

Second Regular Session
Seventy-third General Assembly
STATE OF COLORADO

ENGROSSED

*This Version Includes All Amendments Adopted
on Second Reading in the House of Introduction*

LLS NO. 22-0165.01 Bob Lackner x4350

HOUSE BILL 22-1024

HOUSE SPONSORSHIP

Bird and Woog,

SENATE SPONSORSHIP

Hansen and Kolker, Liston

Transportation & Local Government
Appropriations

A BILL FOR AN ACT

101 **CONCERNING AN EXPANSION OF THE EXISTING SALES AND USE TAX**
102 **EXEMPTION FOR CONSTRUCTION AND BUILDING MATERIALS**
103 **USED FOR THE BUILDING OF PUBLIC WORKS TO REQUIRE THAT**
104 **HOME RULE CITIES EXEMPT SUCH TAX ON SALES OF SUCH**
105 **MATERIALS WHEN USED FOR PUBLIC SCHOOL CONSTRUCTION,**
106 **AND, IN CONNECTION THEREWITH, MAKING AN APPROPRIATION.**

Bill Summary

(Note: This summary applies to this bill as introduced and does not reflect any amendments that may be subsequently adopted. If this bill passes third reading in the house of introduction, a bill summary that applies to the reengrossed version of this bill will be available at <http://leg.colorado.gov/>.)

Legislative Oversight Committee Concerning Tax Policy.

Shading denotes HOUSE amendment. Double underlining denotes SENATE amendment.
Capital letters or bold & italic numbers indicate new material to be added to existing statute.
Dashes through the words indicate deletions from existing statute.

HOUSE
Amended 2nd Reading
February 23, 2022

Under current law, all sales of construction and building materials to contractors and subcontractors for use in the building, erection, alteration, or repair of structures, highways, roads, streets, and other public works are exempt from the sales and use tax levied by the state and certain local governments. Home rule cities continue to levy the tax on sales of construction and building materials within their jurisdiction. The bill extends the exemption to the sales and use tax levied by home rule cities on such materials for use in connection with the building, erection, alteration, or repair of a public school.

1 *Be it enacted by the General Assembly of the State of Colorado:*

2 **SECTION 1.** In Colorado Revised Statutes, 39-26-708, **add** (2.5)
3 as follows:

4 **39-26-708. Construction and building materials - legislative**
5 **declaration - definition.** (2.5) (a) THE GENERAL ASSEMBLY FINDS,
6 DETERMINES, AND DECLARES THAT:

7 (I) THE EXEMPTION UNDER THIS SECTION WAS ENACTED BY THE
8 GENERAL ASSEMBLY TO REDUCE COSTS INVOLVED IN THE CONSTRUCTION
9 OF PUBLIC WORKS;

10 (II) THE EXEMPTION CODIFIES THE PRINCIPLE THAT CONTRACTORS
11 SHOULD NOT BE PAYING A TAX LEVIED BY GOVERNMENTAL ENTITIES ON
12 BUILDING MATERIALS USED FOR THE BENEFIT OF THOSE SAME
13 GOVERNMENTAL ENTITIES;

14 (III) UNDER CURRENT LAW, OUT OF THE STATE AND ALL LOCAL
15 GOVERNMENTS ACROSS THE STATE, THE SALES AND USE TAX ON
16 CONSTRUCTION AND BUILDING MATERIALS USED IN THE CONSTRUCTION OF
17 PUBLIC BUILDINGS IS ONLY LEVIED BY HOME RULE CITIES;

18 (IV) THE STATE'S ABILITY TO HONOR ITS RESPONSIBILITIES UNDER
19 SECTION 2 OF ARTICLE IX OF THE STATE CONSTITUTION TO PROVIDE FOR
20 THE ESTABLISHMENT AND MAINTENANCE OF A THOROUGH AND UNIFORM

1 SYSTEM OF FREE PUBLIC SCHOOLS THROUGHOUT THE STATE IS IMPAIRED
2 WHEN HOME RULE CITIES TAX PUBLIC SCHOOL CONSTRUCTION MATERIALS
3 BECAUSE THIS TAX INCREASES THE COST OF PROVIDING PUBLIC EDUCATION
4 WITHIN THE BOUNDARIES OF THESE MUNICIPALITIES AS CONTRASTED WITH
5 PUBLIC SCHOOLS LOCATED WITHIN THE BOUNDARIES OF OTHER
6 MUNICIPALITIES THAT DO NOT TAX THESE MATERIALS;

7 (V) THE STATE'S RESPONSIBILITY TO PROVIDE A THOROUGH AND
8 UNIFORM EDUCATION IS FURTHER IMPAIRED BY THE INCENTIVES CREATED
9 BY THE CURRENT TAX DISPARITIES. SPECIFICALLY, INsofar AS SCHOOL
10 DISTRICTS SERVE THE RESIDENTS OF MULTIPLE MUNICIPALITIES AND NOT
11 ALL OF THE MUNICIPALITIES TAX PUBLIC SCHOOL CONSTRUCTION
12 MATERIALS, SCHOOL DISTRICTS ARE GIVEN INCENTIVES TO BUILD SCHOOLS
13 WITHIN THOSE MUNICIPALITIES WHERE THE SALES AND USE TAX IS NOT
14 LEVIED, RATHER THAN WHERE THE PUBLIC SCHOOLS ARE MOST NEEDED,
15 THEREBY DEPRIVING STUDENTS AND COMMUNITIES OF LOCAL EDUCATION
16 RESOURCES.

