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Fiscal Note Memorandum

April 26, 2022

TO: Representative McKean

FROM: David Hansen, Economist
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SUBJECT: Fiscal Assessment of Proposed Amendment **HB 22-1062 L.005** and **HB 22-1062 L.006**

This memorandum is an assessment of the fiscal impact of the attached proposed amendments L.005 and L.006 to HB 22-1062. This fiscal assessment is for the impact of the bill with inclusion of these amendments only. Any other added amendment could influence the fiscal impact.

Summary of Proposed Amendments

L.005 limits the bill's sales and use tax exemption for food sold by restaurants, bars, and caterers, including hotel food services, to takeout orders only. The amendment also includes definitions for each type of industry and for takeout.

L.006 amends the bill's impact on state-collected local governments and special districts. Any state-collected local government or special district that was levying sales tax on food prior to the bill will retain its authority to do so.

Fiscal Impact of Amendments

L.005. The amendment reduces the bill's impact on state General Fund revenue by \$139.0 million in FY 2022-23 (half-year impact) and by \$291.9 million in FY 2023-24, resulting in a smaller revenue decrease than under the bill as introduced. The amendment will also result in a smaller reduction in the General Fund transfer to the Housing Development Grant Fund than estimated under the bill as introduced. This analysis assumes that takeout represents about half of sales for limited-service restaurants and 20 percent of sales for full-service restaurants as defined in the North American Industry Classification System (NAICS). The share of sales in the food and drinking services sector attributed to limited-service and full-service restaurants is estimated from the U.S. Census Bureau's Economic Census data for Colorado. The analysis also assumes sales of food at event and recreation venues, hotel food services, and other locations where food is prepared at a fixed location and meant to be eaten on-site or near the premises, will be taxable under the amended bill.

L.006. The amendment eliminates the local revenue impact of the bill on state-collected local governments and special districts that do not conform to the state tax base and continue to levy tax on existing tax bases.

Bill’s Revised Fiscal Impact with Amendments

Table 1 summarizes the fiscal impact of the bill with amendments L.005 and L.006. The fiscal impacts in Table 1 and discussed below assume the adoption of both L.005 and L.006. If either amendment is adopted individually, it will alter the estimates in this memorandum.

Table 1
State Fiscal Impacts Under HB 22-1062 with Amendments L.005 and L.006

		Budget Year FY 2022-23	Out Year FY 2023-24
Revenue	General Fund	(\$81.1 million)	(\$170.4 million)
Expenditures	General Fund	\$378,374	\$26,400
Transfers	Housing Development Grant Fund	(\$1.2 million)	(\$2.6 million)
Other Budget Impacts	TABOR Refund	(\$81.1 million)	(\$170.4 million)
	General Fund Reserve	\$56,756	\$3,960

State revenue. With the adoption of L.005 and L.006, the bill will reduce General Fund revenue by an estimated \$81.1 million in FY 2022-23 (half-year impact) and by \$170.4 million in FY 2023-24, with ongoing impacts in subsequent years that will grow with population growth and inflation. Sales and use tax revenue is subject to TABOR.

State transfers. With the adoption of L.005 and L.006, the bill will reduce the General Fund transfer to the Housing Development Grant Fund by an estimated \$1.2 million in FY 2022-23 (half-year impact) and by \$2.6 million in FY 2023-24, with similar impacts in subsequent years.

State expenditures. The Department of Revenue will require \$378,374 in FY 2022-23 and \$26,400 in FY 2023-24 for GenTax computer programming and testing and Sales and Use Tax Simplification System (SUTS) programming. The department currently does not have capacity in its software systems for additional special district variation in the tax base and capacity will need to be expanded to implement the bill. This work will be performed by the contractors that manage GenTax and SUTS. The department will also incur research costs for the Office of Research and Analysis for mapping new data fields, development, and testing anticipated under L.006. Other workload impacts for potential rulemaking and for updating forms, instructions, and guidance can be met with existing resources. The bill, as amended, requires a General Fund appropriation of \$378,374 in FY 2022-23.

TABOR refunds. The bill is expected to decrease the amount of state revenue required to be refunded to taxpayers by the amounts show in the State Revenue section above.

General Fund reserve. Under current law, an amount equal to 15 percent of General Fund appropriations must be set aside in the General Fund statutory reserve beginning in FY 2022-23. The bill is expected to increase the amount of General Fund held as shown in Table 1, which will decrease the amount of General Fund available for other purposes.

Local government. The bill will not impact state-collected local governments and special districts that continue to tax food and drinking services and do not conform to the state tax base.

Technical Note. All of the costs noted in the State Expenditure section above coincide with computer programming, testing, and research costs included in House Bill 22-1258 that creates special districts for youth services. These costs only need to be appropriated once.