

# CONFERENCE COMMITTEE REPORT FORM

Austin, Texas

May 30, 2009  
Date

Honorable David Dewhurst  
President of the Senate

Honorable Joe Straus  
Speaker of the House of Representatives

Sirs:

We, Your Conference Committee, appointed to adjust the differences between the Senate and the House of Representatives on HB 1801 have had the same under consideration, and beg to report it back with the recommendation that it do pass in the form and text hereto attached.

Shapiro  
Shapiro

Duncan  
Duncan

Hinojosa  
Hinojosa

Kel Seliger  
Seliger

Williams  
On the part of the Senate  
Williams

Dwayne Bohac  
DWAYNE BOHAC

Trey Martinez Fisher  
TREY MARTINEZ FISHER

Joaquin Castro  
JUAQUIN CASTRO

Diane Patrick  
DIANE PATRICK

Rene Oliveira  
On the part of the House  
RENE OLIVEIRA

### Note to Conference Committee Clerk:

Please type the names of the members of the Conference Committee under the lines provided for signature. Those members desiring to sign the report should sign each of the six copies. Attach a copy of the Conference Committee Report and a Section by Section side by side comparison to each of the six reporting forms. The original and two copies are filed in house of origin of the bill, and three copies in the other house.

# CONFERENCE COMMITTEE REPORT

3<sup>rd</sup> Printing

H.B. No. 1801

A BILL TO BE ENTITLED

1

AN ACT

2 relating to exemptions from the sales tax for a limited period for  
3 certain backpacks and school supplies specified by the Streamlined  
4 Sales and Use Tax Agreement.

5 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

6 SECTION 1. Section 151.327, Tax Code, is amended to read as  
7 follows:

8 Sec. 151.327. SCHOOL SUPPLIES AND SCHOOL BACKPACKS BEFORE  
9 START OF SCHOOL. (a) In this section:

10 (1) "Backpack" means a messenger bag, book bag, or a  
11 pack with straps that a person wears on the person's back, including  
12 a backpack with wheels if the backpack can also be worn on the back.  
13 The term does not include an item that is commonly considered  
14 luggage, a briefcase, an athletic bag, a duffle bag, a gym bag, a  
15 computer bag, a purse, or a framed backpack.

16 (2) "School supply" has the meaning assigned by the  
17 Streamlined Sales and Use Tax Agreement adopted November 12, 2002,  
18 including all amendments made to the agreement on or before  
19 December 14, 2006.

20 (a-1) The sale or storage, use, or other consumption of a  
21 school supply or a school backpack is exempted from the taxes  
22 imposed by this chapter if the school supply or backpack is  
23 purchased:

24 (1) for use by a student in a public or private

1 elementary or secondary school;

2 (2) during the period described by Section  
3 151.326(a)(2); and

4 (3) for a sales price of less than \$100.

5 (b) A retailer is not required to obtain an exemption  
6 certificate stating that school supplies or school backpacks are  
7 purchased for use by students in a public or private elementary or  
8 secondary school unless the school supplies or backpacks are  
9 purchased in a quantity that indicates that the school supplies or  
10 backpacks are not purchased for use by students in a public or  
11 private elementary or secondary school.

12 SECTION 2. The change in law made by this Act does not  
13 affect taxes imposed before the effective date of this Act, and the  
14 law in effect before the effective date of this Act is continued in  
15 effect for purposes of the liability for and collection of those  
16 taxes.

17 SECTION 3. This Act takes effect July 1, 2009, if it  
18 receives a vote of two-thirds of all the members elected to each  
19 house, as provided by Section 39, Article III, Texas Constitution.  
20 If this Act does not receive the vote necessary for effect on that  
21 date, this Act takes effect October 1, 2009.

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SECTION 1. Section 151.327, Tax Code, is amended to read as follows:

Sec. 151.327. SCHOOL SUPPLIES AND SCHOOL BACKPACKS BEFORE START OF SCHOOL. (a) In this section:

(1) "Backpack" means a messenger bag, book bag, or a pack with straps that a person wears on the person's back, including a backpack with wheels if the backpack can also be worn on the back. The term does not include an item that is commonly considered luggage, a briefcase, an athletic bag, a duffle bag, a gym bag, a computer bag, a purse, or a framed backpack.

(2) "School supply" has the meaning assigned by the Streamlined Sales and Use Tax Agreement adopted November 12, 2002, including all amendments made to the agreement on or before December 14, 2006.

(a-1) The sale or storage, use, or other consumption of a school supply or a school backpack is exempted from the taxes imposed by this chapter if the school supply or backpack is purchased:

- (1) for use by a student in a public or private elementary or secondary school;
- (2) during the period described by Section 151.326(a)(2); and
- (3) for a sales price of less than \$100.

