

Second Regular Session
Sixty-sixth General Assembly
STATE OF COLORADO

REREVISED

*This Version Includes All Amendments
Adopted in the Second House*

LLS NO. 08-0587.01 Ed DeCecco

HOUSE BILL 08-1013

HOUSE SPONSORSHIP

Sonnenberg,

SENATE SPONSORSHIP

Morse,

House Committees

Finance
Appropriations

Senate Committees

Finance
Appropriations

A BILL FOR AN ACT

101 **CONCERNING A SALES TAX EXEMPTION FOR A SALE RELATED TO A**
102 **SCHOOL.**

Bill Summary

(Note: This summary applies to this bill as introduced and does not necessarily reflect any amendments that may be subsequently adopted.)

Creates a sales tax exemption for a sale related to a school made by specified persons and entities.

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

2 **SECTION 1. 29-2-105 (1) (d), Colorado Revised Statutes, is**

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

SENATE
3rd Reading Unamended
May 2, 2008

SENATE
Amended 2nd Reading
April 30, 2008

HOUSE
3rd Reading Unamended
April 14, 2008

HOUSE
Amended 2nd Reading
April 11, 2008

1 REPEALED AND REENACTED, WITH AMENDMENTS, to read:

2 **29-2-105. Contents of sales tax ordinances and proposals.**

3 (1) The sales tax ordinance or proposal of any incorporated town, city,
4 or county adopted pursuant to this article shall be imposed on the sale of
5 tangible personal property at retail or the furnishing of services, as
6 provided in paragraph (d) of this subsection (1). Any countywide or
7 incorporated town or city sales tax ordinance or proposal shall include the
8 following provisions:

9 (d) (I) A PROVISION THAT THE SALE OF TANGIBLE PERSONAL
10 PROPERTY AND SERVICES TAXABLE PURSUANT TO THIS ARTICLE SHALL BE
11 THE SAME AS THE SALE OF TANGIBLE PERSONAL PROPERTY AND SERVICES
12 TAXABLE PURSUANT TO SECTION 39-26-104, C.R.S., EXCEPT AS
13 OTHERWISE PROVIDED IN THIS PARAGRAPH (d). THE SALE OF TANGIBLE
14 PERSONAL PROPERTY AND SERVICES TAXABLE PURSUANT TO THIS ARTICLE
15 SHALL BE SUBJECT TO THE SAME SALES TAX EXEMPTIONS AS THOSE
16 SPECIFIED IN PART 7 OF ARTICLE 26 OF TITLE 39, C.R.S., EXCEPT THAT THE
17 SALE OF THE FOLLOWING MAY BE EXEMPTED FROM A TOWN, CITY, OR
18 COUNTY SALES TAX ONLY BY THE EXPRESS INCLUSION OF THE EXEMPTION
19 EITHER AT THE TIME OF ADOPTION OF THE INITIAL SALES TAX ORDINANCE
20 OR RESOLUTION OR BY AMENDMENT THERETO:

21 (A) THE EXEMPTION FOR SALES OF MACHINERY OR MACHINE TOOLS
22 SPECIFIED IN SECTION 39-26-709 (1), C.R.S.:

23 (B) THE EXEMPTION FOR SALES OF ELECTRICITY, COAL, WOOD,
24 GAS, FUEL OIL, OR COKE SPECIFIED IN SECTION 39-26-715 (1) (a) (II),
25 C.R.S.:

26 (C) THE EXEMPTION FOR SALES OF FOOD SPECIFIED IN SECTION
27 39-26-707 (1) (e), C.R.S.:

1 (D) THE EXEMPTION FOR VENDING MACHINE SALES OF FOOD
2 SPECIFIED IN SECTION 39-26-714 (2), C.R.S.;

3 (E) THE EXEMPTION FOR SALES BY A CHARITABLE ORGANIZATION
4 SPECIFIED IN SECTION 39-26-718 (1) (b), C.R.S.;

5 (F) THE EXEMPTION FOR SALES OF FARM EQUIPMENT AND FARM
6 EQUIPMENT UNDER LEASE OR CONTRACT SPECIFIED IN SECTION 39-26-716
7 (2) (b) AND (2) (c), C.R.S.;

8 (G) THE EXEMPTION FOR SALES OF LOW-EMITTING MOTOR
9 VEHICLES, POWER SOURCES, OR PARTS USED FOR CONVERTING SUCH
10 POWER SOURCES AS SPECIFIED IN SECTION 39-26-719 (1), C.R.S.;

11 (H) THE EXEMPTION FOR SALES OF PESTICIDES SPECIFIED IN
12 SECTION 39-26-716 (2) (e), C.R.S.; AND

13 (I) THE EXEMPTION FOR SALES THAT BENEFIT A COLORADO
14 SCHOOL SPECIFIED IN SECTION 39-26-723, C.R.S.

15 (II) IF A TOWN, CITY, OR COUNTY SALES TAX EXPRESSLY INCLUDES
16 ANY EXEMPTIONS SPECIFIED IN SUBPARAGRAPH (I) OF THIS PARAGRAPH (d)
17 BY AN AMENDMENT TO THE INITIAL SALES TAX ORDINANCE OR
18 RESOLUTION, SUCH AMENDMENT SHALL BE ADOPTED IN THE SAME MANNER
19 AS THE INITIAL ORDINANCE OR RESOLUTION.

20 (III) IN THE ABSENCE OF AN EXPRESS PROVISION FOR ANY
21 EXEMPTION SPECIFIED IN SUBPARAGRAPH (I) OF THIS PARAGRAPH (d), ALL
22 SALES TAX ORDINANCES AND RESOLUTIONS SHALL BE CONSTRUED AS
23 IMPOSING OR CONTINUING TO IMPOSE THE TOWN, CITY, OR COUNTY SALES
24 TAX ON SUCH ITEMS.