17 (VI) EXTENDING THE EXEMPTION TO INCLUDE HOME RULE CITIES
18 WOULD ELIMINATE THESE BARRIERS AND DISPARITIES AND ASSIST THE
19 STATE IN HONORING ITS RESPONSIBILITIES UNDER SECTION 2 OF ARTICLE
20 IX OF THE STATE CONSTITUTION;

21 (VII) THE CURRENT TAXING SYSTEM ALSO CREATES NEGATIVE
22 EXTRATERRITORIAL IMPACTS BECAUSE TAXPAYERS THAT RESIDE IN
23 SCHOOL DISTRICTS THAT SERVE BOTH TAXING AND NONTAXING
24 MUNICIPALITIES MUST SUBSIDIZE THE COST OF THE SALES AND USE TAX
25 LEVIED WHEN PUBLIC SCHOOLS ARE BUILT IN MUNICIPALITIES THAT TAX
26 PUBLIC SCHOOL CONSTRUCTION MATERIALS, EVEN WHEN SUCH RESIDENTS
27 DO NOT RESIDE IN THE TAXING MUNICIPALITY AND THEIR CHILDREN DO

1 NOT ATTEND PUBLIC SCHOOLS IN THE TAXING MUNICIPALITY;

2 (VIII) EXTENDING THE EXEMPTION TO INCLUDE THE SALES AND
3 USE TAX LEVIED BY HOME RULE CITIES ON PUBLIC SCHOOL CONSTRUCTION
4 MATERIALS WOULD REDUCE THE OVERALL COSTS OF CONSTRUCTING SUCH
5 FACILITIES FOR THE MANY JURISDICTIONS ACROSS THE STATE THAT ARE
6 HOME RULE CITIES; AND

7 (IX) EXTENDING THE EXEMPTION TO INCLUDE HOME RULE CITIES
8 WOULD ALSO PROMOTE A UNIFORM AND CONSISTENT TREATMENT OF THE
9 SALE OF BUILDING AND CONSTRUCTION MATERIALS STATEWIDE, THEREBY
10 FACILITATING A MORE CONSISTENT AND UNIFORM TAX STRUCTURE, WOULD
11 LIMIT THE NEGATIVE EXTRATERRITORIAL EFFECTS OF THIS DISPARATE TAX
12 TREATMENT, AND ENHANCE TAXPAYER EQUITY IN ALL SCHOOL DISTRICTS
13 STATEWIDE. ACCORDINGLY, THE MATTERS ADDRESSED IN SUBSECTION
14 (2.5)(b) OF THIS SECTION ARE MATTERS OF STATEWIDE CONCERN.

15 (b) NOTWITHSTANDING ANY OTHER PROVISION OF LAW, IN
16 ADDITION TO THE EXEMPTION FROM TAXATION CREATED BY SUBSECTIONS
17 (1) AND (2) OF THIS SECTION, THERE SHALL ALSO BE EXEMPT FROM
18 TAXATION UNDER PART 1 OF THIS ARTICLE 26 ANY TAX LEVIED BY A HOME
19 RULE CITY ON ALL SALES OF CONSTRUCTION AND BUILDING MATERIALS TO
20 CONTRACTORS AND SUBCONTRACTORS FOR USE IN THE BUILDING,
21 ERECTION, ALTERATION, OR REPAIR OF A PUBLIC SCHOOL.

22 (c) AS USED IN SUBSECTION (2.5)(b) OF THIS SECTION, "PUBLIC
23 SCHOOL" MEANS A SCHOOL THAT SERVES ANY OF GRADES KINDERGARTEN
24 THROUGH TWELVE AND THAT DERIVES ITS SUPPORT, IN WHOLE OR IN PART,
25 FROM REVENUE RAISED BY A GENERAL STATE OR SCHOOL DISTRICT TAX.
26 "PUBLIC SCHOOL" INCLUDES A CHARTER SCHOOL AUTHORIZED BY A
27 SCHOOL DISTRICT PURSUANT TO PART 1 OF ARTICLE 30.5 OF TITLE 22, BY

1 THE STATE CHARTER SCHOOL INSTITUTE PURSUANT TO PART 5 OF ARTICLE
2 30.5 OF TITLE 22, OR BY THE COLORADO SCHOOL FOR THE DEAF AND THE
3 BLIND PURSUANT TO SECTION 22-80-102 (4).

4 **SECTION 2. Appropriation.** For the 2022-23 state fiscal year,
5 \$3,375 is appropriated to the department of revenue for use by the
6 taxation business group. This appropriation is from the general fund. To
7 implement this act, the department may use this appropriation for
8 operating expenses related to taxation services.

9 **SECTION 3. Act subject to petition - effective date -**
10 **applicability.** (1) This act takes effect at 12:01 a.m. on the day following
11 the expiration of the ninety-day period after final adjournment of the
12 general assembly; except that, if a referendum petition is filed pursuant
13 to section 1 (3) of article V of the state constitution against this act or an
14 item, section, or part of this act within such period, then the act, item,
15 section, or part will not take effect unless approved by the people at the
16 general election to be held in November 2022 and, in such case, will take
17 effect on the date of the official declaration of the vote thereon by the
18 governor.

19 (2) This act applies to sales of construction and building materials
20 made on or after the applicable effective date of this act.