

LEGISLATIVE BUDGET BOARD
Austin, Texas

FISCAL NOTE, 88TH LEGISLATIVE REGULAR SESSION

May 10, 2023

TO: Honorable Joan Huffman, Chair, Senate Committee on Finance

FROM: Jerry McGinty, Director, Legislative Budget Board

IN RE: SB379 by Huffman (relating to an exemption from sales and use taxes for certain family care items.),
Committee Report 1st House, Substituted

Estimated Two-year Net Impact to General Revenue Related Funds for SB379, Committee Report 1st House, Substituted : a negative impact of (\$226,713,000) through the biennium ending August 31, 2025.

Additionally, the bill will have a direct impact of a revenue loss to the Tax Reduction and Excellence in Education Fund of (\$8,224,000) for the 2024-25 biennium. Any loss to the Tax Reduction and Excellence in Education must be made up with an equal amount of General Revenue to fund the Foundation School Program.

General Revenue-Related Funds, Five- Year Impact:

<i>Fiscal Year</i>	<i>Probable Net Positive/(Negative) Impact to General Revenue Related Funds</i>
2024	(\$104,997,000)
2025	(\$121,716,000)
2026	(\$126,937,000)
2027	(\$132,432,000)
2028	(\$138,185,000)

All Funds, Five-Year Impact:

<i>Fiscal Year</i>	<i>Probable Revenue (Loss) from General Revenue Fund 1</i>	<i>Probable Revenue (Loss) from Tax Reduc. & Excell. Edu. Fund 305</i>	<i>Probable Revenue (Loss) from Cities</i>	<i>Probable Revenue (Loss) from Transit Authorities</i>
2024	(\$104,997,000)	(\$3,809,000)	(\$19,970,000)	(\$6,630,000)
2025	(\$121,716,000)	(\$4,415,000)	(\$23,150,000)	(\$7,690,000)
2026	(\$126,937,000)	(\$4,604,000)	(\$24,140,000)	(\$8,010,000)
2027	(\$132,432,000)	(\$4,803,000)	(\$25,180,000)	(\$8,360,000)
2028	(\$138,185,000)	(\$5,012,000)	(\$26,280,000)	(\$8,720,000)

<i>Fiscal Year</i>	<i>Probable Revenue (Loss) from Counties & Special Districts</i>
2024	(\$4,530,000)
2025	(\$5,250,000)
2026	(\$5,480,000)
2027	(\$5,710,000)
2028	(\$5,960,000)

Fiscal Analysis

The bill would amend Chapter 151 of the Tax Code (State Sales and Use Tax) by amending and adding to Section 151.313, relating to health care supplies. The bill would add a wound care dressing, child and adult diapers, and baby wipes, as defined by the bill, to the list of items exempt from the sales and use taxes imposed by this Chapter.

The bill would also add new Sections 151.3132, 151.3133, 151.3134, and 151.3135 to exempt feminine hygiene products, maternity clothing, breast milk pumping products, and baby bottles from the taxes imposed by this Chapter.

Under the provisions of the bill, "feminine hygiene products" would include tampons, sanitary napkins, menstrual cups, menstrual sponges, menstrual pads, and other similar tangible personal property sold for the principal purpose of feminine hygiene related to the menstrual cycle or post-partem care. The bill would define "maternity clothing" as clothing intended for a woman to wear during pregnancy and the postpartum period that is designed to accommodate the changes in body size and shape that occur as a result of a pregnancy.

The bill would define "breast milk pumping product" as a breast pump, breast milk storage bag, nursing pad, nursing bra, or other similar tangible personal property sold for the principal purpose of pumping and storing breast milk, and a "breast pump" as an electrically or manually controlled device, including its power source, designed or marketed to be used to express milk from a human breast during lactation.

The bill would take effect September 1, 2023.

Methodology

Industry data on national sales of the baby items and sanitary protection products that would be exempted from sales and use tax by the bill were apportioned to Texas based on child, female, and elderly population, adjusted to omit estimated non-taxable sales to entities such as nonprofit organizations, multiplied by the sales tax rate to estimate the applicable sales tax, and extrapolated through 2028. An estimated amount of tax attributable to sales made by marketplace sellers was allocated to the Tax Reduction and Excellence in Education (TREE) Fund.

The provisions of the bill exempting wound care dressings codify existing Comptroller policy and would have no fiscal impact.

There would be effects on the Economic Stabilization Fund (ESF) balance limit and consequent effects for GR reserves and transfers to ESF. Because sales tax revenue is initially deposited to the general revenue fund, the reduction in tax revenue in the 2024-25 biennium would reduce the 2026-27 ESF balance limit by ten percent of the reduction in tax, reducing 2025 severance tax reserves for transfer to the ESF by the amount of the balance limit reduction, and increasing available GR in 2025 by the amount of reduction of the reserves, however that amount is not expected to be significant.

Local Government Impact

There would be a proportional loss of sales and use tax revenue for units of local government displayed in the above tables.

Source Agencies: 304 Comptroller of Public Accounts

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