HB 24-1027

Legislative Council Staff
Nonpartisan Services for Colorado's Legislature

Revised Fiscal Note

(replaces fiscal note dated January 31, 2024)

Drafting Number:	LLS 24-0042	**Date:**	March 27, 2024
Prime Sponsors:	Rep. Winter T. Sen. Pelton B.	**Bill Status:**	House Appropriations
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Bill Topic: **EXEMPTION FOR CHILDREN'S PRODUCTS**

Summary of Fiscal Impact:

☒ State Revenue ☐ State Transfer ☒ Local Government
☒ State Expenditure ☒ TABOR Refund ☐ Statutory Public Entity

The bill exempts baby and toddler products from the state sales tax beginning in 2025 and, for four specified weeks during 2025 only, exempts back-to-school items from the state sales tax. The bill reduces state revenue and increases state expenditures on an ongoing basis, and reduces local government revenue in some instances.

Appropriation Summary: For FY 2024-25, the bill requires an appropriation of $109,805.

Fiscal Note Status: The fiscal note reflects the introduced bill, as amended by the House Finance Committee, and has been updated based on new information.

Table 1
State Fiscal Impacts Under HB 24-1027

		Budget Year FY 2024-25	Out Year FY 2025-26
Revenue	General Fund	($10.0 million)	($15.6 million)
	Total Revenue	**($10.0 million)**	**($15.6 million)**
Expenditures	General Fund	$109,805	$58,425
	Centrally Appropriated	$18,874	$15,141
	Total Expenditures	**$128,679**	**$73,566**
	Total FTE	**1.1 FTE**	**0.9 FTE**
Other Budget Impacts	TABOR Refund	($10.0 million)	($15.6 million)
	GF Reserve	$16,471	$8,764

Summary of Legislation

The bill creates two state sales tax exemptions, which begin on January 1, 2025, as outlined below.

Baby and Toddler Products. The bill exempts baby and toddler products from state sales and use tax beginning January 1, 2025 and ongoing. Exempted products include:

- baby cribs, playpens, and play yards;
- baby strollers;
- baby safety gates;
- cabinet locks/latches and electrical socket covers;
- baby monitors;
- bicycle child carrier seats or trailers, including adaptors and accessories;
- baby exercisers, jumpers, bouncer seats, and/or swings;
- breast feeding supplies and bottles, including breast pumps;
- pacifiers or teething rings;
- baby wipes;
- changing tables or pads; and
- baby and toddler clothing.

Baby food and diapers are already exempt from the state sales tax base under existing law and are therefore not included among exempted items in this bill.

Back-to-School Tax Holiday. The bill creates a back-to-school tax holiday, which applies for two two-week periods beginning January 1, 2025, and July 24, 2025. During the tax holiday, back-to-school items sold for use by minors are exempted from the state sales tax. Exempted items are limited by cost as follows:

- clothing and school bags up to $100 per item;
- school supplies up to $50 per item,
- learning aids up to $30 per item, and
- personal computers and accessories up to $1,500 per item.

Application to local governments. The sales tax exemptions in the bill are not applied to county, municipal, and most special district governments by default; however, these governments may choose to include the exemptions in local ordinances.

Background

The state of Colorado does not administer any state sales tax holidays under current law. In 2023, 19 states had at least one sales tax holiday. Of those states with at least one sales tax holiday, 18 of them administered a sales tax holiday for clothing and/or school supplies. Of the back-to-school sales tax holidays administered in other states, most but not all last between two to four days and occur on an annual basis every August.

Assumptions

Baby and toddler products. The fiscal note estimates an average of $980 in annual expenditures per baby and toddler that would be exempt from state sales tax under this bill. Expected exempt expenditures are higher for babies and lower for toddlers due to the proportion of exempt items that would be purchased for a baby versus a toddler. Baby and toddler clothing exemptions are expected to decrease state revenue by $8 million per year. It is assumed that 7.8 percent of retail sales for family clothing stores and shoe stores are for babies and toddlers clothing, derived from 2022 state demographer population data by age. All other exempted baby products are expected to reduce state revenue by $3 million per year. In total, the exempt baby and toddler products are estimated to generate $381 million in annual retail sales, generating $11 million in General Fund revenue when taxed at the 2.9 percent state sales and use tax rate.

Back-to-school sales tax holiday. The fiscal note estimates the tax holiday will reduce 2025 General Fund revenue by $9 million total, including $5 million for exempt clothing and bags, $1.9 million for school supplies, $0.7 million for learning aids, and $1.4 million for personal computers and accessories. Exempt revenue from clothing retail sales are estimated similarly to baby and toddler clothing estimates. Retail sales for learning aids are assumed to be 10 percent of retail sales in hobby, toy, and game stores. Retail sales on personal computers and accessories as a proportion of total Colorado electronics retail sales is assumed to be similar to the national share. All other exempt school supplies are assumed to cost about $70 per student, averaging $35 per tax holiday period. Student enrollment estimates come from the Legislative Council Staff (LCS) December 2023 forecast.

State Revenue

The bill is estimated to decrease General Fund revenue by $10.0 million in FY 2024-25, $15.6 million in FY 2025-26, and $11.1 million in FY 2026-27 and ongoing. Sales and use tax revenue is subject to TABOR.

