

Second Regular Session
Sixty-eighth General Assembly
STATE OF COLORADO

ENGROSSED

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

LLS NO. 12-0574.01 Ed DeCecco x4216

HOUSE BILL 12-1069

HOUSE SPONSORSHIP

Miklosi and Pabon,

SENATE SPONSORSHIP

(None),

House Committees

Finance
Appropriations

Senate Committees

A BILL FOR AN ACT

101 **CONCERNING TAX EXPENDITURES.**

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://www.leg.state.co.us/billsummaries>.)

Section 1 of the bill creates a state sales and use tax exemption for back-to-school items. The exemption only applies for 3 days in the beginning of August for a period of 5 years beginning in 2012. A "back-to-school item" is defined to mean clothing, shoes, school supplies, or computers. Clothing includes sports and recreational equipment, but does not include clothing accessories. The exemption applies to all noncommercial purchasers.

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.*

HOUSE
Amended 2nd Reading
April 23, 2012

Section 2 of the bill permits a town, city, or county to create a sales tax exemption that is identical to the state exemption.

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

2 **SECTION 1.** In Colorado Revised Statutes, **add** 39-26-727 as
3 follows:

4 **39-26-727. Back-to-school items - limits - legislative**
5 **declaration - definitions - repeal.** (1) THE GENERAL ASSEMBLY HEREBY
6 FINDS, DETERMINES, AND DECLARES THAT:

7 (a) STUDENTS TYPICALLY USE THE BACK-TO-SCHOOL ITEMS THAT
8 ARE EXEMPTED FROM THE STATE SALES AND USE TAX BY THIS SECTION;

9 (b) MANY COLORADO FAMILIES PURCHASE THE ITEMS DURING THE
10 BEGINNING OF AUGUST IN ANTICIPATION OF THE UPCOMING SCHOOL YEAR;

11 (c) IT WOULD BE ADMINISTRATIVELY UNWORKABLE TO LIMIT THE
12 EXEMPTION OF THESE ITEMS TO STUDENTS OR FAMILIES OF STUDENTS, SO,
13 ALTHOUGH THE EXEMPTION IS PRIMARILY FOCUSED ON HELPING
14 STUDENTS, IT APPLIES TO ALL NONCOMMERCIAL PURCHASERS; AND

15 (d) THE PRIMARY PURPOSE OF THE TAX EXEMPTION INCLUDED IN
16 THIS SECTION IS TO CREATE AN INCENTIVE FOR COLORADO FAMILIES TO
17 PURCHASE BACK-TO-SCHOOL ITEMS AND TO SAVE THOSE FAMILIES MONEY.

18 (2) AS USED IN THIS SECTION, UNLESS THE CONTEXT OTHERWISE
19 REQUIRES:

20 (a) "BACK-TO-SCHOOL ITEM" MEANS A COMPUTER, AN ARTICLE OF
21 CLOTHING, OR A SCHOOL SUPPLY.

22 (b) "CLOTHING" MEANS HUMAN APPAREL OR FOOTWEAR.
23 "CLOTHING" INCLUDES SPORT OR RECREATIONAL EQUIPMENT BUT DOES
24 NOT INCLUDE CLOTHING ACCESSORIES.

25 (c) "CLOTHING ACCESSORY" MEANS AN INCIDENTAL ITEM WORN

1 ON THE PERSON OR USED IN CONJUNCTION WITH CLOTHING. "CLOTHING
2 ACCESSORY" INCLUDES, BUT IS NOT LIMITED TO, JEWELRY, HANDBAGS,
3 LUGGAGE, UMBRELLAS, WALLETS, WATCHES, HATS, SCARVES, HOSIERY,
4 TIES, AND BELTS.

5 (d) "COLORADO PERSONAL INCOME" MEANS THE TOTAL PERSONAL
6 INCOME FOR COLORADO, AS DEFINED AND OFFICIALLY REPORTED BY THE
7 BUREAU OF ECONOMIC ANALYSIS IN THE UNITED STATES DEPARTMENT OF
8 COMMERCE.

