

Department of Finance and Administration

Legislative Impact Statement

Bill: HB1065

Bill Subtitle: TO EXEMPT FEMININE HYGIENE PRODUCTS FROM SALES AND USE TAX.

Basic Change :

**Sponsors: Reps. Pilkington and McCollum
Sens. B. Davis and T. Garner**

HB1065 would provide a sales and use tax exemption on the sale of a "feminine hygiene product." As defined in the bill, "feminine hygiene products" include a tampon, panty liner, menstrual cup, sanitary napkin, and other similar tangible personal property designed for feminine hygiene. The bill also provides that a "feminine hygiene product" does not include a soap or cleaning solution, shampoo, toothpaste, mouthwash, antiperspirant, or suntan lotion and sunscreen.

Revenue Impact :

FY2022

Total Approximate State Sales and Use Tax Loss \$ - 1,520,000
(Estimated Effective Date 10/1/21 --- 8 months reduced tax collection)

General Revenue --- 4.5%	\$ - 1,018,634
Property Tax Relief - .5%	\$ - 113,182
Conservation Fund - .125%	\$ - 28,295
Educational Adequacy Fund - .875%	\$ - 198,068
Highway Fund - .5%	\$ - 113,182
Educational Excellence Trust Fund	\$ - .000
Educational Adequacy (GR Transfer)	\$ - .000
State Central Services	\$ - 33,440
Constitutional Officers	\$ - 15,200

**Total Approximate Local City and
County Sales and Use Tax Loss \$ - 506,667**

FY2023

Total Approximate State Sales and Use Tax Loss \$ - 2,300,000

General Revenue --- 4.5%	\$ - 1,384,586
Property Tax Relief - .5%	\$ - 171,262
Conservation Fund - .125%	\$ - 42,815
Educational Adequacy Fund - .875%	\$ - 299,708
Highway Fund - .5%	\$ - 171,262
Educational Excellence Trust Fund	\$ - 144,035
Educational Adequacy (GR Transfer)	\$ - 12,733
State Central Services	\$ - 50,600
Constitutional Officers	\$ - 23,000

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**Total Approximate Local City and
County Sales and Use Tax Loss \$ - 766,667**

Taxpayer Impact :

The seller of a feminine hygiene product as defined in the bill would not collect and remit sales tax from the purchaser.

Resources Required :

None.

Time Required :

Adequate time is provided for implementation.

Procedural Changes :

Updates to the sales and use tax rules will need to be promulgated.

Other Comments :

None.

Legal Analysis :

HB1065 creates a product-based exemption from sales and use tax as it is not based on who purchases the product or how the purchaser intends to use the product. Under the Streamlined Sales and Use Tax Agreement (SSUTA), a member state may enact a product-based exemption for a product if Part II of the Library of Definitions has a definition for such product and the member state utilizes in the exemption the product definition in a manner consistent with Part II of the Library of Definitions. The SSUTA defines "feminine hygiene products" as tampons, panty liners, menstrual cups, sanitary napkins, and other similar tangible personal property designed for feminine hygiene in connection with the human menstrual cycle, but specifically excludes "grooming and hygiene products" which include soaps and cleaning solutions, shampoo, toothpaste, mouthwash, antiperspirants, and sun tan lotions and screens, regardless of whether the items meet the definition of "over-the-counter-drugs." The SSUTA defines "over-the-counter drug" as a drug containing a label that identifies the product as a drug as required by 21 C.F.R. § 201.66. The bill makes every attempt to utilize the product definition within the exemption in a manner consistent with Part II of the SSUTA Library of Definitions, but to ensure consistency with the SSUTA it may be recommended the bill be amended to define feminine hygiene products to exclude "grooming and hygiene products" and then define grooming and hygiene products.

The bill does not contain an emergency clause. If passed, the legislation would become effective the first day of the calendar quarter following the effective date of this act. This effective date complies with

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the SSUTA which limits the effective date of a rate change to the first day of a calendar quarter.