



Legislative Council Staff

Nonpartisan Services for Colorado's Legislature

Revised Fiscal Note

(replaces fiscal note dated February 7, 2022)

Drafting Number: LLS 22-0675
Prime Sponsors: Sen. Hansen
Rep. Sirota

Date: February 28, 2022
Bill Status: Senate Finance
Fiscal Analyst: David Hansen | 303-866-2633
David.Hansen@state.co.us

Bill Topic: **POLICIES TO REDUCE EMISSIONS FROM BUILT ENVIRONMENT**

Summary of Fiscal Impact:

- State Revenue
- State Expenditure
- State Transfer
- TABOR Refund
- Local Government
- Statutory Public Entity

The bill exempts air-source heat pumps, ground-source heat pumps, heat pump water heaters, and certain building materials from sales and use taxes. The bill also creates refundable income tax credits for the purchase of the above heat pumps in addition to residential energy storage systems. From FY 2022-23 through FY 2033-34, the bill decreases state revenue from sales and use tax and income tax, decreases local government revenue, and increases state expenditures on an ongoing basis.

Appropriation Summary:

For FY 2022-23, the bill requires total appropriations of \$78,190 to the Department of Personnel and Administration and the Department of Revenue.

Fiscal Note Status:

This revised fiscal note reflects the introduced bill, as amended by the Senate Transportation and Energy Committee.

**Table 1
State Fiscal Impacts Under SB 22-051**

		Budget Year FY 2022-23	Out Year FY 2023-24	Out Year FY 2024-25
Revenue	General Fund	(\$2.0 million)	(\$4.2 million)	(\$7.4 million)
	Total Revenue	(\$2.0 million)	(\$4.2 million)	(\$7.4 million)
Expenditures	General Fund	\$78,190	\$219,727	\$211,618
	Centrally Appropriated	\$15,067	\$46,118	\$47,912
	Total Expenditures	\$93,257	\$265,845	\$259,530
	Total FTE	0.9 FTE	3.0 FTE	3.0 FTE
Transfers		-	-	-
Other Budget Impacts	TABOR Refund	(\$2.0 million)	(\$4.2 million)	Not estimated
	General Fund Reserve	\$11,729	\$32,959	\$31,743

Summary of Legislation

Beginning January 1, 2023, purchases of air-source heat pumps, ground-source heat pumps, and heat pump water heaters will be exempt from sales and use tax until January 1, 2033. Beginning in tax year 2023, the bill also creates refundable income tax credits for the purchase of these heat pumps in addition to residential energy storage systems through 2033. Lastly, the bill exempts purchases of decarbonizing building materials from sales and use tax from July 1, 2024 through July 1, 2034.

Background

Decarbonizing building materials. The Buy Clean Colorado Act, passed with House Bill 21-1303, required the Office of the State Architect to establish maximum acceptable global warming potential for building materials used in public projects such as asphalt, cement and concrete, glass, wood, and steel. The Office of the State Architect is required to develop its criteria by January 1, 2024. The definition of decarbonizing building materials in the bill will be based on this criteria.

State Revenue

The bill is expected to decrease General Fund revenue by \$2.0 million in FY 2022-23, \$4.2 million FY 2023-24, and \$7.4 million in FY 2024-25, with similar impacts in subsequent years. In the first two years, FY 2022-23 and FY 2023-24, the revenue impact is based on the sales and use tax exemption for heat pumps, and income tax credits for heat pump systems and residential energy storage systems only. Starting in FY 2024-25, the revenue impact also includes a preliminary estimate of the sales and use tax exemption for decarbonizing building materials. State sales and use tax revenue is subject to TABOR. Additional detail on these impacts is provided below.

