

Second Regular Session  
Seventy-third General Assembly  
STATE OF COLORADO

DRAFT  
10.1.21

**BILL 5**

LLS NO. 22-0165.01 Bob Lackner x4350

**INTERIM COMMITTEE BILL**

**Legislative Oversight Committee Concerning Tax Policy**

**BILL TOPIC: "Sales & Use Tax Exemption Mun Pub Sch Constr"**

**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.**

**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.**  
Under current law, all sales of construction and building materials to

*Capital letters or bold & italic numbers indicate new material to be added to existing statute.  
Dashes through the words indicate deletions from existing statute.*

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.

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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) EXTENDING THE EXEMPTION TO INCLUDE THE SALES AND USE  
19 TAX LEVIED BY HOME RULE CITIES ON MATERIALS USED IN THE  
20 CONSTRUCTION OF PUBLIC SCHOOL FACILITIES WOULD REDUCE THE  
21 OVERALL COSTS OF CONSTRUCTING SUCH FACILITIES FOR THE MANY

1 JURISDICTIONS ACROSS THE STATE THAT ARE HOME RULE CITIES; AND

2 (V) EXTENDING THE EXEMPTION TO INCLUDE HOME RULE CITIES  
3 WOULD ALSO PROMOTE A UNIFORM AND CONSISTENT TREATMENT OF THE  
4 SALE OF BUILDING AND CONSTRUCTION MATERIALS STATEWIDE, THEREBY  
5 FACILITATING A MORE CONSISTENT AND UNIFORM TAX STRUCTURE.  
6 ACCORDINGLY, THE MATTERS ADDRESSED IN SUBSECTION (2.5)(b) OF THIS  
7 SECTION ARE MATTERS OF STATEWIDE CONCERN.

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

15 (c) AS USED IN SUBSECTION (2.5)(b) OF THIS SECTION, "PUBLIC  
16 SCHOOL" HAS THE SAME MEANING AS DEFINED IN SECTION 22-2-102 (4).

17 **SECTION 2. Act subject to petition - effective date -**  
18 **applicability.** (1) This act takes effect at 12:01 a.m. on the day following  
19 the expiration of the ninety-day period after final adjournment of the  
20 general assembly; except that, if a referendum petition is filed pursuant  
21 to section 1 (3) of article V of the state constitution against this act or an  
22 item, section, or part of this act within such period, then the act, item,  
23 section, or part will not take effect unless approved by the people at the  
24 general election to be held in November 2022 and, in such case, will take  
25 effect on the date of the official declaration of the vote thereon by the  
26 governor. [ASK COMMITTEE]

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