(b) A retailer is not required to obtain an exemption certificate stating that school supplies or school backpacks are purchased for use by students in a public or private elementary or secondary school unless the

Same as House version.

SECTION 1. Same as House version.

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school supplies or backpacks are purchased in a quantity that indicates that the school supplies or backpacks are not purchased for use by students in a public or private elementary or secondary school.

SECTION 2. The change in law made by this Act does not affect taxes imposed before the effective date of this Act, and the law in effect before the effective date of this Act is continued in effect for purposes of the liability for and collection of those taxes.

~~No equivalent provision.~~

Same as House version.

SECTION \_\_. Subsection (c), Section 151.027, Tax Code, is amended to read as follows:  
(c) This section does not prohibit:  
(1) the examination of information, if authorized by the comptroller, by another state officer or law enforcement officer, by a tax official of another state, by a tax official of the United Mexican States, or by an official of the United States if a reciprocal agreement exists;  
(2) the delivery to a taxpayer, or a taxpayer's authorized representative, of a copy of a report or other paper filed by the taxpayer under this chapter;  
(3) the publication of statistics classified to prevent the identification of a particular report or items in a particular report;  
(4) the use of records, reports, or information secured, derived, or obtained by the attorney general or the comptroller in an action under this chapter against the same taxpayer who furnished the information;

SECTION 2. Same as House version.

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- (5) the delivery to a successor, receiver, executor, administrator, assignee, or guarantor of a taxpayer of information about items included in the measure and amounts of any unpaid tax or amounts of tax, penalties, and interest required to be collected;
- (6) the delivery of information to a municipality, county, or other local governmental entity [~~an eligible municipality~~] in accordance with Section 321.3022, 322.2022, or 323.3022; or
- (7) the release of information in or derived from a record, report, or other instrument required to be furnished under this chapter by a governmental body, as that term is defined in Section 552.003, Government Code.

**No equivalent provision.**

SECTION \_\_. Section 321.3022, Tax Code, is amended by amending Subsections (a), (a-1), (b), (d), (e), (f), (g), (h), and (i) and adding Subsection (a-2) to read as follows:

Same as House version.

(a) In this section, "other local governmental entity" has the meaning assigned by Section 321.107.

(a-1) Except as otherwise provided by this section, the comptroller on request shall provide to a municipality or other local governmental entity that has adopted a tax under this chapter:

(1) information relating to the amount of tax paid to the municipality or other local governmental entity under this chapter during the preceding or current calendar year by each person doing business in the municipality or

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other local governmental entity who annually remits to the comptroller state and local sales tax payments of more than \$25,000; and

(2) any other information as provided by this section.

(a-2) [~~(a-1)~~] The comptroller on request shall provide to a municipality or other local governmental entity that has adopted a tax under this chapter and that does not impose an ad valorem tax information relating to the amount of tax paid to the municipality or other local governmental entity under this chapter during the preceding or current calendar year by each person doing business in the municipality or other local governmental entity who annually remits to the comptroller state and local sales tax payments of more than \$500.

(b) The comptroller on request shall provide to a municipality or other local governmental entity that has adopted a tax under this chapter information relating to the amount of tax paid to the municipality or other local governmental entity under this chapter during the preceding or current calendar year by each person doing business in an area, as defined by the municipality or other local governmental entity, that is part of:

- (1) an interlocal agreement;
- (2) a tax abatement agreement;
- (3) a reinvestment zone;
- (4) a tax increment financing district;
- (5) a revenue sharing agreement;
- (6) an enterprise zone;
- (7) a neighborhood empowerment zone;

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(8) any other agreement, zone, or district similar to those listed in Subdivisions (1)-(7); or

(9) any area defined by the municipality or other local governmental entity for the purpose of economic forecasting.

(d) If the request for information under Subsection (b) involves not more than three persons doing business in the defined area who remit taxes under this chapter, the comptroller shall refuse to provide the information to the municipality or other local governmental entity unless the comptroller receives permission from each of the persons allowing the comptroller to provide the information to the municipality or other local governmental entity as requested.

(e) A separate request for information under this section must be made in writing by the municipality's mayor or chief administrative officer or by the governing body of the other local governmental entity each year.

(f) Information received by a municipality or other local governmental entity under this section is confidential, is not open to public inspection, and may be used only for the purpose of economic forecasting, for internal auditing of a tax paid to the municipality or other local governmental entity under this chapter, or for the purpose described in Subsection (g).

(g) Information received by a municipality or other local governmental entity under Subsection (b) may be used by the municipality or other local governmental entity to assist in determining revenue sharing under a revenue



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sharing agreement or other similar agreement.

(h) The comptroller may set and collect from a municipality or other local governmental entity reasonable fees to cover the expense of compiling and providing information under this section.

