COMMITTEE REPORT

April 6, 2011

**H. 3747**

Introduced by Rep. Cooper

S. Printed 4/6/11--H.

Read the first time February 24, 2011.

**THE COMMITTEE ON WAYS AND MEANS**

To whom was referred a Bill (H. 3747) to amend Section 12‑36‑2120, as amended, Code of Laws of South Carolina, 1976, relating to sales tax exemptions, so as to exempt biologics administered, etc., respectfully

**REPORT:**

That they have duly and carefully considered the same and recommend that the same do pass with amendment:

Amend the bill, as and if amended, SECTION 1, page 1, by striking lines 24 through 26 and inserting:

/ “( )(a) Effective on July first immediately following a forecast meeting the requirements of subitem (b), injectable medications and injectable biologics, so long as the medication or biologic is administered by a physician in a physician’s office or in a Center for Medicare or Medicaid Services (CMS) certified facility. For purposes /

Renumber sections to conform.

Amend title to conform.

DANIEL T. COOPER for Committee.

**STATEMENT OF ESTIMATED FISCAL IMPACT**

**REVENUE IMPACT 1/**

This bill, as amended, would have no impact on general fund revenues in FY2011-12. This bill, as amended, would reduce state sales tax revenue by $4,572,333 in FY2012-13. Of this total, $3,048,223 will be a reduction in general fund sales and use tax revenue, $762,056 will be a reduction in EIA funds, and $762,056 will be a reduction in homestead exemption funds for homeowner tax relief. Of this total 3,768,493 will be a reduction in general fund sales and use tax revenue, $942,123 will be a reduction in EIA funds, and $942,123 will be a reduction in homestead exemption funds for homeowner tax relief.

## Explanation

This bill, as amended, would amend Section 12-36-2120 by adding a sales tax exemption for biologics administered by a physician in physician’s office. Beginning July 1, 2012, fifty percent of sales of biologics administered by a physician in physician’s office will be exempt from the sales state tax. One hundred percent of biologics administered by a physician in physician’s office would then be exempt from the state sales tax effective July 1, 2013. This bill defines biologics as products that are used in the prevention, treatment, or cure of a disease or condition of human beings and that are produced using living organisms, materials derived from living organisms, or cellular, subcellular, or molecular components of living organisms. Based upon global biologic sales of $75 million in 2007, as reported by IMS Health, a nationally recognized consulting firm regarding pharmaceutical sales data, and applying a five-year historical growth rate, it is estimated that sales of biologics to physician’s offices in South Carolina will be $152,411,140 in FY2012-13. Applying fifty percent of gross proceeds and a six percent sales tax rate, we estimate that this bill would reduce state sales tax revenue by $4,572,333 in FY2012-13. Of this total, $3,048,223 will be a reduction in general fund sales and use tax revenue, $762,056 will be a reduction in EIA funds, and $762,056 will be a reduction in homestead exemption funds for homeowner tax relief. For FY2013-14, it is estimated that sales of biologics to physician’s offices in South Carolina will be $188,424,676. Applying fifty percent of gross proceeds and a six percent sales tax rate, we estimate that this bill would reduce state sales tax revenue by $5,652,740 in FY2013-14 Of this total 3,768,493 will be a reduction in general fund sales and use tax revenue, $942,123 will be a reduction in EIA funds, and $942,123 will be a reduction in homestead exemption funds for homeowner tax relief.

*Approved By:*

William C. Gillespie

Board of Economic Advisors

1/ This statement meets the requirement of Section 2-7-71 for a state revenue impact by the BEA, or Section 2-7-76 for a local revenue impact or Section 6-1-85(B) for an estimate of the shift in local property tax incidence by the Office of Economic Research.

**A** **BILL**

TO AMEND SECTION 12‑36‑2120, AS AMENDED, CODE OF LAWS OF SOUTH CAROLINA, 1976, RELATING TO SALES TAX EXEMPTIONS, SO AS TO EXEMPT BIOLOGICS ADMINISTERED BY A PHYSICIAN IN A PHYSICIAN’S OFFICE.

Be it enacted by the General Assembly of the State of South Carolina:

SECTION 1. Section 12‑36‑2120 of the 1976 Code, as last amended by Act 280 of 2010, is further amended by adding a new item at the end to read:

“( )(a) Effective on the July first immediately following a forecast meeting the requirements of subitem (b), biologics administered by a physician in a physician’s office. For purposes of this exemption, ‘biologics’ means the products that are applicable to the prevention, treatment, or cure of a disease or condition of human beings and that are produced using living organisms, materials derived from living organisms, or cellular, subcellular, or molecular components of living organisms.

(b) Beginning with the February 15, 2012, forecast by the Board of Economic Advisors of annual general fund revenue growth for the upcoming fiscal year, and annually thereafter until the conditions of this item are met, if the forecast of that growth equals at least two percent of the most recent estimate by the board of general fund revenues for the current fiscal year, then on July first, the exemption described in subitem (a) shall apply to fifty percent of the gross proceeds of sales of the described items. Beginning the next July first, the exemption shall apply to one hundred percent of the gross proceeds of sales of the described items. If the February fifteenth forecast meets the requirement for a rate reduction, the board promptly shall certify this result in writing to the Department of Revenue.”

SECTION 2. This act takes effect upon approval by the Governor.

‑‑‑‑XX‑‑‑‑