HB 22-1055

Legislative Council Staff

Nonpartisan Services for Colorado's Legislature

Revised Fiscal Note

(replaces fiscal note dated February 10, 2022)

Drafting Number:	LLS 22-0024	**Date:**	March 10, 2022
Prime Sponsors:	Rep. Lontine; Herod Sen. Jaquez Lewis; Winter	**Bill Status:**	House Appropriations
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Bill Topic: **SALES TAX EXEMPTION ESSENTIAL HYGIENE PRODUCTS**

Summary of Fiscal Impact:

☒ State Revenue
☒ State Expenditure
☐ State Transfer
☒ TABOR Refund
☒ Local Government
☐ Statutory Public Entity

The bill exempts period products and incontinence products from sales and use taxes beginning January 1, 2023. The bill decreases state revenue on an ongoing basis, will minimally increase state workload during implementation, and will decrease ongoing local government revenue for those that conform to the state tax base.

Appropriation Summary: No appropriation is required.

Fiscal Note Status: The revised fiscal note reflects the introduced bill, as amended by the House Finance Committee.

Table 1
State Fiscal Impacts Under HB 22-1055

		Budget Year FY 2022-23	Out Year FY 2023-24
Revenue	General Fund	($5.2 million)	($11.0 million)
Expenditures		-	-
Transfers		-	-
Other Budget Impacts	TABOR Refund	($5.2 million)	($11.0 million)

HB 22-1055

Summary of Legislation

The bill exempts purchases of period products and incontinence products from state sales and use tax beginning January 1, 2023.

State Revenue

The bill is estimated to decrease General Fund revenue by $5.2 million in FY 2022-23 and by $11.0 million in FY 2023-24, with ongoing impacts in subsequent years that will grow with population growth and inflation. The impact in FY 2022-23 represents a half-year impact. Sales and use tax revenue is subject to TABOR.

Data and Assumptions

Period products. The analysis was based on estimated use of the bill's exempted products for impacted demographic groups. For period products, the analysis assumes regular use of these products for women and girls ages 12 to 51 based on the average age of first menstruation to menopause from National Institutes of Health data. In Colorado, the State Demographer projects there will be between 1,598,426 and 1,615,701 women and girls ages 12 to 51 from FY 2022-23 to FY 2023-24. The demand among users of these products was adjusted downward to exclude those who are expected to not be menstruating during pregnancy or nursing based on projected births in the state. Based on this adjusted population, there will be an estimated 88.0 million to 88.9 million likely menstrual days each year during the analysis period.[1] Assuming 40.4 percent of users of period products use tampons and 59.6 percent use pads or sanitary napkins, and average use of 4.0 products per day, there will be demand for about 143.0 million tampons and 211.0 million pads in the state each year. Lastly the revenue impact assumes an average inflation-adjusted price of about $0.24 per tampon and $0.22 per pad during the analysis period. Overall, the decrease in revenue from period products is $1.1 million in FY 2022-23 and $2.3 million in FY 2023-24.

The degree that actual use of period products differs from the above assumptions could increase or decrease the estimated revenue impact. For instance, the analysis does not factor in the use of sponges, cups, or other products that are included in the bill, or the use of period products for other reasons than menstruation, both factors that could increase the revenue impact. On the downside, the analysis does not factor in reduced menstruation or use of period products from causes other than pregnancy, such as surgical procedures, health conditions, or other means.

Infant and child diaper use. Diaper use for the infant and child population was based on the state's projected population of children ages 0 to 5 years from the Colorado State Demography Office. Assuming a projected average of 208,300 children less than 27 months through FY 2023-24 utilize about 8.0 diapers per day, and that 95.5 percent of children use disposable diapers, the demand for disposable diapers will be about 581 million each year during the analysis period. The remaining children are assumed to use cloth diapers. For the projected 174,700 children ages 27 months to 5 years, it is assumed about 8.0 percent use an average of one disposable diaper each day based on rates of night-time only use in older children, or an average of 5.1 million disposable diapers each year during the analysis period. Assuming an average inflation-adjusted unit cost of $0.32 per disposable

[1] Menstrual days was calculated assuming an average cycle length of 28 days and 4.5 days per period based on National Institutes of Health data.

diaper, and an average one-time cloth diaper cost of about $410, the bill will decrease revenue from these products by an estimated $2.6 million in FY 2022-23 and $5.5 million in FY 2023-24.