25 SECTION 2. 29-2-106 (4) (a), Colorado Revised Statutes, is
26 REPEALED AND REENACTED, WITH AMENDMENTS, to read:

27 29-2-106. Collection - administration - enforcement.

1 (4) (a) (I) THE EXECUTIVE DIRECTOR OF THE DEPARTMENT OF REVENUE
2 SHALL, AT NO CHARGE, ADMINISTER, COLLECT, AND DISTRIBUTE THE SALES
3 TAX OF ANY HOME RULE MUNICIPALITY UPON REQUEST OF THE GOVERNING
4 BODY OF SUCH MUNICIPALITY:

5 (A) IF THE PROVISIONS OF THE SALES TAX ORDINANCE OF SAID
6 MUNICIPALITY, OTHER THAN THOSE PROVISIONS RELATING TO LOCAL
7 PROCEDURES FOLLOWED IN ADOPTING THE ORDINANCE, CORRESPOND TO
8 THE REQUIREMENTS OF THIS ARTICLE FOR SALES TAXES IMPOSED BY
9 COUNTIES, TOWNS, AND CITIES;

10 (B) IF NO USE TAX IS TO BE COLLECTED BY THE DEPARTMENT OF
11 REVENUE EXCEPT AS PROVIDED IN SECTION 39-26-208, C.R.S.; AND

12 (C) WHETHER OR NOT THE ORDINANCE APPLIES THE SALES TAX TO
13 THE EXEMPTIONS LISTED IN SECTION 29-2-105 (1) (d) (I).

14 (II) WHEN THE GOVERNING BODY OF ANY HOME RULE
15 MUNICIPALITY REQUESTS THE DEPARTMENT OF REVENUE TO ADMINISTER,
16 COLLECT, AND DISTRIBUTE THE SALES TAX OF SAID MUNICIPALITY AS
17 SPECIFIED IN SUBPARAGRAPH (I) OF THIS PARAGRAPH (a), SAID GOVERNING
18 BODY SHALL CERTIFY TO THE EXECUTIVE DIRECTOR OF THE DEPARTMENT
19 A TRUE COPY OF THE HOME RULE MUNICIPALITY'S SALES TAX ORDINANCE.

20 **SECTION 3.** Part 7 of article 26 of title 39, Colorado Revised
21 Statutes, is amended BY THE ADDITION OF A NEW SECTION to
22 read:

23 **39-26-723. Sales related to a school - definitions.** (1) AS USED
24 IN THIS SECTION, UNLESS THE CONTEXT OTHERWISE REQUIRES:

25 (a) "PARENT" MEANS A PARENT OF A STUDENT AS DEFINED IN
26 PARAGRAPH (c) OF THIS SUBSECTION (1).

27 (b) "SALE THAT BENEFITS A COLORADO SCHOOL" MEANS A SALE

1 OF A COMMODITY OR SERVICE FROM WHICH ALL PROCEEDS OF THE SALE,
2 LESS ONLY THE ACTUAL COST OF THE COMMODITY OR SERVICE TO THE
3 PERSON OR ENTITY DESCRIBED IN SUBSECTION (2) OF THIS SECTION, ARE
4 DONATED TO A SCHOOL OR A SCHOOL-APPROVED STUDENT ORGANIZATION.

5 (c) "SCHOOL" MEANS A PUBLIC OR NONPUBLIC SCHOOL FOR
6 STUDENTS IN KINDERGARTEN THROUGH TWELFTH GRADE OR ANY PORTION
7 THEREOF.

8 (d) "STUDENT" MEANS ANY PERSON ENROLLED IN A SCHOOL AS
9 DEFINED IN PARAGRAPH (b) OF THIS SUBSECTION (1).

10 (2) ON OR AFTER SEPTEMBER 1, 2008, A SALE THAT BENEFITS A
11 COLORADO SCHOOL SHALL BE EXEMPT FROM TAXATION UNDER THE
12 PROVISIONS OF PART 1 OF THIS ARTICLE, IF THE SALE IS MADE BY ANY OF
13 THE FOLLOWING:

14 (a) A SCHOOL;

15 (b) AN ASSOCIATION OR ORGANIZATION OF PARENTS AND SCHOOL
16 TEACHERS;

17 (c) A BOOSTER CLUB OR OTHER CLUB, GROUP, OR ORGANIZATION
18 WHOSE PRIMARY PURPOSE IS TO SUPPORT A SCHOOL ACTIVITY; OR

19 (d) A SCHOOL CLASS OR STUDENT CLUB, GROUP, OR
20 ORGANIZATION.

21 (3) NOTHING IN THIS SECTION SHALL BE CONSTRUED AS CREATING
22 AN EXEMPTION, OR OTHERWISE AFFECTING AN EXISTING EXEMPTION, FOR
23 A SALE TO A PERSON OR ENTITY DESCRIBED IN SUBSECTION (2) OF THIS
24 SECTION.

25 **SECTION 4. Effective date.** This act shall take effect at 12:01
26 a.m. on the day following the expiration of the ninety-day period after
27 final adjournment of the general assembly that is allowed for submitting

1 a referendum petition pursuant to article V, section 1 (3) of the state
2 constitution, (August 6, 2008, if adjournment sine die is on May 7, 2008);
3 except that, if a referendum petition is filed against this act or an item,
4 section, or part of this act within such period, then the act, item, section,
5 or part, if approved by the people, shall take effect on the date of the
6 official declaration of the vote thereon by proclamation of the governor.