Of the amounts described above, the sales and use tax exemption for baby and toddler products is expected to decrease General Fund revenue by $11.1 million per year, with a half-year impact in FY 2024-25 due to the January 1, 2025 implementation date. Revenue impacts will change with the baby and toddler population, plus inflation.

The back-to-school tax holiday is estimated to decrease General Fund revenue by $9 million in total in calendar year 2025, with the impact split evenly between two tax holiday periods in two different fiscal years—FY 2024-25 and FY 2025-26.

State Expenditures

The bill increases state expenditures by about $130,000 in FY 2024-25 and $75,000 in FY 2025-26. These costs, which are paid from the General Fund, are summarized in Table 2 and discussed below.

Table 2
Expenditures Under HB 24-1027

	FY 2024-25	FY 2025-26
Department of Revenue		
Personal Services	$64,983	$49,945
Operating Expenses	$1,408	$1,152
Capital Outlay Costs	$6,670	-
Office of Research and Analysis	$7,392	$7,328
GenTax Programming and Testing	$29,352	-
Centrally Appropriated Costs[1]	$18,874	$15,141
Total Cost	**$128,679**	**$73,566**
Total FTE	**1.1 FTE**	**0.9 FTE**

[1] *Centrally appropriated costs are not included in the bill's appropriation.*

- **Tax examiners.** The bill requires 1.1 FTE in FY 2024-25 and 0.9 total FTE in FY 2025-26 for Department of Revenue staff to administer the back-to-school tax holiday. The fiscal notes assume that personnel will start in the fall of 2024 after the bill becomes law, and will continue through June 2026.

  The back-to-school tax holiday is expected to affect over 200,000 monthly sales tax returns, driving outreach and implementation workload for DOR to review impacted sales tax returns, respond to increased call center volume associated with the exemption, and manually review sales tax refund requests from taxpayers who end up paying sales tax at retailers that still collected sales tax at the point of sale during the sales tax holiday.

  The fiscal note estimates the back-to-school sales tax holiday may result in around 1,300 refund claims, assuming that refund claims from the sales tax holiday will occur in lower frequency and dollar amount than the average sales tax refund claim. To the extent that refund claims are filed above the fiscal note estimate, DOR may need additional resources to review the refund claims. These would be requested through the annual budget process.

- **Office of Research and Analysis.** The Office of Research and Analysis within the Department of Revenue will perform 231 hours of work at a rate of $32 per hour in FY 2024-25, and 229 hours of work in future years, to update database fields and conduct ongoing reporting.

- **GenTax Programming and Other Costs.** It is assumed that the tax exemptions will be reported in a new line on sales tax return form; therefore, the tax exemptions require programming to add the new line. This includes $18,540 in GenTax programming costs, $7,420 in development and testing in support of the GenTax programming, and $3,392 in business and user acceptance testing following the GenTax programming in FY 2024-25 only.

Centrally appropriated costs. Pursuant to a Joint Budget Committee policy, certain costs associated with this bill are addressed through the annual budget process and centrally appropriated in the Long Bill or supplemental appropriations bills, rather than in this bill. These costs, which include employee insurance and supplemental employee retirement payments, are shown in Table 1.

Other Budget Impacts

TABOR Refunds. The bill is expected to decrease the amount of state revenue required to be refunded to taxpayers by the amounts shown in the State Revenue section above. This estimate assumes the December 2023 LCS revenue forecast. A forecast of state revenue subject to TABOR is not available beyond FY 2025-26. Because TABOR refunds are paid from the General Fund, decreased General Fund revenue will lower the TABOR refund obligation, but result in no net change to the amount of General Fund otherwise available to spend or save.

General Fund Reserve. Under current law, an amount equal to 15 percent of General Fund appropriations must be set aside in the General Fund statutory reserve beginning in FY 2024-25. Based on this fiscal note, the bill is expected to increase the amount of General Fund held in the reserve by the amounts shown in Table 1, which decreases the amount of General Fund available for other purposes.

Local Government

The bill will decrease sales and use tax revenue for the state-collected local governments that incorporate the exemption and conform to the state tax base. The bill allows special districts and state-collected city and county governments to include the exemption in their sales tax base, but does not require them to do so.

The Regional Transportation District (RTD) and Scientific and Cultural Facilities District (SCFD) are the two special districts that use the state's sales tax base in all instances, and the exemptions in the bill would apply to those districts. Therefore, the bill will decrease revenue for RTD and SCFD. Based on the amount of sales and use tax revenue collected in these special districts compared to that for the state, decreased revenue is estimated as follows:

- RTD – The bill will reduce revenue to RTD by an estimated $2.0 million in FY 2024-25, $3.2 million in FY 2025-26, and $2.2 million in FY 2026-27 and subsequent years.
- SCFD – The bill will reduce revenue to SCFD by an estimated $204,000 in FY 2024-25, $317,000 in FY 2025-26, and $225,000 in FY 2026-27 and subsequent years.

Effective Date

The bill takes effect 90 days following adjournment of the General Assembly sine die, assuming no referendum petition is filed.

State Appropriations

For FY 2024-25, the bill requires a General Fund appropriation of $109,805 to the Department of Revenue, and 1.1 FTE.

State and Local Government Contacts

State Auditor	Revenue	Local Affairs
Regional Transportation District	Special Districts	Counties
Municipalities		

The revenue and expenditure impacts in this fiscal note represent changes from current law under the bill for each fiscal year. For additional information about fiscal notes, please visit the General Assembly website.