Heat pump sales and use tax exemption. Potential heat pump unit sales that are exempt under the bill were estimated from national Energy Star shipments and data on residential energy consumption from the Energy Information Administration (EIA). The U.S. Environmental Protection Agency catalogued an average of about 1,528,000 air-source and ground-source heat pump units and 94,000 heat pump water heater units shipped nationwide from 2019 to 2020. Assuming heat pump shipments increase at a similar rate as recorded from 2010 to 2020, national shipments could total between 1,767,000 and 1,870,000 in FY 2022-23 and FY 2023-24. Data from the EIA's 2015 residential energy consumption survey indicate that the Mountain North region, including Colorado, accounted for about 0.6 percent of the nation's installed heat pumps. Assuming heat pump prevalence for the nation's housing represents the share of heat pumps sent to the Mountain North region, and based on Colorado's 47 percent share of housing units within this region from U.S. Census Bureau estimates, the analysis assumes an estimated 0.3 percent of the Energy Star shipments could be for use by Colorado purchasers each year.

Based on the above assumptions, the bill's sales and use tax exemption will apply to an estimated 2,558 units in FY 2022-23 (half-year impact), and 5,415 units in FY 2023-24. The analysis assumes an average price of about \$6,000 for air-source heat pump equipment, \$20,000 for ground-source heat pump equipment, and \$3,000 for heat pump water heaters, with estimated total exempt sales of \$15.3 million in FY 2022-23 and \$32.5 million in FY 2023-24, resulting in a reduction in General Fund revenue from state sales and use tax of \$443,000 in FY 2022-23 and \$943,000 in FY 2023-24 and future years.

Income tax credit for heat pumps and residential energy storage systems. Beginning in tax year 2023, the bill creates a refundable income tax credit equal to 10 percent of the purchase price of heat pump systems as described above, in addition to 10 percent of the purchase price of a residential energy storage system. Based on EIA data on battery storage trends in the United States, Colorado utilities reported about 115 residential customers with distributed energy storage systems associated with solar energy in 2020, up from 38 systems reported in 2018. Assuming these systems represent half of those installed in the state, and based on estimated growth in installations, the analysis assumes an estimated 110 systems will be installed in 2023 and 130 in 2024. Based on an average price of between \$11,500 and \$11,800 for a residential energy storage system, the bill will decrease General Fund revenue by \$63,250 in FY 2022-23 (half-year impact) and by \$139,950 in FY 2023-24 and future years.

Combined with income tax credits equal to 10 percent of the estimated purchase price of the above heat pump systems, the bill will decrease General Fund revenue by \$1.6 million in FY 2022-23 (half-year impact) and by \$3.3 million in FY 2023-24.

Decarbonizing building material sales and use tax exemption. While the range of products that meet the criteria for decarbonizing building materials is not yet determined, net taxable sales of construction and building materials is significant. In FY 2020-21, net taxable sales for the construction industry and retail trade for building materials and garden equipment stores totaled \$10.9 billion, with estimated sales tax of about \$316 million. This fiscal note assumes that exempt decarbonizing building materials comprise 1.0 percent of these sales, which would decrease revenue by an estimated \$3.2 million beginning in FY 2024-25. However, criteria on what materials will be considered exempt are not yet available. To the extent decarbonizing building materials criteria results in a higher or lower percent of these sales, the revenue impact will also vary.

State Expenditures

The bill increases state expenditures by \$93,257 in FY 2022-23, by \$265,845 in FY 2023-24, by \$259,530 in FY 2024-25 and future years, paid from the General Fund. Expenditures are shown in Table 2 and detailed below.