9 (e) "COMPUTER" MEANS AN ELECTRONIC DEVICE THAT ACCEPTS
10 INFORMATION IN DIGITAL OR SIMILAR FORM AND MANIPULATES IT FOR A
11 RESULT BASED ON A SEQUENCE OF INSTRUCTIONS.

12 (f) "SCHOOL SUPPLY" MEANS AN ART SUPPLY, BACKPACK, BINDER
13 POCKET, BINDER, BLACKBOARD CHALK, BOOK BAG, CALCULATOR,
14 CELLOPHANE TAPE, CLAY AND GLAZE, COMPASS, COMPOSITION BOOK,
15 CRAYON SET, DICTIONARY OR THESAURUS, DRY ERASE MARKER AND
16 ERASER, FOLDER, GLUE AND PASTE, HIGHLIGHTER, INDEX CARD SET AND
17 BOX, LUNCH BOX, MAP OR GLOBE, MARKER, NOTEBOOK AND DIVIDER,
18 PAPER OR PAD, PENCIL BOX OR OTHER BOXES FOR SCHOOL SUPPLIES,
19 PENCIL SHARPENER, PENCIL AND ERASER, PEN, PROTRACTOR, REFERENCE
20 BOOK, RULER, SCISSORS, TEXTBOOK, AND WORKBOOK.

21 (g) "SPORT OR RECREATIONAL EQUIPMENT" MEANS AN ITEM
22 DESIGNED FOR USE DURING AND WORN IN CONJUNCTION WITH AN
23 ATHLETIC OR RECREATIONAL ACTIVITY THAT IS NOT SUITABLE FOR
24 GENERAL USE.

25 (3) (a) DURING THE PERIOD BEGINNING AT 12:01 A.M. ON THE FIRST
26 FRIDAY IN AUGUST AND ENDING AT MIDNIGHT ON THE FOLLOWING
27 SUNDAY OF A YEAR SPECIFIED IN PARAGRAPH (c) OF THIS SUBSECTION (3),

1 THE SALE OF A BACK-TO-SCHOOL ITEM, THE COST OF WHICH IS LESS THAN
2 THE LIMIT ESTABLISHED IN PARAGRAPH (b) OF THIS SUBSECTION (3), IS
3 EXEMPT FROM THE TAX LEVIED PURSUANT TO PART 1 OF THIS ARTICLE.

4 (b) THE LIMIT FOR EACH BACK-TO-SCHOOL ITEM IS EQUAL TO:

5 (I) SEVENTY-FIVE DOLLARS FOR AN ARTICLE OF CLOTHING;

6 (II) ONE THOUSAND DOLLARS FOR A COMPUTER; AND

7 (III) FIFTY DOLLARS FOR A SCHOOL SUPPLY.

8 (c) (I) THE EXEMPTION SET FORTH IN PARAGRAPH (a) OF THIS
9 SUBSECTION (3) APPLIES FOR FIVE CONSECUTIVE YEARS BEGINNING WITH
10 THE FIRST CALENDAR YEAR AFTER ANNUAL COLORADO PERSONAL INCOME
11 INCREASES BY AT LEAST FIVE PERCENT.

12 (II) THE INCREASE IN COLORADO PERSONAL INCOME FROM
13 CALENDAR YEAR 2011 TO CALENDAR YEAR 2012 IS THE FIRST PERIOD THAT
14 MAY TRIGGER THE EXEMPTION PURSUANT TO SUBPARAGRAPH (I) OF THIS
15 PARAGRAPH (c). FOR PURPOSES OF DETERMINING THE INCREASE IN
16 COLORADO PERSONAL INCOME, THE FOLLOWING ESTIMATES REPORTED BY
17 THE BUREAU OF ECONOMIC ANALYSIS IN THE UNITED STATES DEPARTMENT
18 OF COMMERCE ARE USED:

19 (A) FOR THE LATER CALENDAR YEAR, THE FIRST AVAILABLE
20 ESTIMATE REPORTED BY THE BUREAU AFTER THE END OF THE CALENDAR
21 YEAR; AND

22 (B) FOR THE EARLIER CALENDAR YEAR, THE REVISED ESTIMATE
23 THAT IS AVAILABLE AT THE SAME TIME AS THE ESTIMATE SET FORTH IN
24 SUB-SUBPARAGRAPH (A) OF THIS SUBPARAGRAPH (II).

