

Second Regular Session  
Seventy-third General Assembly  
STATE OF COLORADO

DRAFT  
10.6.21

**BILL 6**

LLS NO. 22-0166.01 Ed DeCecco x4216

**INTERIM COMMITTEE BILL**

**Legislative Oversight Committee Concerning Tax Policy**

**BILL TOPIC: "Constr Materials Sales Tax Exemption For Charities"**

**A BILL FOR AN ACT**

101 **CONCERNING THE EXPANSION OF THE SALES AND USE TAX EXEMPTION**  
102 **OF CONSTRUCTION AND BUILDING MATERIALS FOR CHARITABLE**  
103 **ORGANIZATIONS.**

**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.** Sales of construction and building materials to contractors and subcontractors for use in the building, erection, alteration, or repair of structures owned and used by a charitable organization in the conduct of its regular charitable functions and activities are currently exempt from the state

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

sales and use tax. The bill repeals this exemption and replaces it with an expanded exemption that allows the same type of materials to be exempt if the building, erection, alteration, or repair of a structure is done in the conduct of the charitable organization's regular charitable functions and activities. This allows the materials that are currently exempt to continue to be exempt and it also allows the exemption when the structure is not owned and used by the charitable organization.

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

2           **SECTION 1. Legislative declaration.** The general assembly  
3 hereby finds and declares that the current sales and use tax exemption for  
4 construction materials for charitable organizations requires that the  
5 charitable organization owns and uses the structure in the conduct of its  
6 regular charitable functions and activities and that by expanding this  
7 exemption, the state can help charitable organizations support persons in  
8 need in the state.

9           **SECTION 2.** In Colorado Revised Statutes, 39-28-708, **amend**  
10 (1) introductory portion, (1)(a), (2) introductory portion, (2)(a), and (3);  
11 **repeal** (1)(b) and (2)(b); and **add** (2.5) as follows:

12           **39-26-708. Construction and building materials.** (1) There  
13 shall be exempt from taxation under the provisions of part 1 of this ~~article~~  
14 ARTICLE 26 all sales of construction and building materials to contractors  
15 and subcontractors for use in the building, erection, alteration, or repair  
16 of structures, highways, roads, streets, and other public works owned and  
17 used by:

18           (a) The United States government, the state of Colorado, its  
19 departments and institutions, and the political subdivisions thereof in their  
20 governmental capacities only; OR

21           ~~(b) Charitable organizations in the conduct of their regular~~  
22 ~~charitable functions and activities; or~~

1 (2) There shall be exempt from taxation under the provisions of  
2 part 2 of this ~~article~~ ARTICLE 26 the storage, use, or consumption by a  
3 contractor or subcontractor of construction and building materials for use  
4 in the building, erection, alteration, or repair of structures, highways,  
5 roads, streets, and other public works owned and used by:

6 (a) The United States government, the state of Colorado, its  
7 departments and institutions, and the political subdivisions thereof in their  
8 governmental capacities only; OR

9 (b) ~~Charitable organizations in the conduct of their regular~~  
10 ~~charitable functions and activities; or~~

11 (2.5) (a) ALL SALES OF CONSTRUCTION AND BUILDING MATERIALS  
12 TO CONTRACTORS AND SUBCONTRACTORS FOR USE IN THE BUILDING,  
13 ERECTION, ALTERATION, OR REPAIR OF A STRUCTURE FOR A CHARITABLE  
14 ORGANIZATION ARE EXEMPT FROM TAXATION UNDER THE PROVISIONS OF  
15 PART 1 OF THIS ARTICLE 26, IF THE BUILDING, ERECTION, ALTERATION, OR  
16 REPAIR IS DONE IN THE CONDUCT OF THE CHARITABLE ORGANIZATION'S  
17 REGULAR CHARITABLE FUNCTIONS AND ACTIVITIES.

18 (b) THE STORAGE, USE, OR CONSUMPTION BY A CONTRACTOR OR  
19 SUBCONTRACTOR OF CONSTRUCTION AND BUILDING MATERIALS FOR USE  
20 IN THE BUILDING, ERECTION, ALTERATION, OR REPAIR OF A STRUCTURE FOR  
21 A CHARITABLE ORGANIZATION IS EXEMPT FROM TAXATION UNDER THE  
22 PROVISIONS OF PART 2 OF THIS ARTICLE 26, IF THE BUILDING, ERECTION,  
23 ALTERATION, OR REPAIR IS DONE IN THE CONDUCT OF THE CHARITABLE  
24 ORGANIZATION'S REGULAR CHARITABLE FUNCTIONS AND ACTIVITIES.

25 (3) On application by a purchaser or seller, the department of  
26 revenue shall issue to a contractor or subcontractor a certificate of  
27 exemption indicating that the contractor's or subcontractor's purchase of

1 construction or building materials is for a purpose stated in subsection (1)  
2 SUBSECTIONS (1) AND (2.5)(a) of this section and is, therefore, free from  
3 sales tax. The department shall provide forms for the application and  
4 certificate and shall have the authority to verify that the contractor or  
5 subcontractor is, in fact, entitled to the issuance of the certificate prior to  
6 such issuance.

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

16 (2) This act applies to the sale, storage, use, or consumption of  
17 construction or building materials that occur on or after the applicable  
18 effective date of this act.