**Table 2
Expenditures Under SB 22-051**

Cost Components	FY 2022-23	FY 2023-24	FY 2024-25
Department of Personnel and Administration			
Personal Services	\$67,440	\$73,571	\$93,523
Standard Operating	\$1,350	\$1,350	\$1,350
Capital Outlay	\$6,200	\$0	\$0
Centrally Appropriated Costs ¹	\$15,067	\$16,618	\$18,412
FTE – Personal Services	0.9 FTE	1.0 FTE	1.0 FTE
DPA Subtotal	\$90,057	\$91,539	\$113,285
Department of Revenue			
Personal Services	\$0	\$105,605	\$105,605
Standard Operating	\$0	\$2,700	\$2,700
Capital Outlay	\$0	\$12,400	\$0
Computer and User Acceptance Testing	\$0	\$12,136	\$1,496
GenTax Computer Programming	\$0	\$3,600	\$0
Office of Research and Analysis	\$3,200	\$7,520	\$6,400
Tax Form Changes	\$0	\$845	\$544
Centrally Appropriated Costs ¹	\$0	\$29,500	\$29,500
FTE – Personal Services	0.0 FTE	2.0 FTE	2.0 FTE
DOR Subtotal	\$0	\$174,306	\$146,245
Total	\$93,257	\$265,845	\$259,530
Total FTE	0.9 FTE	3.0 FTE	3.0 FTE

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

Department of Personnel and Administration. Beginning in FY 2022-23, the Office of the State Architect in the Department of Personnel and Administration will require an additional 1.0 FTE for an analyst to provide technical assistance and support related to product lists and guidance for the decarbonizing building materials sale and use tax exemption. The department is also required to provide assistance to the Office of the State Auditor for evaluating the tax expenditure. First-year staffing costs are prorated to account for the General Fund paydate shift.

Department of Revenue. The Department of Revenue will require 2.0 tax examiners starting in FY 2023-24. The tax examiners are necessary to process and review additional returns claiming the new income tax credit and to resolve errors in returns. Additionally, the bill will require GenTax computer-programming changes that will require 16 hours of work billed at a contractor rate of \$225 per hour. Computer and user acceptance testing associated with the programming changes will result in an additional cost of \$12,136 in FY 2023-24, with an ongoing cost of \$1,496 in FY 2024-25 and subsequent years. The Office of Research and Analysis will also incur additional costs, an estimated

\$3,200 in FY 2022-23, \$7,520 in FY 2023-24 and \$6,400 in FY 2024-25 and subsequent years. Lastly, the department will require tax form changes, reappropriated to the Department of Personnel and Administration.

Other agencies. The bill requires the Colorado Energy Office to support the Office of the State Auditor with data and guidance when examining the exemption. The fiscal note assumes that these workload impacts can be accommodated within existing appropriations.

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. This estimate assumes the December 2021 Legislative Council Staff revenue forecast. A forecast of state revenue subject to TABOR is not available beyond FY 2023-24. 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 2022-23. Based on this fiscal note, the bill is expected to increase the amount of General Fund held in reserve by \$11,249 in FY 2022-23, \$32,959 in FY 2023-24, and \$31,743 in FY 2024-25, which will decrease the amount of General Fund available for other purposes.

Local Government

Sales and use tax. Sales and use tax exemptions for heat pump systems and eligible decarbonizing building materials will decrease sales and use tax revenue for state-collected local governments and special districts that conform to the state tax base. The bill includes the exemptions among other optional sales and use tax exemptions for state-collected local governments. The distribution of potential heat pump systems and building materials, and implementation of the exemption for local governments and special districts cannot be estimated due to data availability.

Effective Date

The bill takes effect 90 days following adjournment of the General Assembly sine die, assuming no referendum petition is filed, except that the provisions relating to the sales and use tax exemptions on heat pumps and the bill's income tax credits take effect on January 1, 2023, and the provisions relating to the sales and use tax exemption on decarbonizing building materials take effect on July 1, 2024.

State Appropriations

For FY 2022-23, the bill requires the following General Fund appropriations:

- \$74,990 to the Department of Personnel and Administration and 1.0 FTE; and
- \$3,200 to the Department of Revenue.

State and Local Government Contacts

Colorado Energy Office
Counties
County Assessors
Information Technology
Municipalities
Personnel

Property Tax Division - Local Affairs
Regional Transportation District
Revenue
Special Districts
State Auditor