The degree that actual infant and child diaper use differs from the assumptions used in this analysis could increase or decrease the estimated revenue impact. For instance, the use of diapers for reasons other than infant and child care, or for those older than age 5 could increase the revenue impact. Alternatively, if caretakers reduce diaper use significantly before 27 months, or that children over this age require fewer diapers at night, the revenue impact could be lower.

Incontinence products. A study on the direct cost of urinary incontinence in the U.S. found the cost in 1995 was $16.3 billion.[2] Further, an analysis of the cost of urinary incontinence among women estimated that diaper purchases and incontinence pads comprised about 40 percent of the annual cost of routine products and care, costs the researchers noted accounted for 50 percent to 75 percent of the above cited direct costs.[3] Inflating the per capita cost for the adult population of urinary incontinence using the Consumer Price Index, based on projections in the December 2021 Legislative Council Staff Forecast, assuming 60 percent of the total cost of urinary incontinence is spent on routine care products, and applying the estimated cost of incontinence products to the projected adult population in Colorado, the bill will decrease revenue in FY 2022-23 by an estimated $1.5 million and by $3.1 million in FY 2023-24. The degree that actual incontinence product use differs from the assumptions used in this analysis could increase or decrease the estimated revenue impact.

State Expenditures

The bill will minimally increase workload for the Department of Revenue to update sales and use tax guidance and forms. The bill also increases workload in the Office of the State Auditor to review this tax expenditure. The fiscal note assumes that workload impacts can be met with existing resources.

Other Budget Impacts

TABOR refunds. The bill is expected to decrease the amount of state revenue required to be refunded to taxpayers by the amounts shown in the State Revenue section above. This estimate assumes the December 2021 Legislative Council Staff revenue forecast. A forecast of state revenue subject to TABOR is not available beyond FY 2023-24. Because TABOR refunds are paid from the General Fund, decreased General Fund revenue will lower the TABOR refund obligation, but result in no net change to the amount of General Fund otherwise available to spend or save.

[2] Wilson, Leslie, Brown, Jeanette S., Shin, Grace P., Luc, Kim-Oanh, and Subak, Leslee L., Annual Direct Cost of Urinary Incontinence, National Institutes of Health, PubMed, 2001.
https://pubmed.ncbi.nlm.nih.gov/11530119/
[3] Subak, Leslee L. et al. High Costs of Urinary Incontinence Among Women Electing Surgery to Treat Stress Incontinence, National Institutes of Health, PubMed, 2008.
https://www.ncbi.nlm.nih.gov/pmc/articles/PMC2593129/#R1

Local Government

The bill will decrease sales and use tax revenue for state-collected local governments and special districts that incorporate the exemption and conform to the state tax base. The bill includes each exemption among other optional sales and use tax exemptions for state-collected city and county governments. The impact to cities and counties cannot be estimated due to data availability.

The bill will decrease revenue for state-collected special districts that conform to the state tax base. Among the largest special districts are the Regional Transportation District (RTD) and the Scientific and Cultural Facilities District (SCFD). Based on the size of each district's tax base compared with the state tax base, decreased revenue is estimated as follows:

- RTD – The bill will reduce revenue to RTD by an estimated $980,200 in FY 2022-23 (half-year impact) and by $2.0 million in FY 2023-24.
- SCFD – The bill will reduce revenue to SCFD by an estimated $98,100 in FY 2022-23 (half-year impact) and by $205,400 in FY 2023-24.

The bill will decrease revenue for other special districts across the state, but the impact cannot be estimated due to data availability.

Effective Date

The bill takes effect 90 days following adjournment of the General Assembly sine die, assuming no referendum petition is filed, except the sales and use tax exemptions are effective January 1, 2023.

State and Local Government Contacts

Counties	Information Technology
Legislative Council Staff	Municipalities
Office of Legislative Legal Services	Revenue
Regional Transportation District	Special Districts
State Auditor	