(i) Notwithstanding Chapter 551, Government Code, the governing body of a municipality or other local governmental entity is not required to confer with one or more employees or a third party in an open meeting to receive information or question the employees or third party regarding the information received by the municipality or other local governmental entity under this section.

~~No equivalent provision.~~

SECTION \_\_. Subchapter C, Chapter 322, Tax Code, is amended by adding Section 322.2022 to read as follows:

Sec. 322.2022. TAX INFORMATION. (a) Except as otherwise provided by this section, the comptroller on request shall provide to a taxing entity:

(1) information relating to the amount of tax paid to the entity under this chapter during the preceding or current calendar year by each person doing business in the area included in the entity who annually remits to the comptroller state and local sales tax payments of more than \$25,000; and

(2) any other information as provided by this section.

(b) The comptroller on request shall provide to a taxing entity information relating to the amount of tax paid to the entity under this chapter during the preceding or

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current calendar year by each person doing business in an area included in the entity, as defined by the entity, that is part of:

(1) an interlocal agreement;

(2) a revenue sharing agreement;

(3) any other agreement similar to those listed in Subdivisions (1) and (2); or

(4) any area defined by the entity for the purpose of economic forecasting.

(c) The comptroller shall provide the information under Subsection (b) as an aggregate total for all persons doing business in the defined area without disclosing individual tax payments.

(d) If the request for information under Subsection (b) involves not more than three persons doing business in the defined area who remit taxes under this chapter, the comptroller shall refuse to provide the information to the taxing entity unless the comptroller receives permission from each of the persons allowing the comptroller to provide the information to the entity as requested.

(e) A separate request for information under this section must be made in writing by the governing body of the taxing entity each year.

(f) Information received by a taxing entity under this section is confidential, is not open to public inspection, and may be used only for the purpose of economic forecasting, for internal auditing of a tax paid to the entity under this chapter, or for the purpose described by Subsection (g).

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(g) Information received by a taxing entity under Subsection (b) may be used by the entity to assist in determining revenue sharing under a revenue sharing agreement or other similar agreement.

(h) The comptroller may set and collect from a taxing entity reasonable fees to cover the expense of compiling and providing information under this section.

(i) Notwithstanding Chapter 551, Government Code, the governing body of a taxing entity is not required to confer with one or more employees or a third party in an open meeting to receive information or question the employees or third party regarding the information received by the entity under this section.

No equivalent provision.

SECTION \_\_. Subchapter D, Chapter 323, Tax Code, is amended by adding Section 323.3022 to read as follows:  
Sec. 323.3022. TAX INFORMATION. (a) In this section, "other local governmental entity" includes any governmental entity created by the legislature that has a limited purpose or function, that has a defined or restricted geographic territory, and that is authorized by law to impose a local sales and use tax the imposition, computation, administration, enforcement, and collection of which is governed by this chapter.

Same as House version.

(b) Except as otherwise provided by this section, the comptroller on request shall provide to a county or other local governmental entity that has adopted a tax under this chapter:

(1) information relating to the amount of tax paid to the

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county or other local governmental entity under this chapter during the preceding or current calendar year by each person doing business in the county or other local governmental entity who annually remits to the comptroller state and local sales tax payments of more than \$25,000; and

(2) any other information as provided by this section.

(c) The comptroller on request shall provide to a county or other local governmental entity that has adopted a tax under this chapter information relating to the amount of tax paid to the county or other local governmental entity under this chapter during the preceding or current calendar year by each person doing business in an area, as defined by the county or other local governmental entity, that is part of:

(1) an interlocal agreement;

(2) a tax abatement agreement;

(3) a reinvestment zone;

(4) a tax increment financing district;

(5) a revenue sharing agreement;

(6) an enterprise zone;

(7) any other agreement, zone, or district similar to those listed in Subdivisions (1)-(6); or

(8) any area defined by the county or other local governmental entity for the purpose of economic forecasting.

(d) The comptroller shall provide the information under Subsection (c) as an aggregate total for all persons doing business in the defined area without disclosing individual

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tax payments.

(e) If the request for information under Subsection (c) involves not more than three persons doing business in the defined area who remit taxes under this chapter, the comptroller shall refuse to provide the information to the county or other local governmental entity unless the comptroller receives permission from each of the persons allowing the comptroller to provide the information to the county or other local governmental entity as requested.

(f) A separate request for information under this section must be made in writing each year by the county judge or the governing body of the other local governmental entity.

(g) Information received by a county or other local governmental entity under this section is confidential, is not open to public inspection, and may be used only for the purpose of economic forecasting, for internal auditing of a tax paid to the county or other local governmental entity under this chapter, or for the purpose described by Subsection (h).