25 (III) NO LATER THAN APRIL 30, 2013, AND APRIL 30 OF EACH YEAR
26 THEREAFTER, THE DEPARTMENT OF REVENUE SHALL PROVIDE NOTICE ON
27 ITS WEB SITE REGARDING WHETHER THE EXEMPTION SET FORTH IN

1 PARAGRAPH (a) OF THIS SUBSECTION (3) APPLIES IN AUGUST OF THE
2 CURRENT YEAR; EXCEPT THAT THE DEPARTMENT IS NOT REQUIRED TO POST
3 THIS NOTICE AFTER THE FIFTH YEAR OF THE EXEMPTION.

4 (4) THE STORAGE, USE, OR CONSUMPTION OF A BACK-TO-SCHOOL
5 ITEM THAT IS EXEMPT AT THE TIME OF PURCHASE FROM THE SALES TAX
6 PURSUANT TO SUBSECTION (3) OF THIS SECTION IS EXEMPT FROM THE USE
7 TAX LEVIED PURSUANT TO PART 2 OF THIS ARTICLE.

8 (5) THIS SECTION DOES NOT APPLY TO A SALE OF A
9 BACK-TO-SCHOOL ITEM FOR A COMMERCIAL USE.

10 (6) THIS SECTION IS REPEALED, EFFECTIVE SEPTEMBER 1 OF THE
11 LAST YEAR IN WHICH THE EXEMPTION APPLIES PURSUANT TO PARAGRAPH
12 (c) OF SUBSECTION (3) OF THIS SECTION.

13 **SECTION 2.** In Colorado Revised Statutes, 29-2-105, **amend** (1)
14 (d) (I) (K) and (1) (d) (I) (L); and **add** (1) (d) (I) (M) as follows:

15 **29-2-105. Contents of sales tax ordinances and proposals.**

16 (1) The sales tax ordinance or proposal of any incorporated town, city,
17 or county adopted pursuant to this article shall be imposed on the sale of
18 tangible personal property at retail or the furnishing of services, as
19 provided in paragraph (d) of this subsection (1). Any countywide or
20 incorporated town or city sales tax ordinance or proposal shall include the
21 following provisions:

22 (d) (I) A provision that the sale of tangible personal property and
23 services taxable pursuant to this article shall be the same as the sale of
24 tangible personal property and services taxable pursuant to section
25 39-26-104, C.R.S., except as otherwise provided in this paragraph (d).
26 The sale of tangible personal property and services taxable pursuant to
27 this article shall be subject to the same sales tax exemptions as those

1 specified in part 7 of article 26 of title 39, C.R.S.; except that the sale of
2 the following may be exempted from a town, city, or county sales tax only
3 by the express inclusion of the exemption either at the time of adoption
4 of the initial sales tax ordinance or resolution or by amendment thereto:

5 (K) The exemption for sales that benefit a Colorado school
6 specified in section 39-26-725, C.R.S.; and

7 (L) The exemption for sales by an association or organization of
8 parents and teachers of public school students that is a charitable
9 organization as specified in section 39-26-718 (1) (c), C.R.S.; AND

10 (M) THE EXEMPTION FOR BACK-TO-SCHOOL ITEMS SPECIFIED IN
11 SECTION 39-26-727, C.R.S.

12 **SECTION 3. Safety clause.** The general assembly hereby finds,
13 determines, and declares that this act is necessary for the immediate
14 preservation of the public peace, health, and safety.