u> - §144.030 & §144.813 - embolization device sales tax exemption - p. (7)	Could exceed (\$626)	Could exceed (\$835)	Could exceed (\$835)
<u>Revenue Reduction</u> - §144.030 & §144.813 - wheelchair accessories sales tax exemption - p. (7)	(Unknown)	(Unknown)	(Unknown)
<u>Revenue Reduction</u> - §144.030 & §144.615 - Sales /Use tax exemption on certain used goods - p. (8)	(Unknown)	(Unknown)	(Unknown)
ESTIMATED NET EFFECT ON CONSERVATION COMMISSION FUND	<u>Could exceed</u> <u>(\$92,291)</u>	<u>Could exceed</u> <u>(\$123,055)</u>	<u>Could exceed</u> <u>(\$123,055)</u>
PARKS AND SOILS STATE SALES TAX FUNDS			
<u>Revenue Reduction</u> - §144.030 & §144.813 - brain cancer device sales tax exemption - p. (6)	Could exceed (\$73,332)	Could exceed (\$97,776)	Could exceed (\$97,776)
<u>Revenue Reduction</u> - §144.030 & §144.813 - embolization device sales tax exemption - p. (7)	Could exceed (\$501)	Could exceed (\$668)	Could exceed (\$668)
<u>Revenue Reduction</u> - §144.030 & §144.813 - wheelchair accessories sales tax exemption - p. (7)	(Unknown)	(Unknown)	(Unknown)

<u>FISCAL IMPACT – State Government</u>	FY 2026 (9 Mo.)	FY 2027	FY 2028
<u>Revenue Reduction</u> - §144.030 & §144.615 - Sales /Use tax exemption on certain used goods - p. (8)	<u>(Unknown)</u>	<u>(Unknown)</u>	<u>(Unknown)</u>
ESTIMATED NET EFFECT ON PARKS AND SOILS STATE SALES TAX FUNDS	<u>Could exceed</u> <u>(\$73,833)</u>	<u>Could exceed</u> <u>(\$98,444)</u>	<u>Could exceed</u> <u>(\$98,444)</u>

<u>FISCAL IMPACT – Local Government</u>	FY 2026 (9 Mo.)	FY 2027	FY 2028
LOCAL POLITICAL SUBDIVISIONS			
<u>Revenue Reduction</u> - §144.030 & §144.813 - brain cancer device sales tax exemption - p. (6)	Could exceed (\$3,270,607)	Could exceed (\$4,360,810)	Could exceed (\$4,360,810)
<u>Revenue Reduction</u> - §144.030 & §144.813 - embolization device sales tax exemption - p. (7)	Could exceed (\$22,336)	Could exceed (\$29,781)	Could exceed (\$29,781)
<u>Revenue Reduction</u> - §144.030 & §144.813 - wheelchair accessories sales tax exemption - p. (7)	<u>(Unknown)</u>	<u>(Unknown)</u>	<u>(Unknown)</u>
<u>Revenue Reduction</u> - §144.030 & §144.615 - Sales /Use tax exemption on certain used goods - p. (8)	<u>(Unknown)</u>	<u>(Unknown)</u>	<u>(Unknown)</u>
ESTIMATED NET EFFECT ON LOCAL POLITICAL SUBDIVISIONS	<u>Could exceed</u> <u>(\$3,292,943)</u>	<u>Could exceed</u> <u>(\$4,390,590)</u>	<u>Could exceed</u> <u>(\$4,390,590)</u>

FISCAL IMPACT – Small Business

Certain small auction businesses that sell certain goods as defined in the proposal could be impacted by the proposal. Additionally, certain small businesses that sell qualifying medical devices/supplies could be impacted by this proposal.


FISCAL DESCRIPTION

This act authorizes a state and local sales tax exemption for sales of tangible personal property, excluding motor vehicles, trailers, boats, or outboard motors, that is sold a second or additional time at an auction.

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 Conservation
Department of Natural Resources
City of Kansas City



Julie Morff
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March 11, 2025



Jessica Harris
Assistant Director
March 11, 2025