(h) Information received by a county or other local governmental entity under Subsection (c) may be used by the county or other local governmental entity to assist in determining revenue sharing under a revenue sharing agreement or other similar agreement.

(i) The comptroller may set and collect from a county or other local governmental entity reasonable fees to cover the expense of compiling and providing information

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under this section.

(j) Notwithstanding Chapter 551, Government Code, the commissioners court of a county or the governing body of the other local governmental entity is not required to confer with one or more employees or a third party in an open meeting to receive information or question the employees or third party regarding the information received by the county or other local governmental entity under this section.

SECTION 3. This Act takes effect July 1, 2009, if it receives a vote of two-thirds of all the members elected to each house, as provided by Section 39, Article III, Texas Constitution. If this Act does not receive the vote necessary for effect on that date, this Act takes effect October 1, 2009.

Same as House version.

SECTION 3. Same as House version.

**LEGISLATIVE BUDGET BOARD**

Austin, Texas

**FISCAL NOTE, 81ST LEGISLATIVE REGULAR SESSION**

May 30, 2009

**TO:** Honorable David Dewhurst , Lieutenant Governor , Senate  
 Honorable Joe Straus, Speaker of the House, House of Representatives

**FROM:** John S. O'Brien, Director, Legislative Budget Board

**IN RE: HB1801** by Bohac (Relating to exemptions from the sales tax for a limited period for certain backpacks and school supplies specified by the Streamlined Sales and Use Tax Agreement.),  
**Conference Committee Report**

**Estimated Two-year Net Impact to General Revenue Related Funds** for HB1801, Conference Committee Report: a negative impact of (\$16,519,000) through the biennium ending August 31, 2011, if the effective date of the bill is July 1, 2009; or a negative impact of (\$9,394,000) through the biennium ending August 31, 2011, if the effective date of the bill is October 1, 2009.

**All Funds, Six-Year Impact:**

Fiscal Year	Probable Revenue (Loss) from General Revenue Fund 1	Probable Revenue (Loss) from Cities	Probable Revenue (Loss) from Transit Authorities	Probable Revenue (Loss) from Counties
2009	(\$1,901,000)	\$0	\$0	\$0
2010	(\$7,190,000)	(\$1,337,000)	(\$456,000)	(\$189,000)
2011	(\$7,428,000)	(\$1,381,000)	(\$471,000)	(\$195,000)
2012	(\$7,665,000)	(\$1,426,000)	(\$486,000)	(\$201,000)
2013	(\$7,906,000)	(\$1,470,000)	(\$501,000)	(\$208,000)
2014	(\$8,160,000)	(\$1,518,000)	(\$518,000)	(\$214,000)

The above bill assumes an effective date of July 1, 2009. The table below assumes an effective date of October 1, 2009.

Fiscal Year	Probable Revenue Gain/(Loss) from General Revenue Fund 1	Probable Revenue Gain/(Loss) from Cities	Probable Revenue Gain/(Loss) from Transit Authorities	Probable Revenue Gain/(Loss) from Counties
2010	(\$1,966,000)	\$0	\$0	\$0
2011	(\$7,428,000)	(\$1,381,000)	(\$471,000)	(\$195,000)
2012	(\$7,665,000)	(\$1,426,000)	(\$486,000)	(\$201,000)
2013	(\$7,906,000)	(\$1,470,000)	(\$501,000)	(\$208,000)
2014	(\$8,160,000)	(\$1,518,000)	(\$518,000)	(\$214,000)

**Fiscal Analysis**

The bill would amend Chapter 151 of the Tax Code, regarding a sales tax exemption for certain purchases of school backpacks.

The bill would provide a definition for a "backpack," and would extend this exemption to include school supplies as defined by the Streamlined Sales and Use Tax Agreement. School supplies would

be exempt from the sales tax if purchased for use by a student in a public or private elementary or secondary school, had a sale price of less than \$100, and were purchased during the three-day sales tax holiday on clothing and footwear each August.

The bill would take effect July 1, 2009, assuming that it received the requisite two-thirds majority votes in both houses of the Legislature. Otherwise, it would take effect October 1, 2009.

### **Methodology**

Data on the sale of school supplies were obtained from the U.S. Bureau of the Census. The data were adjusted for the appropriate price range and time period, multiplied by the state sales tax rate, adjusted for the potential effective dates of July 1, 2009 and October 1, 2009, and extrapolated through fiscal 2014.

### **Local Government Impact**

There would be a proportional loss of sales tax revenue to units of local government. There would be no impact on local governments in the first year of implementation as August sales tax collections remitted to the Comptroller will not be allocated to the local jurisdictions until the following fiscal year.

**Source Agencies:** 304 Comptroller of Public Accounts

**LBB Staff:** JOB, MN, SD, KK